

## Letter to the Editor

Re: When Science and the Law Collide: The Legal Implications of Changed Expert Opinions. *J. For. Ident.* **2013**, 63 (2).

The article “When Science and the Law Collide” brought up an interesting issue that should have been elaborated on: the difference between a scientific conclusion and the personal opinion of an expert witness. This topic was noted in a letter from IAI President Lawson to IAI members on May 16, 2012 [1].

The courts permit great latitude in the testimony of an expert witness. Along with those allowances comes the responsibility to clearly indicate the difference between a scientific conclusion, which is a conclusion based on data, and the personal opinion of the witness. Without clarification, a juror may rightfully assume all testimony is based on scientific data. Not clarifying that a judgment is the personal opinion of an expert, rather than a conclusion based on scientific data, is extremely misleading.

Personal opinions, even those of an expert expressed in good faith, are not science. The 2009 NAS Report highlighted the dangers of relying on human interpretation [2]. The case at hand was not about scientific theories changing; it was about a person’s knowledge level changing. The error in this case is being attributed to advances in science when it is really about a lack of knowledge on what constitutes a “scientific conclusion”. Mislabeled the problem perpetuates misleading information instead of improving knowledge and testimony. All forensic practitioners and attorneys should understand the difference between these two situations in order to diminish errors and accurately portray the weight of conclusions in court cases.

*Michele Triplett*

## References

1. Lawson, Kevin. An open letter to the membership of the International Association for Identification. May 16, 2012.
2. Committee on Identifying the Needs of the Forensic Sciences Community, National Research Council. *Strengthening Forensic Science in the United States: A Path Forward*. National Academies Press: Washington, DC, 2009.

### **Author's Response to Letter:**

The writer (Michelle Triplett) makes a sound observation: Not everything asserted by experts on the witness stand is necessarily supported by reliable data, and not every expert opinion is deserving of equal weight in the eyes of the jury. That being said, rules of evidence do not differentiate between an expert's "scientific conclusions" and "personal opinions". Once a witness is qualified as an expert, he or she offers opinions that may or may not be based on valid premises and empirical data. Hence the value of cross-examination, where the opposing party can explore and challenge the reasons underlying expert opinions. Ideally, the adversarial process will expose for the jury those opinions lacking empirical support and which consequently may have diminished meaning and importance. And, the law gives trial judges the discretion to preclude expert testimony based on matter not reasonably relied upon experts, or based upon matter than cannot by law be relied upon.

In the end, however, expert testimony involves a degree of subjectivity that would make it difficult, if not impossible, to formally classify an expert's opinion as "scientific conclusion" or "personal opinion" based on its rationale.

*Michael Chamberlain*