



measurements and careful physical description.

At first, that older system “seemed much more scientific than fingerprinting,” he said. “Then, gradually, our opinion of what was scientific shifted. It seems to me we might be in the middle of another such shift.”

“We’re clearly living in the genetic age,” he said. “I think a time will come when people will feel more comfortable with saying identifications are based on

DNA rather than fingerprinting. Fingerprinting will look antiquated to us.”

At a crime scene, DNA can be recovered from more than just blood or semen. It can be lifted from objects handled by people, for example. Florida police recently arrested a murder suspect after he spat in a parking lot and police recovered DNA from his saliva. Another source from which DNA has been recovered: the fingerprint.

But FBI fingerprint expert Meagher, noting that identical twins have identical DNA but different fingerprints, doubt genetic material will completely replace the intricate ridges on skin.

Rather, he says, “we will continue to take advantage of both of them.” ■

(Malcolm Ritter is a Science writer for the Associated Press. This article appeared on the AP news wire on 7 April, 2001)

Regarding Recent News Articles on Fingerprint Evidence Credibility in Court

By: Ed German

Several recent news articles have indicated that some persons interviewed were bashing forensic applications of fingerprint identification. A New York Times article, along with AP wire distribution, has resulted in publication of inaccurate or incomplete articles in a number of major newspapers. Among those interviewed were Attorney Robert Epstein who continues to lose his arguments in *US v. Mitchell*, and Simon Cole who is promoting his new fingerprinting-expose book.

As seen at <http://onin.com/fp> (click on Daubert) there have been increasing challenges to the reliability of fingerprint expertise... all unsuccessful. The checks and balances in the justice system have always enabled challenges to individual expert's credentials (training, experience, ability, etc.).

Some readers may believe the sky is falling insofar as future use of fingerprints in court. The sky is not falling. The latent print examination community continues to prove the reliability of the science despite the existence of practitioner error. Math is not bad science despite practitioner error. And, air travel should not be banned despite occasional crashes due to pilot error.

Readers might believe no quality assurance exists in any manner. The articles fail to mention that 100 percent of the fingerprint experts in 100 percent of the accredited laboratories in Amer-

ica are proficiency tested every year. For 24 years a voluntary certification program has existed, and many laboratories require individual fingerprint expert certification for journeyman status. For 20 years there has existed a laboratory accreditation program requiring annual proficiency testing of forensic scientists including fingerprint experts.

The FBI survey errors pointed out by Defense during the *US v. Mitchell Daubert* hearing were not identification errors. The errors are at worst errors of omission and not erroneous identifications. Several practitioners testified about receiving third or fourth generation evidence for comparisons. The practitioners were unwilling to make comparisons using such materials. The articles would lead one to believe that refusing to make decisions using less than best quality images equals incompetence.

In a worst case scenario involving an incompetent expert, Defense can easily locate their own expert. And, for less money than it cost to tune up a car, an identification can be independently reviewed. Defense has never claimed the latent fingerprints from the gear shift lever and door handle of the stolen get-away car were NOT made by Byron Mitchell (who is already serving time in prison for a murder unrelated to the robbery). Indeed, Defense could easily have hired an expert to compare the more than twenty individual character-

istics present in each of the two latent fingerprints identified as being made by their client.

The NY Times was furnished cropped photos in an attempt to show how fingerprint experts could have mistakenly “matched” two impressions from different fingers (the photos were not included in online versions of Andy Newman’s article). At http://onin.com/fp/israeli_daubert are the full, uncropped images of the same impressions from the Israeli National Police, which no expert would confuse as coming from the same finger. Even the cropped versions printed in the NY Times are obviously different to a competent expert.

There have always been challenges to practitioners and expert reliability. The novelty now is to package challenges in the Daubert/Kumho format (in addition to conventional attacks). To date, 100% of the attacks have failed. An example of the continued faith in forensic fingerprint applications was the October 2000 ruling for the Daubert hearing in *US v. Havvard*. The court ruled that under Daubert criteria, “... latent print identification is the very archetype of reliable expert testimony...”

There will probably be some court, somewhere, which will have reservations about fingerprint identification. That has not yet happened because all challenges have been able to use the



foundation laid during the US v. Mitchell Daubert hearing. One day an expert and prosecutor will try to defend the science without doing their homework, and Defense will win a favorable ruling in that court.

The US v. Mitchell case is not over yet. The judge heard the Defense request for a new trial during hearing days in January and March of this year. A decision should be forthcoming in about six weeks. Defense continues to raise issues such as a claim that the FBI helped to hide details of a National Institute of Justice (NIJ) solicitation from Defense. Such claims are hogwash. Defense's own expert, Dr. David Stoney, had the NIJ solicitation meeting (Fingerprint Advisory Board) listed on his curriculum vitae (entered as evidence) when he testified at the US v. Mitchell Daubert hearing. On the witness stand during the US v. Mitchell hearing in 1999. I was asked about "calling for new research." I volunteered that I was serving on a board with NIJ, and we were drafting wording

to solicit research on the very same topics being addressed at the hearing – the reliability of fingerprint identifications.

Neither the FBI nor anyone else hid anything from Defense regarding the solicitation. Claims that somehow the solicitation was secretly kept from Defense are bogus. Before the US v. Mitchell Daubert hearing, I sent the draft wording of the solicitation to researchers at several universities. Recently, Defense admitted that the questions to me on the witness stand about personally soliciting new research came from one of those researchers.

Four people bid on a year 2000 NIJ solicitation for fingerprint research. I helped draft the solicitation in 1999. I participated in the review of the four proposals. Three bids were unrelated to the solicitation. The fourth was returned with instructions and may (or may not) eventually be funded.

Some Latent Print Examiners are employed in laboratories or agencies choosing to ignore professional and national/international standards for ex-

pertise. As has always been the case, Defense is free to challenge the training, experience and ability of individual experts in court... free to point out that their agency does not participate in certification/accreditation, etc. With the click of a mouse button, Defense can find their own "certified" expert for an unbiased and independent review of an incriminating identification. ■

(Ed German is a Special Agent with the United States Army Criminal Investigation Laboratory.)

This article does not purport to represent the official position of the US Department of Defense, Army, Army Criminal Investigation Command, Army Crime Lab, FBI, International Association for Identification or any other entity with which I am or have been associated.

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