

Paul House, May, 2004

CRIMINAL SCIENCE: THE PAUL HOUSE CASE

CAN WE RELY ON FORENSICS AS THE ARBITER OF TRUTH IN THE COURTROOM? IN HIS LATEST INVESTIGATION, **SIMON COOPER** EXPOSES A CASE OF CORRUPTED SCIENCE AT THE HEART OF OUR JUSTICE SYSTEM—AND THE FORENSIC FAILURES THAT PUT A MAN ON DEATH ROW.

UNIT TWO From the road, Riverbend Maximum Security Institution, just outside Nashville, Tennessee, looks like an English country park. You can't see the prison building itself because subtle hills have been landscaped into the foreground of the existing countryside, keeping the unsightly fences, razor wire, and other evidence of the prison from view. Driving into Riverbend's 132 acres, one feels an eerie sense of order, as though leaves there never fall from their branches, and all flowerbeds bloom at peak capacity and efficiency. Once you can see the prison proper, it seems as though even the wire fences are cleaned and polished.

Once through a metal detector and an X-ray machine, I am escorted through layers of security into the heart of Riverbend, each new layer smaller, harder to access, and more claustrophobic than the last. First I pass through a double set of gates on a pair of impossibly high fences, then into a large building

where guards control the prison from inside a cage made of steel and slabs of bullet-proof glass. The back of my hand is stamped with invisible ink, and I am required to hold it under an ultraviolet light before being given permission to proceed. Next, my escort and I walk through an armored door and out into the prison's broad yard, where small groups of prisoners are attending to the numerous flower beds and immaculate lawns across the interior of the complex. My escort walks me toward the sand-colored, pod-like building known simply as Unit Two.

There are 96 cells in Unit Two, 95 of which presently contain an inmate condemned to death. It's death row: a surreal world of suspended reality in which inmates must be kept alive so that, at some point in the future, they can be killed. I am here to see one of those men: inmate 109390—Paul Gregory House, sentenced to death in February 1986 for the first-degree

SEED

SEED

Photography by Jason Gould

murder of his neighbor and friend, Carolyn Muncey. The state presented scientific evidence to prove that House beat 29-year-old Carolyn to death to cover up an attempted rape. Although House has been on Tennessee's death row for 19 years, during that time only one of his fellow condemned inmates has been executed—Robert Coe, convicted of the kidnap, rape, and murder of an 8-year-old girl. On April 19, 2000, Coe was strapped to a table inside Riverbend's execution chamber and put to death by lethal injection. (This singular expression is a misnomer: it should be lethal injections, as it takes five shots to properly complete the execution process—one of sodium pentathol to sedate, two of a drug called Pavalon to paralyze the inmate, and two of potassium chloride to stop the heart. It's morbidly ironic that Tennessee state law expressly outlaws the use of Pavalon in the euthanasia of pets because it's possible to perceive



House's lawyer, Stephen Kissinger

booth and even volunteers to snap a few photos of House with my camera. Outside Unit Two, it is beginning to rain. Inside, I am beginning to perspire.

WHEN WORLDS COLLIDE As the prosecutors prepared for House's trial in February of 1986, they must have been supremely confident. The case was about as open-and-shut as any prosecutor could hope for—in great part because it was a case sealed by forensic science.

Beginning just years before, in the early '80s, the criminal justice system evolved with freakish speed to embrace forensic science; so much so that it is now the backbone of the evidentiary system, a seemingly unimpeachable star witness in millions of criminal prosecutions. Fingerprint analysis, ballistics, DNA, pathology, serology, genetics, chemistry, computer modeling, entomology, dentistry, and even anthropology and archaeology

THE STATE PRESENTED SCIENTIFIC EVIDENCE TO PROVE THAT HOUSE BEAT 29-YEAR-OLD CAROLYN TO DEATH TO COVER UP AN ATTEMPTED RAPE

pain after being paralyzed by the drug.) Until Coe was put to death, Tennessee had not executed anyone for 40 years, but things appear to be speeding up. Next in line for execution at Riverbend is Gregory Thompson, a schizophrenic murderer due to die on August 19th this year.

Inside Unit Two, the invisible ink is checked again and I am ushered into a four foot-by-four foot steel-and-concrete cubicle. Its far wall contains a thick window looking into another four-by-four cubicle. As Unit Two's manager, a genial man named Mike Slaughter, locks me inside, he apologizes for the state of the floors (they have been stripped for a waxing that hasn't yet occurred) and the air conditioning (there isn't any).

