

# At Issue:

## *Should forensic labs be separated from law enforcement agencies?*



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**T**he National Research Council's scathing report found that entire disciplines of forensic science rest on deficient scientific foundations, that procedures routinely used for interpretation are lacking in rigor, that analysts routinely take inadequate measures to avoid error and bias and that they testify with unwarranted certainty. When considering proposals for reform, we must first ask how forensic science came to be in such a sorry state.

According to the NRC report, these problems are systemic — rooted in the institutional structure of forensic science. Forensic science has not been an independent realm of academic inquiry; it has been, and is, a technical field in which procedures are designed and performed specifically to play a role in criminal prosecutions. The great majority of forensic scientists are employed either directly or indirectly by law enforcement agencies. By controlling the purse strings, law enforcement officials have had the final say in what research gets done, what programs are expanded or cut and who gets hired and promoted — and these decisions have shaped the field.

For example, law enforcement officials have seen no need to fund research into the accuracy of methods such as latent print analysis or firearm and toolmark examination. From their perspective, research on the accuracy of these methods is not only unnecessary but might be harmful as it could potentially undermine (or be used to challenge) some of the helpful testimony that analysts have been presenting.

The problem with the current structure, as the NRC report recognized, is that the interests of law enforcement sometimes diverge from the imperatives of good science. The report noted that forensic scientists "sometimes face pressure to sacrifice appropriate methodology for the sake of expediency." But the problem is less about direct pressure and personal integrity than it is about institutional incentives and priorities. For law enforcement agencies, the serious deficiencies the NRC report documented are simply not high-priority problems.

The NRC's proposal to separate crime labs from law enforcement agencies is one element of an ambitious agenda of structural reform. Other key elements are the creation of a National Institute of Forensic Science to establish best-practice standards and promote research, and the development of new graduate-education programs to link forensic science more closely to the academic community. These are sound proposals. They deserve serious consideration.



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**I**ndependence is a cultural phenomenon, not an organizational arrangement. It can't be sketched in an organizational chart or promised by managers simply because they don't wear badges. It is a mindset nourished by training, education and conscientious leadership. Any organization is capable of preserving it. Any organization is capable of destroying it.

Since early in the 20th century, the forensic sciences have been cultivated by the law enforcement community mainly because no one else was interested. There were no grants to fund private laboratories and no "CSI" shows on television to fuel public fascination. As crime rates began to skyrocket in the early 1960s, it was law enforcement that needed the means to more objectively solve crime. No one else was going to do it.

We can concede that many police organizations are ill-suited to run their own crime laboratories; therefore, most do not, and some should not. They don't have the expertise, the money or the willingness to invest the time and resources needed to operate a reputable laboratory. But for those that clearly demonstrate a commitment to good science and the betterment of the profession, the arbitrary separation of their crime laboratories simply to push a semi-fashionable policy position would be an intolerable failure of leadership. Each agency must be evaluated on its own merits.

It is a myth that forensic scientists in the United States are being bullied away from their scientific foundations by imposing police commanders. Those of us who make our living in the profession of forensic science often find that the opposite is true. Highly competent police executives frequently admit to being awestruck and sometimes intimidated by the complexity of forensic evidence. As a result, they avoid the open sharing of their personal theories and expectations, knowing that scientific results could wind up embarrassing them in front of their peers and subordinates.

While private laboratories are sometimes showcased as being inherently independent and immune from undue influence, they are not. A defense attorney who frequents a private laboratory for DNA testing is every bit as capable of exercising undue influence over testing results as a commander who runs a police crime laboratory. The hand that writes the check is always attached to a person who has hopes, interests, fears and goals.

Thankfully, the overwhelming majority of forensic scientists employ a special strategy to combat this kind of nonsense. It is called professionalism.