Advancing a paradigm shift in evaluation of forensic evidence: The rise of forensic data science

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Language

- Sorry, I don't speak Portuguese.
- This presentation will be in English, with simultaneous interpretation to Portuguese.
- If you want to speak with me later, I'm fluent in English and Spanish.

Acknowledgment

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Disclaimer

• All opinions expressed are those of the presenter and, unless explicitly stated otherwise, should not be construed as representing the policies or positions of any organizations with which the presenter is associated.

Slides and publication

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Advancing a paradig	n shift in evaluation o	of forensic evidence: The rise of
forensic data science		
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ARTICLE INFO	A B S T R A C T	
Keywords: Forensic science Forensic data science Likelihood ratio Paradigm shift Validation	Widespread practice servors the majority of branches of forounds estence uses analytical methods based on humperception, and interpreter is analytical methods based on majority indevice judgments. These methods no non-transparent and non-transparent and the indevice judgments. These methods are non-transparent and the service service is analytical method is a service of the service service is an indevice of the service of the service service and the service service service of the s	
1. Introduction		[2]:
The present paper is a written version of a keynote presentation given at the European Academy of Forensic Science 2022 conference. It discusses an ongoing paradigm shift in evaluation of forensic evidence. It describes:		In regard to pattern comparison methods, "the comparison fingerprints, toolmarks, footwear, tier marks and ballistice" log "spot-the-difference" techniques in which "there is little, if a robust science involved in the analytical or comparative proces used and as a consequence there have been questions raised aro
• the current state of affairs (staus quo)		the reproducibility, repeatability, accuracy and error rates of st analysis." (§155)
 the new paradigm (quo vadis?) obstacles to the advancement of 	the paradigm shift (impedimenta)	In forensic science, the process of evaluation of strength of evide
 a strategy to advance the paradigm shift (via progredi) 		consists of: analysis, i.e., extraction of information from items of inter
2. A paradigm shift in evaluation of forensic evidence		(the evidence) ¹ ; and interpretation, i.e., drawing inferences with resp to the meaning of the information extracted by the analysis. Items interest may be, for example:
2.1. Status quo		a fingermark of questioned source recovered from a crime scene a
Curran [1]:		a fingerprint collected from a known individual
Is forensic science the last bastion of resistance against statistics?		 a recording of a speaker of questioned identity on an intercept telephone call and a recording of a police interview with a speaker
UK House of Lords Science and T	echnology Select Committee (HoL)	known identity
Working Group on Human Factors in La Kingdom Research and Innovation. E-mail address: geoff-morrison@forer	atent Print Analysis; FSR, Forensic Scient nsic-evaluation.net. cs literature "evidence" is the term comm	; PCAST, President's Council of Advisors on Science and Technology; EWG, Exy ex Regulator for England & Wales; TRL, technology readiness level; UKRU, Un only used to refer to the items of interest (i.e., the input to the analysis) or to onewhard fluid, hue, either way, this is evidence from the perceptive of the focus

Contents

- Status quo
- Quo vadis?
- Impedimenta
- Via progredi
- Conclusion



• Curran (2013):

Is forensic science the last bastion of resistance against statistics?

• Curran (2013):

Is forensic science the last bastion of resistance against statistics?

Is James still grumpy?





• UK House of Lords Science and Technology Committee (2019):

In regard to pattern comparison methods, ...

- "the comparison of fingerprints, toolmarks, footwear, tire marks and ballistics" [are] "spot-the-difference" techniques
- in which "there is little, if any, robust science involved in the analytical or comparative processes used
- and as a consequence there have been questions raised around the reproducibility, repeatability, accuracy and error rates of such analysis."