Confinement is a necessary condition of the "noncontact" visit I arranged in order to interview House. A guard helpfully places my tape recorder on House's side of the



The Union County Courthouse, where House was tried

have been marshaled into the arsenal of criminal investigators to illuminate the evidence left behind—evidence that often tells a more definitive and irrefutable story than any amount of human-witness testimony. A bus full of nuns may witness "Man A" shoot "Man B," but it is the voices of the scientists that are loudest in the courtroom. The pathologist will testify how Man B died of a gunshot wound to the head and give explicit details of the wound; the ballistics expert will prove that the bullet pulled out of Man B's head by the pathologist has all the right twists and grooves to match it to Man A's gun; the fingerprint expert will prove that the prints on the gun are Man A's; and an expert in trace evidence will show that gunpowder residue was found on Man A's sleeve. The blood-spatter expert will testify that the blood spray found on Man A's clothes is con-

sistent with that caused by the blowback from bullet wounds, and a forensic serologist will match that blood to the victim's. Case won.

Paul House was convicted on the apparent strength of two major pieces of forensic evidence: a couple of semen stains on the victim's nightdress and panties, and the victim's blood found smeared on his jeans. Last, but not least, an eyewitness said he saw House emerge from where the body was found, wiping his hands on a rag.

The forensic testing in the case was performed by the FBI in Washington D.C., where a forensic serologist, Special Agent Paul Bigbee, became the prosecution's key witness. Like many scientists employed by law-enforcement agencies, his services were in high demand; when the evidence in the House case arrived in his laboratory, it joined a chorus of approximately 300 cases Bigbee worked on that year. Bigbee's testing, analysis, and conclusions secured House's conviction for the prosecution. His work confirmed their theory of the crime: that

HOUSE WAS CONVICTED ON THE APPARENT STRENGTH OF FORENSIC EVIDENCE—SEMEN STAINS ON CAROLYN'S PANTIES, AND HER BLOOD SMEARED ON HIS JEANS

House lured Carolyn from her home, tried to rape her, and then killed her to cover up his crime. It was that simple. Case closed.

PRELUDE Carolyn and her husband, William Hubert Muncey, Jr.—known as "Little Hube"—were dirt poor. They worked as casual laborers in local tobacco fields, and Little Hube did odd jobs for extra cash, but overall, money was tight; they relied on food stamps and government checks to make ends meet. The couple lived in Luttrell, a sprawling hamlet in Union County, east Tennessee. Their house was a scruffy four-room cabin built in the woods running alongside Ridgecrest Road, where they had electricity and a TV but no phone and no running water. The family hauled water in buckets from their neighbors or from a nearby spring. The toilet was in a wooden outhouse some 20 feet away from the back of the cabin.

At House's trial, it was established that Carolyn was last seen alive around

9 p.m. on the night of July 13, 1985. She and her children—Lora, age ten, and Matthew, eight—visited with a neighbor for an hour or so before heading home that evening. Little Hube (and he was little, not weighing much more than 120 pounds at five feet, eight inches) was drinking and partying at a local recreation-center dance and hadn't been seen at the house all night.

The only hint about what might have happened to Carolyn comes from the sketchy recollections of Lora and Matt, who say that sometime after they went to bed, they heard a voice call up to Carolyn asking if Little Hube was home. They may or may not have fallen back to sleep before hearing a voice saying Little Hube had been "in a wreck." Again, they may have fallen asleep before Lora heard her mother cry out, "Oh God, no, not me," followed by footsteps moving away from the front of the cabin.

Paul House lived a little less than two miles north of the Munceys with his girlfriend, Donna Turner. House was a classic high school dropout, a bright kid

At the Munceys, Lora and Matt remember Little Hube entering their bedroom and asking where Carolyn was. When they said they didn't know, he took them across the street to a neighbor's house and called the police. Dispatch received the call at around 1:30 a.m. Carolyn's body was found that afternoon, just 100 yards from her front door.

THE BODY The temperature nudged over the 90-degree mark that Sunday afternoon in Luttrell, the air clammy enough to taste. Union County's sheriff, Earl Loy, had just seen Carolyn's body lying at the bottom of an embankment, face down, her head resting on her outstretched right arm. In a way, it looked like she was asleep. She lay on a pile of brush, some of which had also been thrown over her body, but her flowery nightdress could be seen clearly through the tangle of branches and sticks, as could the blood that soaked it. There were flies—too many flies—in the air, drawn by the sickly sweet aroma of decay. Already, maggots were crawling

whose grades performed a graceless nosedive from Bs to Ds and Fs over several years, as he fell under the thrall of drugs. By the time House was 18 years old, he'd been expelled twice for truancy and had begun an uncontrolled drift that would eventually land him on death row.

