B79 Obscuring the Obverse: The Obligations of Disclosure

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After attending this presentation, attendees will understand the process by which the work of any scientist is evaluated is independent peer review. There are a number of elements that are necessary for adequate peer review, with the published report of the scientist as the starting point for the peer review process. Various recommendations for the content of a scientific report will be reviewed. Requirements for disclosure to enable an adequate independent review will be presented.

There is much debate among forensic scientists about their role in exploring "the other side of the coin." This reverse side of the coin is important - but the obverse of the coin should not be obscured by lack of disclosure of ultimate conclusions and underlying data.

The primary work product of a forensic scientist is the report. It is the report that serves as the basis of most of the major decisions made during the investigation, pre-trial litigation, and, often, trial. The decisions that are made, or should be made, based on the forensic scientist's findings in an investigation are made by individuals who are not technically competent and whose interests are often served by intentional or unintentional misrepresentation of the report. It is the obligation of the forensic scientist to issue a report that provides full disclosure of the forensic scientist's opinions and the underlying data and reasoning that supports those opinions and minimizes, if not eliminates, the possibility of misunderstanding or misrepresentation of the report.

Formats for reports are discussed in a variety of sources: Forensic science text books, guidelines issued by various forensic science technical working groups, standardization bodies such as ASTM, and publication guidelines issued by scientific journals or professional societies. Legal obligations as expressed in statutory requirements or case law guidelines also attempt to define the material that must be disclosed by litigants under different situations. The forensic scientist's report serves two purposes: First, the report informs interested parties of the results, conclusions and implications of the work done by the forensic scientist. Second, the report serves as mechanism by which another scientist can review the work done and understand the reasons, and reasoning, behind the opinions and conclusions expressed in the report. In the end, no one who reads the report should be surprised by any opinions or conclusions expressed by the scientist, either in the report or in subsequent testimony. Another knowledgeable scientist should be able to review the report and understand the basis for the conclusions and opinions expressed.

The obligations for disclosure are primarily based on the obligations of a scientist. Independent peer review is the process used by scientists to evaluate one another's work, and it is the obligation of the scientist to facilitate such peer review. The obligations of each scientist to the process of peer review culminate in the publication of the scientific report. Those obligations begin, however, at the earliest stages of the scientific investigation: The collection of evidence and its preservation for subsequent analysis; the determination of the examinations, analyses, or experiments that are necessary; and the conduct of those operations in a way which provides for adequate peer review are all the responsibility of the forensic scientist.

Report, Disclosure, Peer Review

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