• The process of evaluation of strength of forensic evidence consists of:

• analysis

extraction of information from items of interest (the evidence)

interpretation

drawing inferences with respect to the meaning of the information extracted by the analysis

- Items of interest may be, for example:
 - a **fingermark** of questioned source recovered from a crime scene and a **fingerprint** collected from a known individual
 - a **recording of a speaker** of questioned identity on an intercepted telephone call and a recording of a police interview with a speaker of known identity
 - a **fired cartridge case** recovered from a crime scene and cartridge cases fired in a forensic laboratory from a gun found in the possession of a suspected shooter

- Forensic practitioners conduct evaluations in order to assist legal-decision makers to make decisions with respect to questions of legal concern such as:
 - Do the fingermark and fingerprint originate from the same finger?
 - Is the speaker of questioned identity on the intercepted recording the same as the speaker of known identity?
 - Was the cartridge case recovered from the crime scene fired from the suspect's gun?

- Currently, across the majority of branches of forensic science, widespread practice is that:
 - analysis is conducted using human perception
 - interpretation is conducted using subjective judgement

- Currently, across the majority of branches of forensic science, widespread practice is that:
 - analysis is conducted using human perception
 - interpretation is conducted using subjective judgement
- These methods are:
 - not transparent
 - susceptible to cognitive bias

- Even in branches of forensic science in which analysis is conducted using instrumental measurement:
 - interpretation is commonly based on subjective judgement,
 - e.g., by eyeballing graphical representations of the measured values.

- Across the majority of branches of forensic science, even branches of forensic science in which interpretation is conducted using statistical models:
 - interpretation of evidence is often logically flawed
 - forensic-evaluation systems (the end-to-end combination of analysis and interpretation methods) are often **not empirically validated** or not adequately empirically validated

• Saks & Koehler (2005):

we envision a **paradigm shift** in the traditional forensic identification sciences in which **untested assumptions and semi-informed guesswork** are **replaced by a sound scientific foundation and justifiable protocols**.

Although obstacles exist both inside and outside forensic science, the time is ripe for the traditional forensic sciences to **replace antiquated assumptions of uniqueness and perfection with a more defensible empirical and probabilistic foundation**.

• US President's Council of Advisors on Science and Technology (PCAST, 2016):

neither experience, nor judgment, nor good professional practice ... can substitute for **actual evidence of foundational validity and reliability**.

The frequency with which a particular pattern or set of features will be observed in different samples, which is an essential element in drawing conclusions, is not a matter of "judgment."

It is an empirical matter for which **only empirical evidence is relevant**.

- US President's Council of Advisors on Science and Technology (PCAST, 2016):
 - Objective methods are, in general, preferable to subjective methods.
 - Analyses that depend on human judgment (...) are obviously more susceptible to human error, bias, and performance variability across examiners.
 - In contrast, objective, quantified methods tend to yield greater accuracy, repeatability and reliability, including reducing variation in results among examiners.
 - Subjective methods can evolve into or be replaced by objective methods.

- A paradigm shift in evaluation of forensic evidence in which methods based on human perception and subjective judgement are replaced by methods based on relevant data, quantitative measurements, and statistical models; methods that:
 - are transparent and reproducible;
 - are intrinsically resistant to cognitive bias;
 - use the logically correct framework for interpretation of evidence (the likelihood-ratio framework); and
 - are empirically calibrated and validated under casework conditions.

- Transparency and reproducibility:
 - Methods dependent on human perception and subjective judgement are intrinsically non-transparent and therefore not reproducible by others.
 - Human introspection is often mistaken, hence a forensic practitioner's explanation of how they reached their conclusion may not reflect how they actually reached that conclusion.

- Transparency and reproducibility:
 - In contrast, procedures based on data, quantitative measurement, and statistical models are transparent and reproducible.
 - Measurement (feature-extraction) and statistical-modelling methods can be described in detail, and data and software tools can potentially be shared with others.

- Cognitive bias:
 - Cognitive bias is subconscious bias, it cannot be controlled by strength of will.
 - Forensic practitioners are susceptible to cognitive bias when making perceptual observations:
 - their degree of belief in the probability that a hypothesis is true can affect their analysis of the evidence and therefore the information that feeds into their interpretation.

