

Fact Is, Science Has Never Put Its Finger on Prints

SOME WEEKS ago, the U.S

Justice Department quietly asked forensic scientists around the country to help prove there is a sound scientific basis for fingerprinting; which,



MIKE WEISS

when you think about it, is astonishing.

Of all things, fingerprinting. For -a century, the fingerprint match has been the gotcha of criminal proceedings.

Yet the

solicitation to potential researchers sounds almost plaintive: "Procedures must be tested statistically in order to demonstrate that following (them) allows analysts to produce correct results with acceptable error rates. This has not been done."

Not been done? Since 1911, when the first American miscreant among the untold thousands to follow was convicted based on a fingerprint match, it seems that nobody has bothered to challenge two assumptions we've all bought into: Fingerprints offer irrefutable scientific proof, and the people who examine them can read the truth in them.

Turns out these may or may not be verities. "Latent print examiners make the claim of absolute certainty for their identifications," says a brief in a murder case now being tried here in San Francisco. "The assumption of absolute certainty," argues Deputy Public Defender Michael Burt, "has been maintained by a system of societal indoctrination, not reason, and has achieved such a ritualistic sanctity that even mild suggestions that it should be re-examined are instantly regarded as acts of blasphemy. Whatever this may be, it is not science."

Burt is attempting to persuade judge Leonard Louie to throw out the fingerprint evidence in a murder-for-hire case against his client,

Robert Nawi. When Nawi was arrested in 1998 on an unrelated crime, a San Francisco fingerprint examiner matched his prints to two found at an unsolved 10-year-old murder.

Burt knows that his challenge, "sounds like real trickery. I entered into it myself with skepticism. I had. the Nawi case and I was wondering what the hell fm going to do with it" when he attended a conference in Philadelphia.

There, a defense attorney delivered a talk about a bank robbery case in which he had challenged as scientifically unproven the fingerprint evidence against his client. According to Burt, in order to meet this challenge the FBI sent the prints in the Philadelphia case to 53 experts around the country, certain as only the FBI can be of the outcome.

But 23 percent of the FBI-chosen experts found there was insufficient basis for one match, and 17 percent found insufficient basis for the other. Oops.

This in turn led to new and largely unremarked-upon challenges in Illinois, Miami, Los Angeles and here. It's as if a pillar of the criminal justice system is being eaten away by termites. And that in turn led to the justice Department solicitation.

It now turns out - and this is breathtaking - there is no agreed upon standard for how many ridges in a print must match before an examiner concludes the prints come from the same person; the FBI insists on 12, in the Nawi case the examiner decided eight were enough. In addition, the San Francisco Police Department has ignored its own requirement for annual proficiency testing for examiners.

The examiner who made the Nawi match, Wendy Chong, sounds nonchalant about her subjectivity. "Some people might see a bifurcation as a ridge ending and some people might see it as vice versa. And then some people might see a short ridge as being a dot and some people will not enter that in the computer," Chong testified at a preliminary hearing. "So, it depends on the persons looking at the fingerprint, how they interpret. that fingerprint to be."

Chong says she and other examiners rely on what she calls "poroscopy" and "ridgeology." But Points out that even the man who first coined those terms has acknowledged they are pseudo-science.

A belief in the rigorous scientific basis of fingerprinting, however, seeped into the justice system in part because it was law enforcement people who were the experts, not disinterested scientists. "Few identification specialists were challenged in court. Legal counsel shied away from dwelling on a science considered exact and infallible," Burt's brief argues. "It is difficult to comprehend that a complete scientific review... has not taken place some time in the last 100 years."

You can e-mail Mike Weiss at mweiss@sfgate.com.