House spent the afternoon lazing away on the couch. He watched Porky's II on video, read for a little while, and then switched the TV back on to watch the globally aired Live Aid concert. At 10 p.m., Donna was ironing and House was watching a western, *Welcome to Hard Times*; about 45 minutes later, House got off the couch, announced he was going for a walk, and left. An hour later, he blundered back in without his shirt or shoes. His jeans were caked in mud, and his hands and arms were peppered with little cuts and scratches. House told Donna he'd been jumped by two men, been hurt in the ensuing fight, and lost his clothes while running away through the woods.

through Carolyn's black hair and over her face and out of her wounds, an indication she had lain outside all day; flies only lay eggs during daylight hours.

Sheriff Loy walked over to Billy Ray Hensley and Jack Adkins, the two men who'd found Carolyn's body. Hensley told him that about an hour earlier, he was driving along Bear Hollow Road, which intersects with Ridgecrest Road about 400 feet north of where Carolyn's body was. Hensley said that as he approached the intersection, he saw a man emerge from the embankment, wiping his hands on a rag. He drove on and met up with his friend, Adkins, and like most Luttrell residents that afternoon, they talked about Carolyn's disappearance. Hensley told Adkins about the man he'd seen, and they decided it was worth heading back to check out. They drove back to Ridgecrest Road and walked to the top of the embankment, where Adkins caught sight of a bare foot sticking out of a brush pile some 15 feet down the slope.

As they were recounting their story to the sheriff, House pulled up in a car. Hensley spotted him and took Sheriff Loy to one side, hissing in his ear, “I seen that fellow come up out of this ditch,” and pointed down the embankment toward Carolyn. Sheriff Loy walked over to House and said, “Well, I guess you need to go over to the jail; we need to talk more with you.” House was led away without protest.

Carolyn’s body was lifted from the embankment on a stretcher and taken away. The first rain in three days began to fall.

THE ONLY SUSPECT A police investigation, like a prosecution, is an advocacy of a determined theory. With a suspect in custody within minutes of the body being found, the prosecution of House could begin in earnest. William Breeding, Union County’s sole detective, joined Sheriff Loy and his deputies, as did two special agents from the Tennessee Bureau of Investigation (TBI), Charles Scott and Ray Presnell, and the District Attorney General, William Paul Phillips. This task

bleed and swell into a hole in the base of the skull called the foramen magnum, through which the brain stem connects to the spinal cord. Once the brain stem blocked that hole, blood flow through the vertebral artery was cut off and Carolyn’s brain, essentially, suffocated. Her heart probably beat for up to another five minutes, continuing to send blood to lungs that had stopped working. Blood pooled there and her heart gradually starved, deprived of oxygenated blood. Its muscles quit, and then it stopped. Ten to fifteen minutes after being struck, Carolyn was dead.

Dr. Carabia took a swab from Carolyn’s vagina and sealed it inside an evidence test tube. He drew a large syringe of blood directly from her heart, decanted it into four test tubes, and sealed them with rubber stoppers. He finished the next morning and put the evidence in a laboratory refrigerator, where it remained until it was picked up by a Union County deputy.

Inside the sheriff’s office, House was lying to his interrogators. He told them

kidnap and attempted rape. House plead not guilty.

On April 18th, FBI Special Agent Bigbee confirmed that the blood on House’s jeans was human. The results of Bigbee’s tests also showed that the individual who left the semen was a secretor—a man whose blood type can be ascertained from his semen. The semen found on Carolyn’s nightgown and panties was from a secretor with blood type A; House was a type A secretor. Then, ten days after receiving the package containing House’s jeans, Bigbee provided the prosecution with the forensics they had been waiting for: The blood on House’s jeans was Carolyn’s.

House’s trial took place over three days in early February 1986. The prosecution’s strong case was strengthened by House’s unreliable behavior; his weird nocturnal wanderings, his lies to the police, his far-fetched explanation of what happened to him that night and the scrapes and cuts on his hands. And of course, there was Billy Ray Hensley’s testimony of seeing him emerge from

THE PROSECUTION’S CASE WAS STRENGTHENED BY HOUSE’S UNRELIABLE BEHAVIOR; HIS WEIRD NOCTURNAL WANDERINGS, AND HIS LIES TO THE POLICE

force focused all its investigative efforts on their strongest lead: 23-year-old House. As luck would have it, it turned out that House was a convicted sex offender; he was on parole after having plead guilty and serving a four-year sentence for the 1980 rape of a woman who’d picked him up hitchhiking.