• Cognitive bias:

- Cognitive bias is subconscious bias, it cannot be controlled by strength of will.
- Forensic practitioners are susceptible to cognitive bias when they are making subjective judgements and are exposed to information that could influence their degree of belief in the probability that a hypothesis is true but that would not logically affect the probability of obtaining the evidence conditional on whether the hypothesis were true.

- Cognitive bias:
 - Cognitive bias is subconscious bias, it cannot be controlled by strength of will.
 - Systems in which the strength-of-evidence conclusion is directly the result of subjective judgement are particularly susceptible to cognitive bias.

• Cognitive bias:

- Systems based on quantitative measurements and statistical models require subjective judgements on decisions such as:
 - whether the **data used for training the system** are sufficiently representative of the relevant population for the case and sufficiently reflective of the conditions of the items of interest in the case so that the output of the system will be a meaningful answer to the question posed in the case.

• Cognitive bias:

- Systems based on quantitative measurements and statistical models require subjective judgements on decisions such as:
 - whether the **data used for validating the system** are sufficiently representative of the relevant population for the case and sufficiently reflective of the conditions of the items of interest in the case so that the results of the validation will provide a meaningful indication of the performance of the systems under the conditions of the case.

• Cognitive bias:

- Systems based on quantitative measurements and statistical models require subjective judgements.
- These judgements, however, are **made at the beginning of the process** before the practitioner has analyzed the items of interest,
 - hence the practitioner cannot know what effect these decisions will have on the strength-of-evidence conclusion.
- The remainder of the evaluation process is automated,

hence not susceptible to cognitive bias.

- Likelihood-ratio framework:
 - In current practice, interpretation of evidence is often logically flawed, e.g.:
 - it is based on the **uniqueness** or **individualization fallacy**
 - conclusions are often expressed:
 - categorically, e.g., "identification", "inconclusive", "exclusion"
 - using an **uncalibrated verbal posterior-probability scale**, e.g., "identification", "probable identification", "inconclusive", "probable exclusion", "exclusion"

- Likelihood-ratio framework:
 - In contrast, the likelihood-ratio framework is advocated as the logically correct framework for evaluation of evidence by the vast majority of experts in forensic inference and statistics, including:
 - Aitken et al. (2011) with 31 authors/supporters
 - Morrison et al. (2017) with 19 authors/supporters
 - Morrison, Enzinger, et al. (2021) with 20 authors/supporters

- Likelihood-ratio framework:
 - In contrast, the likelihood-ratio framework is **advocated as the logically correct framework** for evaluation of evidence **by key organizations**, including:
 - American Statistical Association (ASA)
 - Association of Forensic Science Providers of the United Kingdom and of the Republic of Ireland (AFSP)
 - European Network of Forensic Science Institutes (ENFSI)
 - Forensic Science Regulator for England & Wales (FSR)
 - National Institute of Forensic Science of the Australia New Zealand Policing Advisory Agency (NIFS)
 - Royal Statistical Society (RSS)

- Likelihood-ratio framework:
 - The likelihood-ratio framework requires assessment of:
 - the probability of obtaining the evidence if one hypothesis were true

versus

• the probability of obtaining the evidence if an alternative hypothesis were true

- Likelihood-ratio framework:
 - The two hypotheses must be **mutually exclusive**.
 - One hypothesis should represent the **position of the prosecution** in the case.
 - The other hypothesis should represent the **position of the defence** in the case.

- Likelihood-ratio framework:
 - Example:
 - The fingermark of questioned origin was deposited by a finger of a particular known individual.

versus

• The fingermark of questioned origin was deposited by a finger of some other individual selected at random from the relevant population.

- Likelihood-ratio framework:
 - In this example:
 - The **numerator** of the likelihood ratio **quantifies the** *similarity* between the mark and the print
 - The **denominator** of the likelihood ratio **quantifies the** *typicality* of the mark **with respect to the relevant population**.

- Empirical validation:
 - Empirical validation under conditions reflecting those of the case to which a forensic-evaluation system is to be applied is the only way to know how well that system performs under the conditions of the case.

