



ARTIFICIAL INTELLIGENCE IN FORENSICS

A DEFENSE PERSPECTIVE

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KEY CONCERNS FOR DEFENSE LAWYERS

Validity and
reliability (or lack
thereof)

Disclosure and
vindication of
Constitutional
rights

Expert concerns

Limitations of an
adversarial
system

VALIDITY AND RELIABILITY

- Serious issues in traditional forensics with validity and reliability have persisted over decades
- AI tools are likely to encounter or exacerbate many of the same problems
- Additionally, AI tools (currently) often used in contexts that prevent or limit reliability challenges in the first instance

DISCLOSURES AND CONSTITUTIONAL RIGHTS

- Many key Constitutional rights, including Due Process and Confrontation Clause rights, are implicated by AI
- What is disclosed and how are major concerns for the defense bar (see, e.g., PGS litigation)
- Important questions about whether *any* disclosure is sufficient in the context of these systems

EXPERT CONCERNS

- Finding and retaining appropriate experts already very difficult for defense bar
- Will the defense be able to find appropriate experts in AI?
- There are also important concerns about the state's experts
 - Will these people understand the systems they are testifying about and be able to be cross-examined?

LIMITS TO AN ADVERSARIAL SYSTEM

- AI in forensics poses society wide issues
- Defense function often raises some of these concerns
- But ethical obligations (as well as limitations to the legal system) mean defense cannot be primary or only way that broader questions about use of these systems is considered

THANK YOU!

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