The investigation was off to a running start. The task force had a convicted sex offender living within walking distance of Carolyn. They were able to assume Carolyn had been sexually abused before being murdered because bruises had been discovered on her thighs; there was what appeared to be semen in her vagina and semen stains on her night-dress and panties.

The pathologist conducting the autopsy, Dr. Alex Carabia, opened Carolyn’s skull and found a hematoma stretching along the entire length of the right hemisphere of her brain. Carolyn had died from a punch so hard, her brain tore loose from the membranes holding it in place. The trauma caused the brain to

he’d been in all night, a story Donna initially backed up—until the investigators said they’d searched her trailer and found House’s filthy jeans, with what looked like blood on them, stuffed in the bottom of the bathroom laundry hamper. Donna recanted and told the truth about House’s late-night excursion.

On July 16, Breeding and a Union County deputy named Jo Ed Munsey (no relation to Little Hube) gathered up the forensic evidence. The four tubes of Carolyn’s blood and the tube containing the vaginal swab were sealed in a Styrofoam box, while the other evidence—House’s dirty jeans and Carolyn’s clothes—was labeled, catalogued, and placed in brown paper evidence bags. General Phillips (as attorney generals are known in the South) wanted the evidence hand-delivered, so Breeding and Munsey headed out on the long drive to Washington D.C., arriving at the FBI lab early on the 17th. Later that day, General Phillips charged House with first-degree murder, aggravated by

where Carolyn’s body was found. But the scientific evidence spoke most powerfully to the jury. That the “secretor” type of semen on Carolyn’s nightclothes matched House’s blood type was highly persuasive, but that the blood on House’s jeans matched Carolyn’s was a fact no jury could ignore. The forensic science provided powerful evidence of guilt. It took the jury less than four hours to reach the verdict: Paul House was found guilty of murder.

The night before his sentencing, House sat in his cell, writing an agonized letter to his mother.

Dearest Mom,

...I told you my feelings about being sentenced to life or death. Either way I would be locked up for no purpose. Either way I would be punished for something I didn’t do. I won’t go back to prison for even one day for someone else’s crime. It’s nothing but a living death, and I refuse...I don’t have anything left to live for. I cannot accept the terms that will be forced upon



What remains of the Muncey cabin today

“WE HAVE ALL ASSUMED SCIENTISTS ARE TELLING THE TRUTH WITH AUTHORITY AND TESTS. AS A RESULT, THE FBI HAS GOTTEN AWAY WITH VOODOO SCIENCE.”





Riverbend Maximum Security Institution, just outside Nashville, Tennessee

THERE'S NO DOUBT THE BLOOD WAS DELIBERATELY WIPED ONTO HOUSE'S JEANS. THE QUESTION THAT MUST THEN BE ASKED IS, BY WHOM?

me tomorrow. They don't have the right to make decisions about my life, so I'm taking it out of their hands....I know you won't like what I'm going to do, but I think it's best for me. I hope you can understand that and not love me any less because of it.

He asked for his ashes to be “spread on the wind” in Yellowstone National Park and left his only possession, a clock radio, to his brother, Marty. He signed off, “Love forever and always, your son.” Then he slit his wrists. A guard found House bleeding in his cell soon after, and he was quickly patched up so he could be brought to court, as scheduled, for sentencing. Wrists bandaged and barely coherent, House listened as the jury delivered the death sentence.

He has resided on death row ever since. He is still waiting for the day the guards come and take him to a holding cell next to the execution chamber where the condemned spend their last three days, hoping for a last minute reprieve, or the end. This is known as the

“Death Watch.” Every minute of a prisoner’s countdown to execution is lived under the constant surveillance of a team of guards. In Department of Corrections language, this is done to “maintain the security and control of a condemned inmate.” Any death row prisoner will tell you it’s to make sure they don’t kill themselves before the State kills them.

WHEN WORLDS COLLIDE—PART II House’s case has drawn very little attention, national or otherwise, because as a confessed sex offender he understandably generates very little sympathy. It was this offense that most attracted the prosecution to him in the days following the murder. While the prosecution was not allowed to use House’s prior conviction against him at trial, his criminal record was circulated by newspapers within the community from which the jury would eventually be selected. But regardless of whether the jury’s objectivity was compromised by the media coverage, the

House case was subject to a more insidious kind of spoiling.