- Empirical validation:
 - The need for validation under casework conditions has been emphasized by FSR (2020b), and by PCAST (2016):

Without appropriate estimates of accuracy, an examiner's statement that two samples are similar—or even indistinguishable—is scientifically meaningless:

it has no probative value, and considerable potential for prejudicial impact.

Nothing—not training, personal experience nor professional practices—can substitute for adequate empirical demonstration of accuracy.

- Empirical validation:
 - Over the last two decades:
 - protocols for calibrating and validating systems that output likelihood ratios have been developed,
 - including **metrics and graphics** appropriate for representing the results of such validations.
 - Morrison et al. (2021) Consensus on validation of forensic voice comparison

• A paradigm shift:

- The most famous article heralding a paradigm shift in evaluation of forensic evidence is Saks & Koehler (2005).
- Saks & Koehler and I describe the same paradigm shift.
- Shift from a pre-paradigm to a paradigm stage.
- Saks & Koehler stated that they intended "paradigm shift" as a metaphor, however, ...

REVIEW

The Coming Paradigm Shift in Forensic Identification Science

Michael J. Saks¹ and Jonathan J. Koehler²

onverging legal and scientific forces are pushing the traditional forensic identification sciences toward fundamental change. The assumption of discernible uniqueness that resides at the core of these fields is weakened by evidence of errors in proficiency testing and in actual cases. Changes in the law pertaining to the admissibility of expert evidence in ourt, together with the emergence of DNA typing as a model for a scientifically de fensible approach to questions of shared identity, are driving the older forensic sciences toward a new scientific paradigm.

ittle more than a decade ago, forensic indifferent criminalists conclude that the marks dividualization scientists compared pairs of marks (handwriting, fingerprints, tool were made by the same person or object. Although lacking theoretical or empirical marks hair tire marks bite marks etc.) infoundations the assumption of discernible uited whether the marks matched, and testified uniqueness offers important practical benefits in court that whoever or whatever made one to the traditional forensic sciences. It enables made the other. Courts almost never excluded forensic scientists to draw bold, definitive conthe testimony. Cross-examination rarely quesclusions that can make or break cases. It excuses the forensic sciences from developing measures of object attributes, collecting popuoned the foundations of the asserted expertise or the basis of the analyst's certainty. Today, that once-complacent corner of the law and science interface has begun to

inravel-or at least to regroup. The news car-

ies reports of erroneous forensic identifica

ISA E-mail: koablar@mail.u



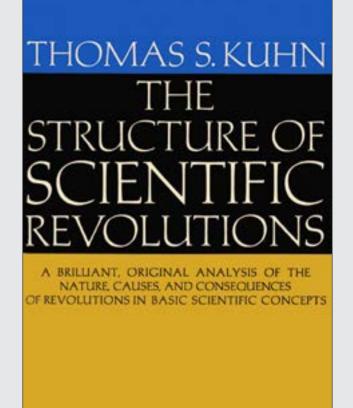
that different objects share a common set o

observable attributes. Without the discernible

ions of hair bullets handwriting footprints ite marks, and even venerated fingerprints Scientists have begun to question the core Evewitness err assumptions of numerous forensic sciences (1-6). Federal funding has materialized to support research that examines long-asserted but unproven claims. Courts have started taking challenges to asserted forensic science exper tise seriously (1). A dispassionate scientist or judge reviewing the current state of the tra litional forensic sciences would likely regard their claims as plausible, underresearched, and The traditional forensic individualiza by forensic scien tion sciences rest on a central assumption: that two indistinguishable marks must have been produced by a single object. Traditional forer Dishonest inform ic scientists seek to link crime scene evi dence to a single person or object "to the exclusion of all others in the world" (7, 8) ncompetent defen They do so by leaning on the assumption of liscernible uniqueness. According to this as sumption, markings produced by differen eople or objects are observably different. Thu Ealen or when a pair of markings is not observabl ¹College of Law, Arizona State University, Tempe, AZ 85287, USA. E-mail: saks@asu.edu ²McCombs School Fig. 1. Factors associated with wrongful conviction in 86 DNA exoneration cases, based on case lysis data provided by the Innocence Project, Cardozo School of Law (New York, NY), and of Business, University of Texas. Austin. TX 78712 computed by us. Percentages exceed 100% because more than one factor was found in many ases. Red bars indicate factors related to forensic science

