



Jurisprudence Section - 2016

F4 Scientific Evidence and the Law School Curriculum

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The goals of this presentation are to: (1) demonstrate the ability to present a specialization certificate in the science program within the regular law school Juris Doctor (JD) curriculum; (2) explore the types of classes, the time and unit commitment of the students, and the demands on the faculty for such a program; and, (3) offer an approach for the American Academy of Forensic Sciences (AAFS) to provide a leadership role in establishing such programs.

This presentation will impact the forensic science community by educating law professors and administrators on the feasibility of a science and the law program within the requirements of a JD curriculum. It will also serve as a mild call to action to the AAFS to provide guidance and encouragement to law schools to develop such programs, to ultimately help guide their content, and to someday certify or accredit such programs.

Scientific evidence is increasingly prominent in the practice of law. The standard 15-week course on evidence dedicates approximately seven weeks to the hearsay rule and only two weeks to scientific evidence. In most law schools, there are a few courses on scientific evidence offered as electives, but there is rarely an actual scientific evidence curriculum. This presentation proposes that a specific, rigorous curriculum be offered with the intention of preparing law students for the real world of forensic evidence in the practice of law, particularly in the fields of civil and criminal litigation. The AAFS is a strong proponent of education in the forensic sciences. The AAFS maintains the Forensic Science Education Programs Accreditation Commission (FEPAC), which provides goals and standards for forensic science programs at the undergraduate and graduate levels. This presentation suggests that the AAFS bring some of this commitment and expertise to bear on law school education as well as undergraduate and graduate science curricula.

Most law schools have a required curriculum for all, or most, of the first year and a number of required subjects that must be taken during the second and third years. Therefore, the opportunity to take elective classes is somewhat circumscribed. The primary focus of most law schools is to provide a general legal education that will enable the student after graduating to pass the bar examinations and to have a good understanding of the major areas of law, including torts, contracts, civil procedure, criminal procedure, Constitutional law, real property, corporations, wills and trusts, family law, and taxation. Students are encouraged to broaden their horizons by taking electives as time and schedules permit. A survey of law school curricula shows that the forensic science offerings are limited and are generally not presented as a coherent program throughout the course of study. Some law schools offer elective classes that pertain to certain subjects in forensic sciences, such as psychology and the law or computers and the law. Some offer a special class in scientific evidence; however, there are no law school programs for JD candidates that offer a specialization in elective study focusing on a general competence in forensic sciences and the law.

This presentation proposes that the AAFS assist in the creation of goals and standards for a science and the law curriculum for American law schools. This is not a program to educate forensic scientists nor a joint degree program. It is a part of the regular law school curriculum. The mission, goals, and implementation of a law school science curriculum are much different than those of undergraduate or graduate programs designed to educate students to become forensic scientists. The mission is to provide law students with a working knowledge of scientific principles, an overview of scientific evidence, and an opportunity to study one or two areas of forensic science in more detail. The goal is to prepare students to be better able to intelligently work with forensic experts. The long term goal is to give students the intellectual background to properly prepare experts to testify and to be able to challenge improper opinions proffered by opposing counsel.

This presentation also proposes that the AAFS consider adopting a certification, accreditation, or some other form of encouragement for law schools that demonstrate a commitment to the highest goals and standards of legal forensic science education. This can be developed over time and is in addition to the accreditation of law schools by the state bars, regional accreditation programs, the American Bar Association, or other agencies. If implemented, the encouragement of the AAFS would be of considerable value to the AAFS itself, the institutions, and the students who pursue the specialization certificate along with their JD.

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