



K42 *Melendez-Diaz* and Other 6th Amendment, Confrontational Clause Cases - Their Impacts and Perspectives

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After attending this presentation, the attendee can expect to learn about the impacts that the *Melendez-Diaz* decision from the Supreme Court has had on laboratory practice and also the perspectives of the Judiciary, prosecution and defense.

The presentations will impact the forensic science community by providing knowledge about the *Melendez-Diaz* decision and other related cases and provide important perspectives on the impacts to the laboratory, defense, and prosecution.

Throughout the years there have been many decisions that affect how scientific evidence can be entered into court proceedings with the most recognized being the *Frye* and *Daubert* decisions. The right of a criminal defendant to confront and question evidence that establishes an element of the crime of which he is accused exists in tension with the impact on laboratories that provide scientific testimony about standardized methods and results whose analysts must now personally testify about their work. The *Melendez-Diaz v. Massachusetts* decision was issued by the United States Supreme Court on June 25, 2009. While it is the latest in a line of Sixth Amendment or Confrontation Clause type cases it is the most recent decision to affect how scientific evidence can be entered into court proceedings. Specifically this case addressed the admission of evidence identifying controlled substances by affidavit. The ruling that the Massachusetts statutes allowing for the admission of this evidence by affidavit was an unconstitutional violation of a defendant's right to confront and cross examine witnesses impacts every federal and state court in the United States. In doing so, the court further elucidated its position about "testimonial evidence" begun in the *Crawford* case. The implications for laboratories producing results from analytical tests and evidence generated through other disciplines will have significant impacts in some jurisdictions.

Before the end of the 2008-09 term, the US Supreme Court granted argument on another case concerning whether a witness can testify to another's work from the original analyst's report. This case, *Briscoe v. Virginia* again looks at a very similar case. Where the central question in *Melendez Diaz* is whether the Confrontation Clause requires treating crime lab reports as testimonial evidence, the central question of *Briscoe* is if a state allows a prosecutor to introduce a certificate of a forensic laboratory analysis, without presenting the testimony of the analyst who prepared the certificate, does the state avoid violating the Confrontation Clause of the Sixth Amendment by providing that the accused has a right to call the analyst as his own witness.

A goal of the session is to provide a forum for the discussion of the needs of forensic science evidence for each of the justice system components.

Confrontation Clause, *Melendez-Diaz*, *Briscoe*