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- A paradigm shift:
 - I view the paradigm shift in evaluation of forensic evidence as a true **Kuhnian paradigm shift** (Kuhn, 1962) that **requires**:
 - rejection of existing methods and the ways of thinking that underpin them
 - rejection of the idea that progress can be made by incremental improvements to existing methods
 - the wholesale adoption of an entire constellation of new methods and new ways of thinking



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- The paradigm shift in evaluation of forensic evidence is ongoing, but progress is slow or stalling for the following reasons:
- The new paradigm has only been adopted in a few branches of forensic sciences, and only by a minority of researchers and practitioners.
 - DNA
 - forensic voice comparison

- Only some elements of the new paradigm have been adopted as part of incremental change.
 - Kuhn (1962):

Just because it is a transition between incommensurables, the transition between competing paradigms cannot be made a step at a time, ...

Like the gestalt switch, it must occur all at once (...) or not at all.

- There is misunderstanding of the new paradigm and resistance to its adoption.
 - There is misunderstanding among both forensic practitioners and lawyers.
 - There are many examples of legal rulings in which judges have misunderstood the meaning of a likelihood ratio or have not understood empirical validation and its importance.
 - The cultures of some branches of forensic science seem to be especially resistant to the adoption of statistical-model-based methods and of validation.

- There is misunderstanding of the new paradigm and resistance to its adoption.
 - Practitioners in multiple branches of forensic science often:
 - claim that training and experience provide sufficient warrant for their conclusions
 - deny or obfuscate about the need for validation
 - propose lax validation protocols that do not require meaningful demonstration of performance under casework conditions

- Research is often not informed by practice and has no impact on practice.
 - Margot (2011):

Research in forensic science is sorely needed, but it should address primarily forensic science questions—not questions relating to the application of chemistry, biology, statistics, or psychology.

• Roux & Weyermann (2021):

it is critical that researchers and funding bodies understand the importance of conducting research that is informed by practice and can be translated into practical applications

- It is difficult to obtain funding for evidential-forensic-science research.
 - When dedicated forensic-science funding is available, it is most often directed toward:
 - investigative applications
 - high technology readiness

- It is difficult to obtain funding for evidential-forensic-science research.
 - Roux et al. (2021):

technology-oriented development ... often overrul[es] the importance of appropriate scientific reasoning to solve actual problems

- It is difficult to obtain funding for evidential-forensic-science research.
 - Bell et al. (2018):

The larger scientific community must now come to the aid of our forensic colleagues in advocating both for:

(i) the research and financial support that is so clearly needed to advance the field and

(ii) the requirement for empirical testing that is so clearly needed to advance the cause of justice.

- It is difficult to obtain funding for evidential-forensic-science research.
 - Bell et al. (2018):
 - Forensic scientists have long complained that their work is not always valued by their scientific colleagues because of its applied nature;
 - it is time for the scientific community to move beyond that conceit.

- It is difficult to obtain funding for evidential-forensic-science research.
 - House of Lords (2019) recommended that UK Research & Innovation:

urgently and substantially increase the amount of dedicated funding allocated to forensic science

- There are genuine practical impediments to implementing the new paradigm.
 - Even if practitioners want to adopt the new paradigm, they will be unable to do so unless they are provided with:
 - quantitative-measurement and statistical-modelling/machine-learning tools and case-relevant data necessary for calculating likelihood ratios and for validating system performance
 - training on understanding the new paradigm and on how to implement it in casework

• Kuhn (1962):

The transfer of allegiance from paradigm to paradigm is a conversion experience that cannot be forced. ...

a generation is sometimes required to effect the change ...

