Countering common arguments from analysts

We are proficiency tested

- Proficiency tests are not blindly administered
  - Do you know when you are taking a proficiency test?
  - If you fail a proficiency test, you can be taken off casework.
  - If you fail a proficiency test, you may have to complete additional training.
- Proficiency tests aren't proctored.
  - The test isn't timed, is it?
  - You can work on it as long as you need to.
  - It's not a closed book test.
  - You can refer to references for help.
  - There isn't anyone observing you as you take the test.
  - There isn't a proctor to stop you from asking someone for help.
  - Because of this there have been cases of analysts caught copying another analyst's work on these tests.
- Proficiency tests are known to be easy
  - The proficiency test your lab uses is made by Collaborative Testing Services (CTS)?
  - The President of CTS is on record saying, "Easy tests are favored by the community."
  - That's in the PCAST Report on p. 57.

Brandon L. Garrett & Gregory Mitchell, *The Proficiency of Experts*. UNIVERSITY OF PENNSYLVANIA LAW REVIEW. Vol. 166 (2018) Available here.

I have never made an error in casework

- Ground truth in casework is not known.
  - You testified that you have never made an error in casework
  - But in casework, you rarely know the ground truth
  - You never find out if the identification you made was actually correct or not
  - It would be more accurate to say you don't know what your error rate is in casework
- There isn't a reliable feedback loop to alert scientists to errors they have made in casework.
  - After you complete work on a case, are you informed of the outcome of that case?
  - If you do hear the outcome of a case, a guilty plea or verdict doesn't prove that your opinion was correct, does it?
  - Some cases that you work might get re-tested even after a person is convicted?
  - You don't get a notification every time that happens.

Our quality assurance/case reviews would catch any error

- Technical reviewers don't retest the evidence
  - In your lab, a second analyst reviews each case?
  - That review is called a technical review.
  - In the technical review, the second analyst does not actually test any of the evidence.
  - They just look at the answer that you got.
- Reviews are not performed blindly
  - The technical reviewer knows what result the first analyst got?
  - They also know who the first analyst was.
  - They are always reviewing the results of a co-worker.
  - They are reviewing the results of someone who they work with in a daily basis.
  - If Analyst A performs the testing and Analyst B checks the answer in one case, in another case, Analyst B will be the one that performs the testing and Analyst A will check their work?
  - You go back and forth, checking each other's work.

I didn’t read that report/I disagree with some of the conclusions in that report.

- Build up the report –
  - From the Lincoln administration through the Obama administration, presidents have appointed some of the top scientists in the country to advise them on science issues.
  - These advisors form the President’s Council of Advisors on Science and Technology (PCAST)
  - In 2016, President Obama asked his science advisors, the PCAST, whether any additional steps were needed to ensure the validity of forensic evidence used in the Nation’s legal system.
  - His science advisors, the PCAST, got input from forensic researchers at the Federal Bureau of Investigation Laboratory and the National Institute of Standards and Technology.
  - They also got input from many other forensic scientists and practitioners, judges, prosecutors, defense attorneys, academic researchers, criminal-justice-reform advocates, and representatives of Federal agencies.
- You are aware that the report contains some critiques of your field
- It contains some recommendations on how to ensure the validity of forensic evidence used in courts
- But you chose not to read it/You disagree with the conclusions of the President’s top science advisors and leading forensic researchers from the FBI and National Institute of Standards and Technology.