

# **Ethics Among Search Dog Handlers**

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# What Does It Mean to Be Ethical

- “Ethical,” as a general concept, refers to value judgments concerning right and wrong, or good and bad, in human conduct. Behavior is ethical to the extent it reflects the application of accepted principles or a moral code guiding the practice of a particular profession.
- This means that ethical standards are relative and change with changes in the community’s standards; therefore, ethical decisions are rarely “right” or “wrong,” but exist on a continuum from clearly ethical to clearly unethical. - Taken from Dr. Lawrence B. Rosenfeld, lecture, July 16, 2010, *2010 Nebraska Disaster Behavioral Health Conference*, Omaha, NE.

# Is there a problem?

- 45% of employees have lied to their supervisor
- 51% have committed an unethical act at work:
  - Violated quality standards
  - Lied to cover up breach in quality
- 36% have lied on or falsified a report

What do you think is the most important problem facing the country today?"

- Ethics, dishonesty 13
- Education 12%
- Crime/Violence 9%
- Dissatisfaction with Government 9%
- Drugs 7%

# Marcia Angell, MD, Editor-in-Chief (1988-2000)

## *New England Journal of Medicine*

- “Ethical lapses are almost never cases of bad people, doing bad things, for no good reasons. More often they are good people, doing bad things, for good reasons.” - Taken from Dr. Lawrence B. Rosenfeld, lecture, July 16, 2010, *2010 Nebraska Disaster Behavioral Health Conference*, Omaha, NE.

# Some Real World Examples

Taken from Ethics in Forensic Science, West Virginia University, Forensic Science Initiative, Online Course, 5.11.2009.

- **Louis Pasteur (1880's):** He was a scientist and professor who made many advances in chemistry, germ therapy, and immunology. His work led to vaccines for anthrax and rabies. Although Pasteur publicly stated that he used his own methods, it turned out to be untrue. Data books revealed that his method was developed by his rival, Jean-Joseph-Henri Toussaint.
- **Allison Lancaster:** She was a DNA analyst in a lab that required all staff to rotate weekends working drug cases. She was unhappy and angry so she wrote reports without doing analyses.
- **Kathleen Lundy:** She was an FBI Lab employee who admitted to making false statements. She was an expert on lead analysis and became upset at being frequently challenged in court by a former colleague. "The adrenaline factor," of which she was guilty refers to being in a heated cross-examination and being tempted to defend what you said beyond that which can be defended.
- **Dr. Joseph Kopera:** He was the supervisor of the state police firearms and tool marks unit in 2000, and he managed their IBIS system. He testified in about 100-125 cases per year. It was found that he did not hold degrees from the Rochester Institute of Technology or the University of Maryland.

# Fred Zain Discussion

# Fred Zain

- Fred Zain was a West Virginia State Police forensics expert who testified in hundreds of criminal cases. He presented himself well. He appeared to know his subject so well that judges, prosecutors, and defense attorneys didn't question the laboratory results Zain said he obtained. Juries believed him. They convicted the defendants when Zain testified that his laboratory conjuring showed they were guilty, even when other evidence conflicted with his testimony, and especially when no other incriminating evidence existed. Fred Zain became something of a forensics "star," sought after by prosecutors who wanted to win convictions in difficult cases. His stature in West Virginia led to a better job offer, chief of physical evidence for the medical examiner in Bexar County, Texas, and he did for Texas what he had done for West Virginia. He lied.

# Fred Zain

- From all appearances, Fred Zain didn't set out to repeatedly, almost routinely, commit perjury, and thereby send innocent people to prison for crimes they didn't commit. In his own defense, Zain has pointed to inadequate facilities, conflicting duties and an overwhelming caseload. All those factors were present. What Zain doesn't mention is the fact that he was never qualified to be doing forensic lab work in the first place. His college transcripts reveal that Zain was a mediocre scholar who had failed organic chemistry. Apparently no one reviewed Zain's transcripts before putting him on the job, or before qualifying him as an expert witness. No one looked at his transcripts until the house of cards he had built came tumbling down.

# Fred Zain

- Fred Zain is the victim of his own success. Over the years, Zain rose to the position of Chief of Serology at the West Virginia Department of Public Safety (crime laboratory). What he couldn't establish in the laboratory was arrived at through a unique form of logic called "backwards reasoning." *If the defendant is guilty, it is likely that ...* is the predicate for such reasoning. It presumes the defendant's guilt, and bases its findings on that presumption. But when you add to that presumptive base inadequate facilities, conflicting duties, an overwhelming caseload, and put them in the hands of an unqualified "expert," you have the prescription for disaster.

