

SYMPOSIUM: ETHICAL CONFLICTS IN THE FORENSIC SCIENCES

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Introduction

Throughout the history of the forensic sciences, its members have shown a particular concern for the attainment of high professional and ethical standards. Forensic scientists are expected to be honest with respect to their qualifications, examinations, and conclusions; they should be technically competent and only use methods of proven reliability; they should remain totally objective and nonpartisan with respect to their review of evidence and delivery of expert testimony; and they are expected to present understandable and balanced reports/testimony to legal decision makers. However, the reality is that forensic scientists function within an adversarial system of justice that places a high premium on winning cases. They, too, sometimes find themselves employed by units of the legal system that fail to provide the leadership and resources necessary to insure competent and balanced examinations of evidence.

This contrast—between the noble aspirations of forensic scientists and the limiting conditions imposed by the legal system—form the backdrop for a project supported by the Ethics and Values Directorate of the National Science Foundation. For the past year and a half, members of an advisory committee and I have explored four principal dimensions of this problem:

- the extent and limits of forensic scientists' ethical responsibilities,
- legal and policy measures that do or might regulate the ethical behavior of forensic scientists,
- the ethical relevance of similarities and differences between the forensic sciences and other professions, and
- the prevalence of various ethical problems and their impact on the forensic sciences and the judicial process.

Five manuscripts have been written during the course of this project and they are published in this special symposium section of the *Journal*.

Douglas Lucas, Director of the Centre of Forensic Sciences, has investigated the "limits" of a forensic scientist's ethical responsibilities as examined from the perspective of the law enforcement community, the adversary system, the scientific community, and from within the scientist him or herself. He notes that forensic science examiners, although trained as scientists, have the primary responsibility of assisting the legal system. The conflict for forensic scientists is the extent to which they must assert their scientific values and standards in their dealings with other law enforcement officials and legal adversaries in the justice system. Mr. Lucas advises that forensic scientists may not subjugate their values to those of other

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legal professionals and must take ultimate responsibility for their conduct, as well as the product of their investigations.

Paul Giannelli, Professor of Law at Case Western Reserve University, has prepared a paper outlining the basic evidentiary rules governing the admissibility of expert testimony and the conduct of forensic scientists. He has reviewed both general rules of evidence and specific provisions regulating the use of scientific evidence and how expert testimony may be challenged—through pretrial discovery, use of opposing experts, and the cross-examination of expert witnesses. Although noting the rules of evidence offer relatively few opportunities for the forensic science profession to insist on a higher level of ethical practice, Professor Giannelli does offer several suggestions where statutory changes could make a substantial difference—from mandating credentialing of experts to the expansion and strengthening of rules of discovery.

The next paper by Peterson and Murdock completes the examination of laws/rules governing ethical behavior by focusing on the rules adopted by forensic science laboratories, law enforcement agencies, and professional organizations for defining, promoting, and regulating the professional conduct of scientific employees. In particular, it reviews professional association codes of conduct and the extent to which they address the most prevalent and serious ethical problems. The paper also examines the recently adopted management guidelines of the American Society of Crime Laboratory Directors and the potential for laboratory organizations to adopt and integrate these standards with provisions of other national and regional professional societies and thereby form a comprehensive set of standards to govern both benchworkers and managers of forensic science installations.

In his paper on the autonomy of the forensic sciences profession, Mark Frankel of the American Association for the Advancement of Science focuses on the clash between the different values and operating procedures of law and science. He addresses two particularly problematic conditions: first, the role of the forensic science expert in partisan litigation (contrasting the sometimes conflicting roles of loyalty to one's client versus that of impartial educator) and second, when the professional requirements of forensic scientists come into conflict with the bureaucratic needs of employing organizations. Frankel then devotes considerable attention to the importance of the professional group in responding to these challenges to the professional autonomy of the forensic sciences.

The final paper in the symposium addresses the extent to which these areas of potential conflict translate into actual problems or violations of specific laws or codes of conduct. Michael Saks, Professor of Law at the University of Iowa, reviews the relatively crude and nonsystematic sources of knowledge about these issues, including proficiency testing studies, summaries of complaints to professional associations, court cases, interviews with members of the profession, anecdotal data and case studies, and content analyses of laboratory policy and procedure manuals and professional society codes of ethics. He finds that problems center in three primary areas: competency, individual morals, and the problems of practicing science in an adversary system. He also makes recommendations regarding various methods that may be used by researchers to develop a more complete and accurate description of these problems.