



## DETECTIVES CORNER

### FORENSIC EVIDENCE

With the popularity of television programs such as CSI and Forensic Files, prosecutors and law enforcement officers find themselves having to prepare to answer juror's questions during the course of a criminal trial about matters that, in the past, would have had no effect on the outcome of a case. It's not that the jurors are going to be asking these legalists questions from the jury box; it's the fulfilling of the jurors expectations that is of concern. Some jurors expect to see DNA evidence presented in every case, when in reality, a lot of cases do not have any forensic evidence presented.

### WHAT IS FORENSIC EVIDENCE?

In a nut shell, it is evidence, collected and analyzed using scientific methods, for use in legal, generally criminal, matters. Forensic science is a specific course of study at many colleges and universities.

### WHY DOES IT MATTER?

You would be surprised by the questions and comments made inside jury deliberation rooms throughout the United States. Jurors come from all walks of life. Some people are expecting to see DNA or fingerprint evidence based on what they have seen on television and in the movies. Some prosecutors will take the opportunity during Voir Dire ( jury selection) to educate the jury about forensic evidence so that they don't bring their preconceived expectations with them to the jury deliberation room.



Inked Fingerprint



***Fingerprints and DNA Evidence- Examples of evidence requiring a person with specialized training in one of the "Forensic Sciences" to examine and evaluate.***

## **CRIME SOLVING METHODS**

Criminal offenses are solved in any one of three ways. Having evidence in all three categories is one sure way to please the prosecutor.

- **Physical Evidence-** By far the best type of evidence. DNA, fingerprints, blood, semen, shoe and tire impressions are all examples of physical evidence. Other examples of physical evidence would include stolen property, a forged check or document, video surveillance and telephone records. All evidence must be presented in court by a law enforcement officer or another person, who through their testimony, are able to connect the physical evidence to the defendant and or the crime scene.

- **Confessions-** In order for a confession of a defendant to be admitted into evidence at trial, the government must present testimony that the statement was freely and voluntarily given and that there were no threats or promises made to induce the defendant to confess. In any case where the defendant was, "In custody", of a law enforcement officer prior to the incriminating statement being made, the officer must have first advised the defendant of their Miranda Rights prior to asking the defendant questions about the criminal offense under investigation. If a person "blurts out" something of an incriminating nature, prior to being advised of their Miranda Rights, that statement will be admitted into evidence as long as the officer did not ask the person who is under arrest or in custody questions about the incident.

- **Eyewitness Identification-** Of the three, the least reliable category of evidence is eyewitness identification. A lot has been written over the past several decades on the fallacies of eyewitness identification. Officers investigating a criminal offense must follow current eyewitness identification protocols when showing a witness a photographic line-up to determine if the suspect can be identified or excluded as having been involved in the matter under investigation. The same holds true for a, "show-up", where a victim or witness is brought to the place when a suspect has been stopped by police to see if they can make an identification.

## **CHAIN OF CUSTODY**

When evidence is collected by the police, they must take great care that the chain of custody is not broken in order to avoid the evidence from being excluded at trial. During the police academy, officers are taught the importance of "maintaining the chain". Essentially, an officer must be able to account for the whereabouts of each item of evidence in a case from the time it is seized until it is presented in court at trial. They must also be able to account for any changes that might have occurred to the evidence from the time it was collected until it is offered into evidence by the prosecutor. In some cases, an item of evidence may have been sent to a crime laboratory for testing. The testing may involve cutting a small piece of fabric from an article of clothing or bedding. In this instance the officer would testify as to what they did with the evidence when it was in their custody and control, and the crime lab technician would testify as to what they did with the evidence at the laboratory.

Often times a defense attorney will attempt to exclude evidence in a case by filing what is known as a "Motion To Suppress Evidence". A separate hearing is usually held in these cases wherein the presiding judge will take testimony, then hear arguments from the prosecution and defense attorneys, and rule on whether or not the evidence will be admitted or excluded in the case. If the judge rules that the evidence is to be excluded, the lawyers in the case must not tell the jury that this item of evidence existed in the case so as to avoid the jurors from considering it in deciding the case. If the existence of this evidence comes out in the trial, the judge would likely declare a Mistrial, and the case would have to be retried.

## **FDLE DNA DATABASE**

Florida Department of Law Enforcement's DNA database accepts oral swab samples from individuals convicted of a multitude of crimes as mandated under 943.325, Florida Statutes, including, but not limited to sexual assault, lewdness and indecent exposure, murder, robberies, kidnapping, forcible felonies, burglary, felony firearm violations, and thefts. The law requires individuals convicted of these offenses to submit a biological specimen (oral swabbing) to the FDLE DNA Database for analysis. The analysis results allow for the comparison of DNA from unresolved cases to the DNA of both known offenders and that from other unresolved cases in an attempt to identify the perpetrator. Florida currently leads the nation in DNA matches averaging more than 1,400 hits per year.

If you have any questions about forensic evidence and how it is used in a criminal case, feel free to contact me or any member of the Atlantis Police Department.

Sincerely,

*Det. Marvin Jenne*

DET. MARVIN JENNE, ID #400  
ATLANTIS POLICE DEPARTMENT

Links:

<http://www.dna.gov/training/evidence/>

<http://www.dna.gov/basics/>