# Fred Zain

- The disaster came in the form of Glen Woodall, convicted in 1987 of multiple felonies, including two counts of sexual assault, and sentenced to a prison term of 203 to 335 years. At Woodall's trial, Zain testified that, based upon his scientific analysis of semen recovered from the victims, "[t]he assailant's blood types ... were identical to Mr. Woodall's." Woodall's conviction was affirmed on appeal, but DNA testing done in a subsequent *habeas corpus* proceeding established that Woodall could not have been the perpetrator. His conviction was overturned in 1992 and Woodall was freed. Woodall sued the State of West Virginia for false imprisonment, and received \$1 million in settlement. This ultimately led to an extraordinary investigation of the entire body of Zain's work ordered by the West Virginia Supreme Court. The report concluded that the actual guilt of 134 people was substantively in doubt because the convictions were based on inculpatory reports and/or testimony by Zain. Nine men have been freed because the remaining evidence offered against them was insufficient for conviction ~ the expert testimony of Fred Zain alone had put them in prison.

# Fred Zain

- **The other key players, the people who facilitated Zain's fraud, didn't get it. "I really have no idea why he did what he did," said Jack Buckalew, a former superintendent of the West Virginia State Police. Kenneth Blake, then-director of the state police's Criminal Identification Bureau, said he never questioned Zain's academic background when recommending him for the state police job. Ray Barber, lab chief at the time, said he felt no need to check Zain's credentials because Zain had a "lab background" as a chemist with the state Department of Natural Resources. In 1985, two fellow lab workers told superiors they had seen Zain record results from blank test plates. Blake looked into the allegations and dismissed them as an office squabble. "They didn't like Zain, and Zain didn't like them," Blake said of that time. "But we never had any complaints from prosecutors, defense attorneys or investigators."**

# Fred Zain

- **1998, Zain was charged in Hondo, Texas with aggravated perjury, evidence tampering and fabrication connected to the 1990 rape conviction of Gilbert Alejandro. He was acquitted. West Virginia took a kick at the cat with charges that Zain had defrauded the state by accepting his salary and benefits while falsifying evidence and committing perjury. The charges were dismissed in January 1999 by Judge Andrew MacQueen, who found the indictment too vague and ~ appropriately ~ expressed concern about how the law was being applied.**
- **Fred Zain's actions didn't take place in a vacuum. The conditions that gave rise to his abuses remain in place in other crime labs and courtrooms across the country. There are no complaints from prosecutors, defense attorneys or investigators, so there isn't a problem.**
- Taken From <http://www.truthinjustice.org/experts/lie.htm> 9.7.2010

# Sandra Anderson Discussion

# Sandra Marie Anderson

- Anderson had participated in high-profile investigations and rescue efforts, achieving a measure of international fame for her dog-handling skills. Between June 2001 and April 2002, she participated in several searches with the Federal Bureau of Investigation and local law enforcement as part of an investigation into the disappearance of a woman who was suspected to have been murdered and buried in Michigan's Huron National Forest.
- In April of 2002, a crime-scene technician witnessed Anderson fraudulently planting a bone in the forest. A wide-ranging federal investigation into Anderson's wrongdoing revealed a pattern of fraudulent behavior. In multiple investigations, she repeatedly planted human remains, fibers, and items stained with her own blood, which she later represented as evidence. Anderson made false statements to authorities in an attempt to cover up her wrongdoing. She pleaded guilty on March 10, 2004.

# Sandra Marie Anderson

- **“Manufacturing evidence is reprehensible behavior that threatens the integrity of our criminal justice system, especially when committed by someone charged with upholding the law. The vast majority of the men and women who serve in the criminal justice system do so with honesty and courage. Today’s sentencing sends the message that individuals who tarnish the service of their fellow public servants will be held accountable.”**

**R. Alexander Acosta**

**Assistant Attorney General for the Civil Rights Division**

- **“This case represents a clear demonstration of the Department of Justice’s goal of ensuring that all criminal investigations throughout this country attain and maintain the highest honorable and professional standards,”**

**Craig S. Morford,**

**United States Attorney for the Eastern District of Michigan**

- **Taken From U.S. Department of Justice press release, 9-28-04**

# David Harding Discussion

# David Harding

- In April 1993, Craig D. Harvey, a New York State Police trooper was charged with fabricating evidence. Harvey admitted he and another trooper lifted fingerprints from items the suspect, John Spencer, touched while in Troop C headquarters during booking. He attached the fingerprints to evidence cards and later claimed that he had pulled the fingerprints from the scene of the murder. The forged evidence was used during trial and John Spencer was sentenced to 50 years to life in prison.
- **New York State Police Troop C scandal**, From Wikipedia, the free encyclopedia
- The **New York State Police Troop C scandal** involved the fabrication of evidence used to convict suspects in New York by the New York State Police.