The civil libertarian Edison Haines once said, “Law is not justice, and a trial is not a scientific inquiry into truth. A trial is the resolution of a dispute.” Today, dispute is most often decided as the result of merging the two philosophically and methodologically opposed disciplines of science and criminal law.

At its simplest (and purest), science is an objective, empirical journey to discover a truth, whatever that truth may be. But in the real world, science exists in context with that which makes it necessary. It is a fact that the majority of forensic scientists are employed, or retained by, “the state.” In effect, they are paid by the same system whose role it is to prosecute.

The state, in the guise of the prosecution, has but one objective: to convince a jury there is only one truth—that of the guilt of the accused. Forensic science is perhaps the most powerful tool available to “prove” that truth, a truth that

must be proven to the exclusion of all other possibilities. Defendants who have to rely on the state to defend them against the state commonly complain that they are engaged in an unequal battle, particularly when faced with what appears to be incontrovertible scientific evidence. In fact, the inherent and unavoidable conflict of interest created by the State’s monopoly on forensic science has led to a crisis point within the forensic science community.

The FBI’s own crime lab—the one that provided the forensic services in the House case—may be the center of that crisis: In the mid-90s, the lab was rocked by revelations of appalling scientific errors by its scientists and their subsequent cover-ups. In one instance, all but one of the serologists in the DNA section of the Bureau failed their proficiency tests; the papers were destroyed to prevent them being discovered by defense attorneys. The lab was reorganized, but last year, internal documents surfaced showing that evidence was still being compromised. One FBI scientist was

result, the FBI scientists have gotten away with voodoo science.”

It would be unfair, however, to single out the FBI; dozens of police labs and their scientists are under investigation for shoddy or corrupt work and for giving false or skewed testimony. For instance, 480 cases are under review in Baltimore after it was shown that a police chemist had given misleading testimony over blood-typing evidence. Three years of DNA evidence was put under review in Fort Worth, Texas, because a police department scientist failed to follow proper scientific protocols. A police lab analyst resigned in Florida after admitting to doctoring DNA evidence. Almost 400 cases, seven of which are death row cases, are being reworked in Houston because of suspect DNA testing and misleading testimony.

It would also be unfair to paint a picture of a system populated by dozens of rogue forensic scientists deliberately twisting facts to appease their paymasters. While individuals must be held responsible for their actions, one has to

and saw Little Hube arguing with Carolyn in the parking lot. He wasn’t the only one to notice. Mary Adkins, a lifelong friend of Little Hube’s, also saw him arguing with Carolyn. In a sworn affidavit, Mary says that after arguing for a while, Little Hube grabbed Carolyn and hit her. Carolyn then walked off. With witnesses placing Carolyn at the dance about an hour after she left her neighbors to put the kids to bed, it’s possible to reconstruct an alternative scenario for the night of the crime.

If the voice Lora and Matt heard, saying Little Hube was “in a wreck,” actually said Little Hube was “wrecked,” Carolyn might then have headed down to the dance to confront him about spending what little money they had on alcohol. Once there, as Miller and Adkins attest, she was assaulted by her drunken husband. Shortly after Carolyn was seen leaving the dance, Luttrell Police Chief Dennis ‘Dink’ Wallace saw Little Hube head out as well.

Chief Wallace says he can’t remember seeing Little Hube return to the

ATTORNEY GENERAL SUMMERS ARGUED THERE WERE NO LEGAL GROUNDS UPON WHICH TENNESSEE COULD BE FORCED TO REVIEW OR RE-OPEN HOUSE’S CASE.

indicted for giving false testimony, and a lab technician resigned while being investigated for the improper testing of more than 100 DNA samples. When



NEW REALITIES Carolyn’s marriage to Hubert Muncney was a nightmare. Little Hube was a violent alcoholic who frequently beat his wife. He hit her in private. He hit her in front of friends. He hit her in front of family. One Christmas, Little Hube punched Carolyn because she “bitched him out” for spending the kids’ food money on alcohol. Carolyn often sported a black eye or a split lip.

the new revelations became public, Lawrence Goldman, then president of the National Association of Criminal Defense Lawyers, told the Associated Press, “We have all assumed the scientists are telling the truth because they do it with authority and tests. And as a

note the effect of the prosecutorial culture—a culture where careers are made in numbers of convictions and broken on acquittals and successful appeals.

