



Jurisprudence Section – 2010

E9 Admissibility Issues After the National Academy of Sciences Report

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After attending this presentation, attendees will appreciate the significance of the National Academy of Sciences Report on admissibility issues.

This presentation will impact the forensic science community by highlighting the probable judicial response to the National Academy of Sciences Report on forensic science.

Several developments have contributed to a reappraisal of the way courts deal with expert testimony in criminal cases. First, the advent of DNA evidence dramatically changed the legal landscape. Indeed, one judge called it the "single greatest advance in the search for truth... since the advent of cross-examination." The second development was the Supreme Court's landmark decision in *Daubert v. Merrell Dow Pharmaceuticals, Inc.* If DNA evidence revolutionized forensic science, *Daubert* and its progeny revolutionized the admissibility of evidence based on forensic science. A third development involved the abuse of scientific evidence. These developments provide the backdrop for the National Academy of Sciences 2009 Report on Forensic Science: *Strengthening Forensic Science in the United States: A Path Forward*. Within months, the Supreme Court cited the report in *Commonwealth v. Melendez-Diaz*, noting that "[s]erious deficiencies have been found in the forensic evidence used in criminal trials" and "[f]orensic evidence is not uniquely immune from the risk of manipulation." This presentation

considers how the Report may impact litigation, including challenges to forensic evidence as well as possible limitations on the admissibility of expert testimony.

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