Conversions will occur a few at a time until, after the last holdouts have died, the whole profession will again be practicing under a single, but now a different, paradigm.

- My strategy is to work with researchers and practitioners who want to adopt the new paradigm, to work with them on addressing practical impediments to applying the new paradigm in casework:
 - to provide researchers, practitioners, and lawyers with training leading to understanding of the new paradigm
 - to collaborate with researchers and practitioners on building relevant databases and on developing and validating statistical models / machine-learning algorithms applicable in their particular branches of forensic science

- My strategy is to work with researchers and practitioners who want to adopt the new paradigm, to work with them on addressing practical impediments to applying the new paradigm in casework:
 - to conduct research on how to present likelihood ratios and validation results so as to maximize understanding by individual laypersons and by groups of collaborating laypersons,
 - and thereby provide guidance to forensic practitioners on how to communicate forensic-evaluation results to judges and juries

- My strategy is to work with researchers and practitioners who want to adopt the new paradigm, to work with them on addressing practical impediments to applying the new paradigm in casework:
 - build on knowledge gained from the experience of advancing the paradigm shift in forensic voice comparison
 - including transferring and adapting statistical-modelling/machine-learning techniques, and calibration and validation procedures, used in forensic voice comparison

- Research areas:
 - Calibration and validation of forensic-evaluation systems
 - Forensic voice comparison
 - Fired-cartridge-case comparison
 - Forensic anthropology

- Cell-site analysis
- Fingerprint examination
- Forensic comparison of facial images
- Communication of forensic science

- Recommended reading:
 - Morrison G.S., Enzinger E., Hughes V., Jessen M., Meuwly D., Neumann C., Planting S., Thompson W.C., van der Vloed D., Ypma R.J.F., Zhang C., Anonymous A., Anonymous B. (2021). Consensus on validation of forensic voice comparison. *Science & Justice*, 61, 229–309.
 - https://doi.org/10.1016/j.scijus.2021.02.002
 - Weber P., Enzinger E., Labrador B., Lozano-Díez A., Ramos D., González-Rodríguez J., Morrison G.S. (2022). Validation of the alpha version of the E³ Forensic Speech Science System (E³FS³) core software tools. *Forensic Science International: Synergy*, 4, 100223. https://doi.org/10.1016/j.fsisyn.2022.100223

- Recommended reading:
 - Morrison G.S., Weber P., Basu N., Puch-Solis R., Randolph-Quinney P.S. (2021). Calculation of likelihood ratios for inference of biological sex from human skeletal remains. *Forensic Science International: Synergy*, 3, 100202. https://doi.org/10.1016/j.fsisyn.2021.100202
 - Basu N., Bolton-King R.S., Morrison G.S. (2022). Forensic comparison of fired cartridge cases: Feature-extraction methods for feature-based calculation of likelihood ratios. Forensic Science International: Synergy, 5, 100272. https://doi.org/10.1016/j.fsisyn.2022.100272

- Recommended reading:
 - Swofford H., Champod C. (2021). Implementation of algorithms in pattern & impression evidence: A responsible and practical roadmap. *Forensic Science International: Synergy*, 3, 100142.

https://doi.org/10.1016/j.fsisyn.2021.100142

 Kuhn T.S. (1970). *The Structure of Scientific Revolutions* (2nd Ed.). Chicago IL: University of Chicago Press.

- A Kuhnian paradigm shift requires:
 - rejection of existing methods and the ways of thinking that underpin them
 - rejection of the idea that progress can be made by incremental improvements to existing methods
 - the wholesale adoption of an entire constellation of new methods and new ways of thinking

- New paradigm:
 - transparent and reproducible
 - intrinsically resistant to cognitive bias
 - logically correct framework for interpretation of evidence, the likelihood-ratio framework
 - empirical calibration and validation under casework conditions

- New paradigm methods:
 - relevant data
 - quantitative measurements
 - statistical models / machine-learning algorithms

- Proposed names for the new paradigm:
 - forensic data science
 - forensic science

Thank You