The night of the murder, while Carolyn was at home, Little Hube was drinking and dancing at the rec center. At 10 p.m., a break was called, and everyone streamed out of the center to catch some fresh air. A man named Mike Miller was standing outside when he looked over

dance. He failed to mention this fact in his official report, despite the fact that when he interviewed Little Hube an hour after Carolyn was reported missing, Little Hube claimed to have left the dance only when it was over, at around 12:30 a.m.

None of this circumstantial evidence, however, alters the fact that Carolyn’s blood was found on House’s jeans or that semen with his secretor type was found on her clothes. Forensic science established House’s guilt beyond a reasonable doubt, and helped land him on death row.

THE SECRET SECRETOR In what must be applauded as a cunning piece of legal strategy, the prosecution never actually accused House of raping Carolyn. To quote General Phillips, “The evidence at the scene... seemed to suggest that he was subjecting this lady to some kind of indignity.” The semen evidence lurked behind all the prosecution’s arguments—it provided motive and was a significant

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element of the “aggravating” factors needed to secure a capital conviction.

In 1985, DNA testing wasn’t available to provide definitive answers about whose semen it was. Instead, the prosecution’s case relied on the analysis and testimony of FBI forensic serologist Special Agent Paul Bigbee, who said the semen came from a “secretor” with type A blood and that House was a type A secretor.

Bigbee, a prosecution witness, was asked by General Phillips during House’s original trial if Little Hube could have been the semen donor. Bigbee replied,

“I was not able to determine his secretor status.”

“OK. And he is definitely not a secretor?”

“I don’t know whether he is or not. I could not determine that.”

When testing for secretor status, scientists look for the “Lewis factor”—a blood antigen unique to a secretor. Two bodily fluids can be tested for the Lewis factor: blood and saliva. Blood is the less conclusive; saliva, however, always produces a definitive answer. Bigbee did test Little Hube’s blood to ascertain his secretor status. And, exactly as he stated in his testimony, the results were inconclusive, and he was “unable to determine” Little Hube’s secretor status. But Bigbee never tested a sample of Little Hube’s saliva, a procedure guaranteeing a result. No saliva sample was sent by the prosecution, and Bigbee never requested one.

At trial, General Phillips quickly asked Bigbee,

“But you know that Mr. House definitely is a secretor?”

“Yes, sir.”

It’s hard to fathom why no saliva was tested, given the weight attached by the prosecution to the secretor evidence. What is apparent is that a line of investigation that may have provided exculpatory evidence for the defense was not pursued fully.

Another key piece of evidence wasn’t aired: Before TBI Special Agent Scott sent Little Hube’s blood for testing, Little Hube admitted he’d had sex with Carolyn on the day of her death. His statement was never seen by the defense.

Whatever obfuscation may have taken place during the original trial, new science has now proven whose semen was on Carolyn’s clothes. An independ-

ent laboratory, California-based Forensic Analytical, performed DNA typing on House’s blood and compared it to DNA extracted from the semen stains. The result was definitive: The DNA in the semen wasn’t House’s. A second round of tests by North Carolina molecular biology consultants LabCorp confirmed that DNA from the semen was a match with Little Hube—who proved to be a type A secretor.

THE BLOOD Carolyn’s blood, smeared all over House’s jeans, appears to be an insurmountable obstacle to claims of House’s innocence. But it is possible this blood, far from proving that House killed Carolyn, actually proves he didn’t.

After the FBI finished its forensic testing, House’s lawyer arranged for the evidence to be sent to Nashville-based DiaClin Laboratories (whose tests also showed it was Carolyn’s blood on House’s jeans) for the defense’s testing. The blood evidence arrived in the same TBI Styrofoam box it was originally packed in, and before any tests were performed, DiaClin’s laboratory manager photographed the evidence as it was received. The photographs show the Styrofoam box and the four vials of Carolyn’s blood inside. One 15 milliliter vial was completely empty; another was half full. The remaining two were still full. Until the Styrofoam box was opened at DiaClin, the chain of custody shows that the box and the blood inside were handled by only three people: Union County detective William Breeding and deputy Jo Ed Munsey—who hand-delivered the blood, the jeans, and Carolyn’s clothes to the FBI—and Special Agent Paul Bigbee, the FBI serologist.

Under oath, Bigbee stated he would have used a maximum of 7.5 milliliters of blood for his tests. Yet a whole tube’s worth—15 milliliters—seemed to be unaccounted for when the evidence arrived at DiaClin.