# David Harding

- The scandal became known when Trooper David L. Harding was interviewed for a job at the Central Intelligence Agency (CIA). He was asked if he was willing to break the law for his country. He answered "yes", then explained how he worked to convict people he felt sure were guilty by fabricating evidence. He assumed the CIA would be pleased with his answer, but after a delay, they contacted New York officials.

# David Harding

- One fabrication involved the 1989 murders of the Harris family of Dryden, New York. In their home, Warren and Dolores Harris, their daughter, Shelby, 15, and their son, Marc, 11, were bound and blindfolded, Shelby was raped and sodomized, all four were shot in the head and the house was doused with gasoline and set afire. State police investigators say that evidence led them to Michael Kinge, and that officers killed him when he pointed a shotgun at them during the arrest. His mother, Shirley Kinge, admitted to using a credit card stolen from the Harris home. Officers David L. Harding and Robert M. Lishansky, of Troop C, admitted they took fingerprints of Ms. Kinge from her work place and claimed to have found them on gasoline cans found at the Harris home. She was convicted of burglary and arson and sentenced to 17 to 44 years in prison. She served two and a half years before it was revealed that the evidence had been fabricated. Her conviction was later overturned.[2]
- "In a February 2008 ruling, Midey found that the 73-year-old Kinge was the victim of malicious prosecution and negligent supervision of a state police investigator who planted phony fingerprint evidence and gave false testimony linking her to the Harris family slayings in 1989." Ms Kinge was awarded \$250,000 in compensation for the nearly 2½ years she spent behind bars.

# David Harding

- Craig D. Harvey was a lieutenant who headed the identification unit, and was a 16-year veteran of the force. He pleaded guilty on July 29, 1993 to fabricating evidence in three cases, and agreed to serve 2½ to 7 years in prison.
- David L. Harding was a 7-year veteran of the force, was sentenced on December 16, 1992, to 4 to 12 years in prison and fined \$20,000 for fabricating evidence in four documented cases.
- Robert M. Lishansky was an 11-year veteran of the force, was sentenced June 10, 1993 to 6 to 18 years in prison for fabricating evidence in 21 cases.
- David M. Beers was a 15-year veteran, pleaded not guilty on May 5 and on July 29 to fabricating evidence in two cases.
- Patrick O'Hara was a lieutenant and 16-year veteran of the force. He was suspended July 29, 1993 pending an investigation into Mr. Harvey's allegations that Lieutenant O'Hara helped fake evidence.
- Taken From  
[http://en.wikipedia.org/wiki/New\\_York\\_State\\_Police\\_Troop\\_C\\_scandal](http://en.wikipedia.org/wiki/New_York_State_Police_Troop_C_scandal) 9.7.2010

# Douglas County CSI Discussion

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- **CASS COUNTY, Neb.** -- David Kofoed, the disgraced former Douglas County chief crime scene investigator, has been sentenced to 20 months to four years for evidence tampering.
- Judge Randall Rehmeier of Cass County District Court handed down the sentence at 4:36 p.m. Tuesday.
- Rehmeier cited Kofoed's lack of remorse and the seriousness of the crime just before delivering the sentence.
- The judge said he could find no motive for the evidence tampering other than that it seemed Kofoed thought the two men were guilty.
- Rehmeier convicted Kofoed in March of tampering with evidence in a 2006 Cass County case in which two men -- Nicholas Sampson and Matthew Livers -- were wrongly charged in a double murder and spent months in prison.
- The earliest Kofoed would be eligible for parole is in 10 months.
- "I think there's some poetic justice to the sentence," said Prosecutor Clarence Mock. "Ten months would be right about the amount of time that Mr. Livers and Mr. Sampson remained incarcerated before their cases were dismissed."
- Kofoed's lawyers said his client can't afford the \$50,000 appeal bond needed to get out of jail, which means Kofoed will likely start his sentence immediately.
- Kofoed has said that he plans to appeal his conviction after sentencing.
- Taken From <http://www.ketv.com/news/23758656/detail.html> 9.7.2010

# Path and Motives –

## Taken from WVU Online Course

- “The most probable time for unethical behavior to occur is when there is a disparity of ethical codes...The path to unethical conduct depends on a variety of factors, including how people view themselves, their careers, and the world. Such worldviews, attitudes, and beliefs precede behavior, action, and conduct. People typically draw upon their existing frames of reference to excuse, justify, or rationalize unethical behavior. In addition, people draw upon the media, politicians, and other elements of society, such as the ambiguity of the law, to rationalize or excuse such negative behavior. People who act un-ethically commonly underestimate the likelihood that the truth will eventually come out, they overestimate their ability to manage the situation, or they succumb to pressure.”

# The Ethical Role Questions for the Search Dog Handler

- Should you tell the truth if it means a known guilty person will be set free?
- Can one tell the truth if they do not understand the science behind a method? A printed protocol says you have a method.

