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## HOW A FORENSIC LABORATORY CAN HELP YOUR CASE

Roger Bolhouse

There are a number of situations where the use of forensic examination by qualified experts will benefit your case. With the explosion of interest by the public due to new television shows such as CSI (Las Vegas), CSI Miami, Investigative Reports, The Forensic Files and the reference to forensic evidence in many others, the public has come to expect that both civil and criminal matters employ at least a search for forensic evidence. Not only does the public (your clients) expect that you will investigate what can be done with forensic evidence but also jurors, judges and opposing counsel are now asking and in reality demanding that this be investigated.

Forensic evidence can help you and the triers-of-fact find the truth. Knowing the truth during the initial stages of your case can lead to an early settlement, lead to a different tactical approach or lead you to make a decision not to continue with the case. Confirming the truth as represented by experts from the opposing side or by prosecution experts in criminal cases can help you formulate your case and assure you that you have done what is expected and required of a competent attorney.

There are many different types of forensic evidence. This article will deal with more of the "hard science" than that of the "soft science". "Hard science" is that which is generally associated with physical evidence while the "soft science" is that which deals with psychology or mental states. Physical evidence of some sort is available in many situations. It has been said that whenever a person enters a room and then departs, he or she leaves something in the room and further he or she removes something from the room. The amount of activity which took place in the room and the ability of the investigators to locate, document and collect the physical evidence available determine what types of associations can be made. Forensic evidence such as fingerprints, shoeprints, hairs and fibers, blood, trace evidence and a host of others are commonly thought of in violent crime scenes such as a murder, burglary or a rape. Many of these same types of evidence are also available and should be considered in many of the cases you handle in both the criminal and civil realm.

Consider questioned documents, for example. Many times at issue is whether or not a person wrote or signed the document. A forensic examination of this document would, of course, look at and compare the questioned writings with known writings of suspect individuals, but further one should look to determine if latent fingerprints are present. If so, can they be linked (identified) with a specific individual and are they in positions on the paper consistent with a person laying their hand (palm) and/or their fingers on the paper to do the writing? Perhaps an envelope with a seal or stamp which has been licked will reveal DNA which can be associated with a specific individual. Perhaps foreign material such as hairs, fibers etc. (trace evidence) can be located and associated with an individual

or a specific location where this document may have been. Questioned documents can also reveal evidence of alterations, additions and deletions. If the document or a portion of the document is written while in a stack or simply on top of other documents, a forensic ESDA examination may reveal the impressed writings on the paper(s) below where the original was written. Occasionally, the question arises as to when an entry or a signature was placed on a document. INK DATING, identification, comparison and ink analysis can frequently answer this dilemma. These forensic examinations have revealed significant information in medical records, patent infringement, suicides and many other cases where business records are involved. It is very important that a forensic examination be conducted on questioned original medical records and business records for assurance that you have the truth and all facts available in your case.

In this day and age, many documents originate on a computer. Forensic software and tools are available to copy and analyze computer drives to find creation, modification and deletion dates. Using this software the forensic computer expert may, without altering the data on the original file, find deleted, hidden and disguised files in slack or unallocated disk space which may be critical to your case. If a document is faxed or copied, a forensic examination may reveal "trash" markings from drums and imperfections in equipment which can associate documents to specific business machines. Fax headers can be forensically examined to yield significant information.

In criminal defense cases there are instances when there is a need to have the results of police forensic experts or just the facts in the case reviewed. When a key piece of evidence is such that it will most assuredly convince the judge or jury that the defendant is guilty, it is incumbent upon the defense to be sure that the forensic evidence was properly collected, handled, analyzed and reported. Common "smoking gun" types of evidence are latent fingerprints, blood and DNA identifications, shoe and tire impressions, firearms and ballistic identifications, bloodstain pattern interpretation, questioned documents and various types of trace evidence. Understanding the wording, significance and meaning in a police expert's reported results is sometimes difficult for the layperson to interpret. A crime scene reconstruction by forensic experts can help the defense attorney formulate the best approach to the case. In many instances it will not be necessary or advantageous to have the forensic expert appear as a witness in court, deposition or arbitration, however consultation with a forensic expert before and during this process can provide a direction and understanding as to what the physical evidence facts say and mean in the big case picture. As stated before, knowing the truth is a must for the attorney and forensic physical evidence can aid in the search.