The most likely explanation would be that the blood somehow spilt during the drive from Union County to the FBI or on the journey to DiaClin. An accidental spillage raises the possibility of accidental contamination of evidence—something that would provide powerful ammunition in the fight to get House a new trial. But the testimony of Bigbee, TBI Special Agent Scott, and another expert, Paulette Sutton, slammed the door on this theory.

Bigbee says when he received the box, it was sealed with yellow TBI evidence tape and there was no leakage. The jeans were received in a separate paper bag, and there is no note in any file that the bag was bloody or had stains or marks on it from leakage. Scott has given a sworn deposition stating that when he received the Styrofoam box back from the FBI, he noticed no leakage.

Sutton, a bloodstain-pattern expert, examined the bloody jeans and came to the same conclusion. “If a tube of blood had spilled on these pants, the stain should have been in a localized area, or at least in certain localized areas....The stain distribution instead is front and back, top to bottom....The stains also do not soak through....That would be what you would see with a spill.” Sutton concluded that the stains on House’s jeans are “transfer stains”—stains that have been wiped across the surface of the pants.

According to Sutton, there’s no doubt the blood was deliberately wiped onto House’s jeans. The question that must then be asked is, by whom?

The photographs of the Styrofoam box reveal another anomaly: The TBI evidence label affixed to the box for its journey to the FBI. Signed by TBI Special Agent Scott, the label reads “blood and vaginal secretions.” It also carries Special Agent Bigbee’s signature, confirming the chain of custody. But when DiaClin received the vaginal swab, it was in a plain brown envelope. More puzzling, Bigbee’s initials were on the envelope, something he said “indicates that, yes, it was the envelope that the vaginal secretion was in” when he received it from Breeding and Munsey.

So, blood seemingly disappeared from inside the evidence box. It wasn’t spilt—at least not on House’s jeans; and a vaginal swab, apparently sent to the FBI inside the box, was received outside the box, in an envelope.

In 1997, Knoxville lawyer Stephen Kissinger took over House’s case and commissioned Dr. Cleland Blake, the TBI’s own consultant on forensic pathology, to review the blood evidence.

Both Bigbee and Dr. Blake agreed Carolyn’s blood had substantially degraded as a result of her body lying outside all day. Dr. Blake studied the FBI’s tests measuring the amount of enzyme degradation in the blood on the jeans, as compared with the blood taken from

Carolyn’s body during the autopsy. He pointed out that while blood from Carolyn’s body was out in 90-degree temperatures for most of the day, House’s jeans had been in a cool, dark laundry hamper before being stored in accordance with evidence preservation standards. However, “The same amount of enzymes deteriorated on the jeans as in the... known blood sample of Carolyn Muncey. If the victim’s blood had spilled on the jeans while the victim was alive, the identical deterioration of enzymes would not have occurred.” When asked if the blood on House’s jeans matched the samples taken from Carolyn’s body during the autopsy, Dr. Blake’s unequivocal conclusion was that the blood in the autopsy vials and on the jeans was one and the same.

Special Agent Bigbee disputes Dr. Blake’s conclusion, saying the enzyme degradation of the blood on House’s jeans could have occurred because of bacteria present in the laundry hamper. But he is not able to offer an opinion on why the blood in Carolyn’s body and the blood on House’s jeans displayed almost identical rates of enzyme degradation despite being subjected to entirely different environmental conditions for a period of at least 12 hours after Carolyn’s death.

According to other lab reports, House attacked and murdered Carolyn without transferring a single hair to her body or a single fiber from Carolyn’s clothes onto his jeans. Also, House’s shoes—lost on the night of the murder during the alleged scuffle—were eventually found and tested for the presence of blood. There was none. Yet the FBI tests show House’s jeans had Carolyn’s blood on the outside and inside of the right leg cuff. If House is the killer, is it possible he could have gotten blood on and under the cuff of his jeans without getting it on his shoe as well? Yes or no, House’s original defense team didn’t test this evidence because according to House’s original lawyer, it was never shown the shoe-test report.

As for Billy Ray Hensley’s eyewitness evidence... it is 433 feet from the intersection of Bear Hollow Road and Ridgcrest Road to the point where the body was found. Hensley claimed to be another 100 to 120 feet back up Bear Hollow Road when he saw House. Despite the distance—more than one and a half football fields in length—and

the amount of time Hensley admits he had to see what he says he did—one or two seconds at most—a major problem with his testimony remains. In 1985, Hensley’s view of the embankment was obstructed by a barn and large trees with canopies that reached right over to the edge of the road, obscuring all but the very top of the embankment.

