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C.S.I. THEY'RE NOT

Lab goofs and dueling "experts" give forensics a black eye

By Julius (Jay) Wachtel. New York State's Inspector General [recently recommended](#) that criminal charges be considered against the retired director of the New York Police Department's crime lab and three former analysts for botching thousands of drug tests in 2002. Investigators claim that analysts took shortcuts when analyzing large seizures, falsely certifying that every container of suspected drugs was tested, and that managers who suspected something was amiss turned a blind eye. The lapse caused NYPD to start re-examining 3,000 individual drug tests last March. However, by that time more than 700 had been destroyed, bringing every conviction based on those tests into question.

Problems at crime labs are nothing new. In June 2007 an [investigative panel](#) cast doubt on thousands of convictions in Houston, calling its police lab deficient "across the board," with serious errors in ballistics, drugs, DNA and serology. The damage was not merely hypothetical, with mistakes responsible for *at least three wrongful convictions*: Ronald Taylor, who served 14 years because the lab missed finding the real perpetrator's DNA on a bedsheet, and George Rodriguez and Josiah Sutton, who served 17 and 4 ½ years respectively due to faulty serology. Nearly two-hundred other cases are on review.

In May 2005 Virginia's Governor ordered a review of 150 cases processed through the State's crime lab after two botched DNA tests nearly led to the execution of [Earl Washington, Jr.](#), who served 18 years after being wrongfully convicted of rape. Washington was only nine days away from lethal injection when discrepancies in the case prompted the prior Governor to commute his sentence to life imprisonment. A properly conducted DNA test later proved that the perpetrator was an already-convicted serial rapist. Auditors attributed the Virginia lab's sloppy work to pressures to increase productivity. A Federal civil jury awarded Washington \$2.25 million in compensation.

Two months after terrorists bombed a Spanish train, leaving 200 dead and 1,400 injured, FBI agents arrested Portland attorney [Brandon Mayfield](#) as a material witness. FBI fingerprint examiners said they matched Mayfield's fingerprints to latent prints found by Spanish police on a bag of unexploded detonators. Confident that they had the right man (Mayfield is Muslim and represented a suspected terrorist in a civil action), the Feds refused to believe Spanish experts who insisted that the

prints were not Mayfield's. A chastened FBI eventually [apologized](#) when Spanish investigators positively identified the fingerprints as belonging to an Algerian suspect.

It's not just lab goofs that give forensics a black eye. In the recent [Phil Spector](#) trial renowned experts argued about, well, everything -- from the cause of the injury to the victim's tongue, to how far blood spatter can travel, to whether the victim could have coughed after being shot. Spector's trial is remarkably similar to the 2004 murder trial of Idaho resident [Craig Perry](#), who insisted that the uncle he was accused of shooting committed suicide. Thanks to blood spatter expert Stuart James, the same witness who raised enough doubt to hang Spector's jury, Perry won an acquittal. (Demonstrating the whimsical, musical-chairs aspect of forensic "science," another of Spector's experts, Dr. Vincent Di Maio, testified *against* Perry. Back then Di Maio was still Chief Medical Examiner for San Antonio and working for prosecutors.)

A litany of lab disasters, dueling experts, wrongful convictions and bizarre acquittals (O.J. and Robert Blake come to mind) have done little to reassure a skeptical public about the merits of physical evidence. Police, prosecutors, courts *and juries* must be confident in the accuracy of laboratories and the trustworthiness of government witnesses. That's hard to do when labs and experts are captive parts of the law enforcement establishment. Regaining confidence in forensics calls for a national system of independent, government-funded laboratories, much like the National Institutes, that are operated and controlled by top-notch scientists. Anything less is not good enough.