



## Physical Anthropology Section – 2007

### H4 Forensic Anthropology in the Courtroom: Trends in Testimony

*Elizabeth A. Murray, PhD\*, College of Mount St. Joseph, 5701 Delhi Road, Cincinnati, OH 45233-1670; and Bruce E. Anderson, PhD\*, Forensic Science Center, 2825 East District Street, Tucson, AZ 85714*

After attending this presentation, attendees will learn about the frequency and nature of expert witness experiences among the membership of the Physical Anthropology section of the American Academy of Forensic Sciences.

This presentation will impact the forensic community and/or humanity by demonstrating the need for trends in testimony to be shared among the forensic anthropology membership and can be used to potentially direct areas of research in the future.

A certain amount of recent research by forensic anthropologists has apparently been induced or promoted by the Daubert decision. Numerous papers and presentations have focused on issues such as error rates and the replicability of previously published analytical methods. This research is certainly needed and the authors correctly stress the importance of the results of such research in terms of how forensic anthropology opinions should be rendered within the medico-legal resolution of a particular case. Partly because of this, the authors felt that it could be quite instructive to tabulate the types of issues in which forensic anthropologists are actually testifying. Results of such tabulation may prove useful in directing future research in forensic anthropology.

To obtain data related to this issue, the authors utilized the services of a commercial survey company to conduct an anonymous and IRB- approved on-line survey. The National Office of the American Academy of Forensic Sciences sent an electronic link to the survey to all ranks of membership in its Physical Anthropology Section. At the time of the writing of this abstract, 99 individuals had responded to the survey, representing a wide range of experience levels, from students to individuals who have been practicing for over 30 years. Survey questions asked respondents their current educational level, their primary employment setting, and the approximate percentage of their workload devoted to casework, research, and teaching in the field.

After being asked to provide basic career information, the survey queried whether or not the respondent had ever testified as an expert witness in the field of forensic anthropology (including courtroom and other forms of sworn testimony). At the time of the writing of this abstract, 56.6% of the survey respondents had testified, although most testified rarely. If they had testified, participants were asked to answer further questions about courtroom experiences throughout their career. Questions about sworn testimony were related to the frequency of such experiences, as well as the typical nature of the expert opinions forensic anthropologists are asked to render. Respondents were asked how often their testimony involved chain of custody issues, providing a biological profile, positive identification, traumatic injuries and other pathologies, the postmortem interval, matters of recovery or scene investigation, and whether or not they had provided a second opinion relevant to the work of another anthropologist. To assess trends in the field, the survey asked anthropologists to break these experiences into those occurring in the past five years, and if the extent of their practice exceeded five years, how often and what types of testimony they typically provided earlier in their career.

Initial survey results regarding the past five years indicate that most forensic anthropologists do not frequently serve as expert witnesses. When forensic anthropologists have provided sworn testimony in the past five years, it is more often regarding trauma and pathology, recovery or scene investigation, or the postmortem interval. Forensic anthropologists are least asked to render opinions on chain of custody issues, positive identifications, and are very seldom asked to testify as second opinions relative to the work of other anthropologists. When compared to the expert witness experiences of anthropologists in the earlier years of their career (for those with more than five years of experience) the frequency of most types of testimony shows little change over time. However, survey data suggest increases in testimony with regard to recovery and scene investigation, and the postmortem interval. The poster presentation will provide a more robust examination of these data and a discussion on the final survey results.

**Expert Witness Testimony, Forensic Anthropology, Daubert Decision**