



### **E25 DNA and *Voir Dire*: What Does Your Jury Already Know About DNA?**

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After attending this presentation, attendees will gain insight into how to approach questioning prospective jurors regarding the DNA evidence in their cases. In the jury pool, there will be not a single, common concept of DNA. Some of the prospective jurors have no idea what DNA is, much less what impact DNA evidence can have on a criminal case. For other prospective jurors, their only knowledge of DNA is what they have seen on TV crime shows. Some may have the belief that the presence of a defendant's DNA is absolute, complete, and total proof of his/her guilt. A few may have a little more realistic grasp of what DNA evidence is, how it is obtained, and how it can be useful in a criminal case. *Voir dire* is the best way to help the attorney determine just how much knowledge the prospective jurors bring to courtroom. Examples of several different types of *voir dire* questioning will be presented.

This presentation will impact the forensic science community by showing how much impact carefully crafted *voir dire* questions can have in a trial. Attendees will see what lines of questioning can be most productive in gathering information about the prospective jurors' beliefs, what lines of questioning do not provide as much useful information, and what lines of questioning to try to avoid because they could end up being counterproductive and confusing to the prospective jurors.

The NAS Report found that lawyers "often lack the scientific expertise necessary to comprehend and evaluate forensic evidence." In response, the Minnesota State Public Defender, working with a small group of attorneys, developed a year-long training program to teach 30 assistant public defenders DNA-typing litigation skills, using a combination of intensive lecture, small group discussion, and one-on-one tutoring. Each attorney applied this advanced training to one of their own actual, pending cases. Prior to this training, many attorneys just accepted the reports submitted by the Minnesota Bureau of Criminal Apprehension for their face value. Now, following the training, nothing is taken at face value. These lawyers have increased confidence in their ability to spot issues and then to work with experts on complex forensic issues.

To further sharpen the trial skills of this group, the Minnesota State Public Defender offered an opportunity for three of these DNA Institute attorneys to attend its annual one-week Trial Advocacy School. Each of the DNA attorneys worked with a non-DNA attorney on a case in which DNA played a major role. *Voir dire* was among the trial skills which were the focus of this training opportunity. Volunteer prospective jurors assisted in this exercise. Each DNA attorney prepared questions specifically designed to learn how much DNA information the prospective jurors had prior to the exercise. The attorneys also received feedback from those jurors concerning the effectiveness of their questions as well as feedback from instructors. The attorneys then had the opportunity to modify their questions and repeat the exercise, if they chose to do so.

This presentation will give attendees examples of how this additional advanced trial training for three members of the Minnesota Public Defender Advanced DNA Institute can lead to improved performance during jury trials.

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### **Voir Dire, DNA, Questioning**