

**THE WORLD OF INDEPENDENT TESTING FROM
THE PERSPECTIVE OF DEFENSE COUNSEL:
WHAT WE LOOK FOR IN CHOOSING THE RIGHT FORENSIC LABORATORY**

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Over the last decade, several states have passed statutes guaranteeing criminal defendants the power to conduct independent DNA testing prior to trial. In Washington, D.C., for example, the Innocence Protection Act encourages criminal defendants to conduct extensive pre-trial testing of any and all biological material recovered by law enforcement.

Such statutes create enormous opportunities for private forensic laboratories across the country and internationally to develop an often-overlooked clientele: defense attorneys and their clients. Drawing on our office's experiences working with and choosing amongst a variety of laboratories, the presentation will outline the criteria particularly important for defense attorneys and their clients in choosing forensic laboratories to do independent testing. As much if not more than testing conducted on behalf of law enforcement, a defendant's independent testing results must be completely unassailable. Thus, while the SWGDAM standards provide a good starting point, defense attorneys seek additional quality control measures, rigorous interpretation guidelines, and maximum transparency in analytical process.

Our presentation will also highlight the unique considerations that apply when a forensic laboratory and its scientists are retained by defense counsel and become subject to constitutional and ethical rules governing confidentiality of work product and client communications. The presentation will discuss our experiences harmonizing sound laboratory science with such ethical requirements and will relate those experiences to goals for all forensic laboratories. The defense community's reliance on independent DNA testing has just recently begun to burgeon and will continue to grow. By outlining and describing the unique criteria that defense counsel look for in hiring independent laboratories, we hope to help private forensic laboratories effectively meet the growing needs of the defense community.