

Cross-Examination of Friction Ridge Experts

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Many of these experts will not be adequately prepared for cross examination. The attorney should point out the subjective nature of the process, the expert's lack of training, possible bias, and should cross on all relevant problems with the methodology itself. The following are subjects that could be addressed in cross-examination and sample questions on those subjects. All names and details listed in these sample questions are fictitious. These subjects are merely examples and do not represent the only subjects that would be appropriate for cross-examination on this topic. The word "match" rather than "individualization" is used in the following sample cross intentionally. The goal of the attorney on cross should be to clarify that this process is neither scientific nor reliable; using the easily accessible word "match" rather than the word "individualization" arguably furthers this goal.

1. Bias

Some local law enforcement agencies employ their own latent print examination units. The jury and judge, hearing that the expert is a friction ridge examiner is unlikely to realize that the expert actually works for the police department without cross-exam on the topic.

- You stated that you work for the Latent Fingerprint Examination Unit, correct?
- And that's a part of the Phoenix Police Department?
- So you work for the Phoenix Police Department?
- Your supervisor, the person who hired you and who could fire you, is Lieutenant Jones?

2. Distinction Between Latent and Known Prints

If the expert did not explain on direct examination the difference between a known print and a visible print, this must be addressed on cross examination.

- What is known print?

- So a known print is very clear?
- Minute details of a known print are visible?
- What is a latent print?
- And how is a latent print lifted?
- So latent prints, unlike known prints, often aren't clear?
- They don't have as much detail?
- They can be just fragment—pieces—of a fingerprint?
- And they can be blurred?
 - This blur can be from how the print was left?
 - That's how the person moved their hand?
 - Or the blur can be from how the print was lifted?
- So you have relatively little information from that latent print compared to the known print?
- And just to clarify, the latent print is what the police get from the crime scene?
- Not what the police get directly from a person?

3. Methodology

ACE-V is not a paradigm of the scientific method. There are many issues with the ACE-V methodology that jurors will likely be unaware of. Covering the scientific process (or lack thereof) at work in latent print comparisons is necessary to shake the jurors' faith in the reliability of this evidence.

- Do you follow the ACE-V Method of latent print examination?
- Can you tell us what that acronym stands for? What is ACE-V?
- So the first step is analyzing the latent print by itself?
 - During that stage, you're looking at the clarity of the print?
 - And the quantity of information—the detail—that it provides?
- Is it correct to say that a print that isn't very clear or that doesn't have much information is less useful than a clear print with a lot of information?
 - So the clearer a print is and the higher the quantity of information, the easier it is for you to make a reliable comparison?
- Does that mean if a print isn't clear or doesn't have much information, you won't try to make a comparison with it?
 - Is there a point where a print is so unclear or missing so much information that you wouldn't make a comparison with it?
 - So no matter how bad the print is, you would still use it?
- Let's move on to the comparison stage. You compare the latent print to what?
- And these inked prints are either already in a database or they're provided to you by the police?

- When the inked print is provided to you by the police, you're only comparing the latent print against the inked print provided?
- So you're not looking at the inked prints of many people looking for a match, you're only looking at the inked and latent print that the police hope match?
- And you determine whether or not the prints match by looking for points of comparison?
- So you look for parts of the inked and latent print that appear to match?
- How many of these points of comparison do you *have* to find to determine there's a match?
- So there is no minimum number of points of comparison that must be found?
 - So you could have a match based on only one or two points of comparison?
 - And just to clarify, these points of comparison can be very small correct?
 - So a point of comparison could be just the way a couple ridges of the fingerprint meet up?
- Let's move on to the evaluation process. After you compare the inked and latent print, you determine whether there is a match?
- There are three determinations you can come to, right?
 - That the inked and latent prints appear to come from the same individual? Which is an individualization, or a match right?
 - You can also conclude that the inked print and latent print are from different people and exclude the match?
 - Or you determine that the match was inconclusive and must be excluded?
 - But you can make a match over just one point of comparison right?
 - So a print would have to be so blurred that there was no information at all in order for it to be excluded?
- Do you know what the error rate is for these evaluations?
 - Option 1: There is no rate of error?
 - So the evaluations are 100% accurate?
 - But there have been some very high profile mistakes made by fingerprint examiners, haven't there?
 - Are you familiar with the *Mayfield* case?
 - Multiple FBI examiners said that a latent print from a crime scene in Spain matched a man who was not even in the country at the time the crime was committed?
 - What about the *Cowans* case?
 - A man who was later proven innocent through DNA evidence was labelled a match by four separate fingerprint experts?
 - Option 2: There have been no studies on the error rate for fingerprint evidence?
 - So there's no scientific evidence of the reliability or lack of reliability of fingerprint evidence?
- Let's move on to the verification process. In this process, another member of the latent print examination unit will look over your comparison?

- Will that second examiner be told what you determined?
- So the second examiner won't be doing a full examination on their own, they'll just be checking your notes and your determination?
- Have you ever been the verifying examiner for a colleague?
- How many times?
- How many times have you come to a different conclusion than the first examiner?

4. Training and Qualifications

This is a pivotal section of cross examination in that it reveals to the jury how minimal the requirements are for expertise in the case of friction ridge examiners. This section is far more fact intensive than the preceding sections. Depending on the friction ridge examiner's background and employment, cross into education, training, certification, or accreditation may prove useful. Much of this section will refer to the SWGFAST guidelines; these guidelines are not mandatory but are commonly known to those in the profession.

A. Education

- Mr. Expert, do you have Bachelor's Degree or higher?
- Did you get a degree in forensic science?
- Did you take any science courses in college?
 - Biology for example?
- Are you familiar with SWGFAST?
 - Can you tell us what SWGFAST is?
- What about SWGFAST Guidelines?
 - Are you familiar with the SWGFAST guidelines for friction ridge examiners?
- Those guidelines, meant to assure quality and reliability in the profession, require friction ridge examiners to have a bachelor's degree?
- And that degree must include science-related coursework?

B. Training

- Mr. Expert, again you're familiar with the SWGFAST guidelines, correct?
- Those guidelines cover training for people in the friction ridge examination field, right?
- Do you recall how long the guidelines say training should last?
 - So after only one year of training, during which you're supervised, you can become a friction ridge examiner?
- But the guidelines actually recommend longer than that, correct?

- The guidelines for your profession recommend two or more years of full-time latent print work?
- How long was your training?

C. Certification

- Mr. Expert, do you know what a certification for a friction ridge examiner is?
- So you're familiar with the International Association of Identification (IAI)?
- Can you tell us what the IAI does regarding certification?
 - So the IAI provides certification for friction ridge examiners who meet a basic level of competence?
 - How does the IAI test this?
- Do you have certification from the IAI?
 - Have you tried to take the certification tests?
 - How many times have you tried to take the certification tests?
- Is anyone in your unit certified by the IAI?

D. Accreditation

- Mr. Expert, are you familiar with the American Society of Crime Lab Directors?
 - So you are aware that this society grants accreditation to laboratories.
 - And to maintain accreditation, the laboratories must have a policy manual or standard operating procedure protocol?
 - And to maintain accreditation, the employees must also take yearly proficiency tests?
- Can you just remind me where it is you work?
- You called that a unit?
 - So, not a laboratory?
- Is your unit accredited?
- Although your unit isn't accredited, you must have a policy manual?
 - So there's no set policy for how you document comparisons?
 - Is there a set validation policy?
- Do you take the yearly proficiency tests?