# An Ethical Question

- Should you “blow a whistle” if you knew your observations would cost the state millions of dollars, perhaps set hundreds of guilty people free, and destroy public confidence in search dog handler work? It would also cost a lot of nice people their jobs.

Dr. John Wang, Online Presentation  
“Ethical Issues in Forensic Science: A  
Mock Trial Debate,” May 2009.

# Rationalizations

- The Ends Justify The Means
  - If It Is Necessary It Is Ethical
  - If it is Legal and Permissible, It Is Proper
  - Little White Lies
  - Fighting Fire With Fire
  - It Does Not Hurt Anyone
- The Ends Justify The Means
  - If It Is Necessary It Is Ethical
  - If it is Legal and Permissible, It Is Proper
  - Little White Lies
  - Fighting Fire With Fire
  - It Does Not Hurt Anyone

# Common Unethical Behaviors

- Misrepresenting qualifications or credentials
- Pressured testimony (**adrenaline factor**)
- Omitting unfavorable information
- Lying about the knowledge of the evidence planted
- Falsifying the data or notes
- Biased examination

Dr. John Wang, Online Presentation  
“Ethical Issues in Forensic Science: A  
Mock Trial Debate,” May 2009.

# The Ideal

- **Accurate representation of qualifications**
- **Maintain the integrity of the evidence**
- **True and accurate representation of data**
- **Clear and complete documentation**
- **Impartiality of the examination**
- **Impartiality of testimony**
- **Confidentiality and disclosure**
- **Reporting of colleagues who violate the profession's ethical code.**

Dr. John Wang, Online Presentation  
“Ethical Issues in Forensic Science: A  
Mock Trial Debate,” May 2009.

# Truth Telling

- “Common sense tells us that truth-telling demands describing what is while avoiding distortions of fact. (A fact usually is defined accurately, if not somewhat deceptively, as “what is so.”) Distortions of fact might include, for example, the deliberate omission of relevant facts, or inviting misinterpretations and encouraging incorrect conclusions from such incomplete presentations. Such distortions may even appear in the (crime scene investigator’s) own curriculum vitae, or resume

(Jon J. Nordy. “Countering Chaos: Logic, Ethics, and the Criminal Justice System.” Stuart H. James and Jon J. Nordby, Eds. Forensic Science, An Introduction to Scientific and Investigative Techniques. 3<sup>rd</sup>. Boca Raton: CRC Press, 2009, 670.

# What Do You Do?

- Seek and Adopt a Code of Ethics.
- Evaluate Your own Behavior at All Times for Veracity.
- Openly Communicate. As an example, do a report on all that you do, and file away your field notes. Ask others for advice.
- Practice Objectivity and readily identify Subjectivity.
- Seek Professionalism and Competency.
- Share the Wealth, seek Review, stick by your guns, and try as you may to “Get It Right.”
- We cannot always be the best there ever was, we can only be the best we can be at a given time and place.
- Recognize that none of us are without mistake. We all have and will make mistakes of various types.
- Control the competitive drive. You will “never” be the best CSI.
- Participate in professional organizations.
- Teach others.

# Protocols, Reports, and Reviews

- Protocols are a hedge against ethical violations. Crime Scene investigators should be trained to employ well established protocols, and required to document all they do in an investigation.
- It is not feasible that there be peer review for every crime scene investigation. However, a supervisor should be reviewing reports, doing reconstruction activities, and quizzing investigators.
- Analyses of evidence should be thoroughly documented with photographs, chain of custody documents, reports, and a review.
- Crime Scene Investigators should be required to produce evidence of annual professional development, and undergo blind testing from time to time on analytical techniques.

# Management and Supervision

- Many of the ethical issues in forensic science can be laid at the feet of supervision and management.
- It is imperative that clear guidelines of acceptable behavior be understood and enforced without exception.
- Ethical behavior is not necessarily criminal. It is more than being rigid, being hypercritical, or trying to catch others making mistakes.
- It is recognizing what is intended to do harm to others, the carrying out of the behavior, and the toleration of the behavior.

# Your Ethical Experience

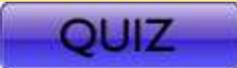
- Take a moment and write down the most controversial ethical situation that has taken place in your life.
  - What made it an ethical situation?
  - How was it handled?
  - What rationalizations were there for the behaviors involved in the situation?
  - Would you have handled it differently?

# Take the Quiz

Once you have read the two documents in this course:

**Forensic Investigation Protocols for the Search Dog Handler  
and  
Ethics Among Search Dog Handlers**

Click on this link to take the

 QUIZ

Or manually copy and paste this link into your web browser:

[www.classmarker.com/online-test/start/?quiz=mkj54bc33746228f](http://www.classmarker.com/online-test/start/?quiz=mkj54bc33746228f)