

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
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Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
Hearing On "Strengthening Forensic Science In The United States"
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In March, this Committee began our examination of the serious problems in forensic science that can go to the heart of our criminal justice system. Today, we hear from representatives of the professional communities that must work together to help solve these problems.

Much important work is done through forensics, and those with us today should be proud of their good work. Scientific advancements can help prove guilt and can also exonerate the innocent. We need to do all we can to ensure that forensic science rises to the highest scientific standards and has the maximum possible reliability.

Unfortunately, since the report and testimony from the National Academy of Sciences earlier this year, we have heard even more about the severity of the problems before us. The current issue of The New Yorker includes an article that presents strong evidence that in 2004 the unthinkable may have happened: An innocent man may have been executed for a crime he did not commit, based in large part on forensic testimony and evidence.

Soon this Committee will turn to reauthorizing and strengthening the Innocence Protection Act, which provides important tools to prevent that kind of tragedy. The key point for today's hearing is that the prosecution of Todd Willingham discussed in that New Yorker article rested largely on forensic evidence, in that case burn analysis, that may not have had any scientific basis. Our criminal justice system, particularly in the most serious cases, must rest on facts.

Also this summer, the Supreme Court held in the case of *Melendez-Diaz vs. Massachusetts* that forensic examiners must present evidence in court and be subject to cross examination, rather than simply submitting reports of their findings. This Supreme Court holding stems from a recognition that forensic findings may not always be as reliable as we would hope, or they might appear.

Unlike the image that so many of us see on television shows like "CSI," forensic scientists too rarely get to review crime scene evidence in sleek, ultra-modern, state-of-the-art laboratories. Ironically, the so-called "CSI effect" may be doing harm by suggesting that forensic sciences are well funded, and that their results are almost always infallible. As it turns out, that is not the reality examined by the National Academy of Sciences.

According to the latest available statistics from the Justice Department, in 2005, the backlog of forensic exams was more than 350,000 nationwide, up 24 percent from just three years earlier. One out of every five labs does not meet the standards for accreditation set by the National Academy of Crime Lab Directors. As the National Academy of Science report makes clear, we cannot allow these nationwide deficiencies in forensic sciences to continue.

It is critically important to our criminal justice system that we have accurate, timely forensic science, so we can find and punish the guilty, and exonerate the innocent. It helps no one if we imprison the wrong person. What helps is when we take perpetrators of serious crimes off the streets. We cannot simply wait for the next scandal to break or for the backlogs to grow worse. We must pay attention now and work together to find solutions. I look forward to working with Senator Sessions, Senator Klobuchar, and the other interested members of this Committee on this priority.

Today we will hear testimony from Dr. Eric Buel, the respected Director of the Vermont Forensic Laboratory. Vermont's lab has done consistently excellent work that has helped to solve many important cases, but Dr. Buel nonetheless recognizes the need for more standards, more research, and more funding. I am also glad to welcome back to the Committee Peter Neufeld, co-director of The Innocence Project, whose work in individual cases and in bringing important changes in the law has been so helpful. I also look forward to the insights of fellow prosecutors and law enforcement officers who are on the front lines.

The report issued by the National Academy of Sciences earlier this year is detailed and far-reaching, and can provide a foundation for building broad consensus for change. At its core, the report calls for mandating national standards for establishing and enforcing "best practices." It points to a need for standards for the certification of individual examiners and for the accreditation of their laboratories. The report also calls for us to invest in the research underlying modern forensic science. I hope we can explore today how best to make those important changes.

In addition, there are areas of significant controversy, including the report's recommendation of another major new government agency and for the total separation of forensics from law enforcement. I hope we will be able to put aside those differences for now in order to focus on the many areas of consensus.

Just as the President now is calling for us to work together toward a reformed health care system rooted in medicine, I hope we can work together toward strengthening our forensic system rooted in science. We need to ensure that forensic science and evidence is a solid foundation for the credibility and integrity we must demand from our criminal justice system.

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