It is hard to see how Hensley could have seen House “coming up” the embankment, as he says he did. Indeed, he now concedes that what he saw was “somebody appear out of nowhere.” Because Hensley can neither read nor write, Deputy Jo Ed Munsey wrote out his original statement for him.

SUSPENDED REALITY In my sweaty noncontact cubicle, I watch as the guards wheel inmate 109390 into the space opposite. Since being incarcerated, Paul House has developed multiple sclerosis. He can no longer walk or even wash himself. He is dressed in stained white hospital pants and a stained white hospital top. Although he is wheelchair bound, his hands and ankles are cuffed and chained with a length to his waist. He looks very small in his wheelchair.

During the 45 minutes we are allowed together, House and I talk about his case, about his past, and about things as ordinary as the price of tobacco and what music he likes. His speech has been slowed by the MS, and he has to think his words out, but he is still lucid. Most profound, though, is the sense of hopelessness that emanates from him. Tennessee has successfully blocked attempts to get House’s case reheard, to the extent that in 1997, his lawyer, Stephen Kissinger, brought a federal action claiming House’s civil rights had been violated by the prosecution’s conduct. In November 2002, the Sixth Circuit of the Court of Appeals upheld Kissinger’s complaint, sending the case back to Tennessee for consideration. But in October 2003, Paul Summers, Tennessee’s attorney general, moved to prevent the Tennessee Supreme Court from responding to the federal judgment. General Summers argued there were no legal grounds upon which Tennessee could be forced to review or reopen the case. His motion was granted, and as of the time of writing, Tennessee has refused to acknowledge that there is new or exculpatory evidence in the House case. So House remains on

death row, trapped by a legal system that will let him go neither forward nor back. “What’s the point of hoping?” he says. “They’re never going to let me out.”

House has nothing left to do but wait, though because his case has been so stymied by the legal process, he has no idea what he is waiting for—an appeal, a retrial, an acquittal, an execution date.... The MS means he spends up to 24 hours a day in his cell, and he has to rely on others to help him eat and bathe. With a tired shrug, he says he would have committed suicide by now if not for a promise he made to his mother.

EPILOGUE About the same time House’s first trial was due to start, two sisters—Kathy Parker and Penny Letner—were at a party in Luttrell. Sometime that evening Little Hube wandered in, drunk and clutching a can of Budweiser. Ten or fifteen minutes later, Kathy and Penny noticed Little Hube weeping. Then he started repeating, “I didn’t mean to do it. I didn’t mean to do it.”

Penny asked Little Hube, “Didn’t mean to do what?”

According to testimony given in Federal court by the sisters in 1999, Little Hube—still sobbing—said that on the night of the murder, Carolyn was “bitching him out.” Penny stated, “He said when he came home that she was still on him pretty heavily, ‘bitching him out’ again, and that he smacked her and that she fell and hit her head. He said ‘I didn’t mean to do it, but I had to get rid of her because I didn’t want to be charged with murder.’”

Penny says she bolted from the house. Kathy says she “freaked and run him [Little Hube] out.” In Federal court, Kathy said she asked her mother to drive her to the Union County Courthouse to see Sheriff Earl Loy and make a statement about Little Hube’s confession. Sheriff Loy refused to see her, saying he was “too busy,” and sent her to see a deputy. Kathy tried to tell the deputy, but he told her she had to speak to a court official. “I never really did get to talk to anybody,” she says. Penny, who was 19 at the time, says she never came forward because “I didn’t think anybody would listen to me.... I was frightened.”

POSTSCRIPT In May, the governor of Massachusetts, Mitt Romney, endorsed the final report of a commission that supports the creation of a “foolproof” death-

penalty system for the state. At the core of the proposal is the use of science as a means to design death-penalty law that is as infallible as humanly possible.

“The governor wanted us to examine whether science, which has been so helpful in exonerating so many people, could be used in a positive way to make the system work better at the front end,” said Joseph Hoffmann, law professor at Indiana University and co-chairman of the commission. DNA evidence, in particular, is being hardwired into the proposal to corroborate guilt.

This may not seem so new. DNA and forensic science are already the lynchpins of capital prosecutions. Except Massachusetts doesn’t have the death penalty; science is being marshaled to provide the momentum to overturn political opposition to reinstating it.