



F14 The Potential and Problem of Academics as Forensic Experts

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Learning Overview: After attending this presentation, attendees will be able to evaluate academics for the role of forensic experts and analyze the academic Curriculum Vitae (CV) for trustworthiness and exaggeration.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by providing an argument for regulating academic experts and ways for evaluating the academic expert CV.

The role of academics as expert witnesses is full of potential yet fraught with problems. The potential is great. First, an academic with a doctorate can have an exceptional amount of knowledge in the general field, particularly in the areas of specialization as reflected in research grants and publications. Second, academics can discern differences between their own and another field's methods and discern when methods are being properly applied or not. Third, academics know the controversies and unsolved problems in their field. Fourth, academics know how different groups relate to "schools of thought" within their fields and the relative seriousness with which different schools of thought are taken. Fifth, academics can know specific technical details related to these schools of thought (e.g., arcane controversies, such as the proper/improper use of particular statistical procedures or stances regarding the use or non-use of data types or requirements for the doctorate). Sixth, academics know the respected, prestigious conferences and journals in their fields. Seventh, since most academics regularly lecture, an academic can express himself easily, especially if the academic teaches introductory courses as well as upper-level and graduate seminars.

Scandals concerning forensic science have focused almost exclusively on bad behavior within crime laboratories. These bad behaviors include falsified credentials, mishandling of evidence, etc. and are detectable because the crime laboratories are public facilities. However, the regulation of academics as forensic expert witnesses is left for a case-by-case basis, using the Rules of Evidence and evidence standards such as *Daubert*.^{1,2} The case-by-case method may not be enough for two reasons. First, the hierarchy of doctorates shows that lawyers, as well as the jury, are to a degree intimidated by academic doctorates. Common parlance shows this: MDs are known as "real doctors," PhDs are known as "doctors," and JDs are called "lawyers." Thus, lawyers and judges may not feel qualified to evaluate academic experts realistically. Second, *Daubert* criteria are not applied consistently from case to case. One expert can be allowed to testify in one jurisdiction and not be allowed to testify in a different jurisdiction, even though the academic expert's credentials and testimony are essentially the same.

The forensic science community should look closely at regulating academics as forensic experts. Each potential has a downside, with eight additional problematic factors. First, many academics feel that they are not paid enough as professors. The primary motivation for consulting may be greed. Second, many universities seeking ways to be "relevant to the community" encourage faculty to supplement their incomes with expert witness consulting. Third, this approach brings media attention to the university and the expert, often during a case. If the academic wants to please his university masters, publicity is his friend, even if this publicity displeases his attorney masters. Fourth, this dual-income approach may be questionable as "double-dipping" from government coffers. Fifth, this dual-work approach will interfere with either the academic's teaching and publishing/writing schedule or the attorney's case schedule; one will suffer. Sixth, the academic's publications may change from actual research to case studies of the cases. Seventh, the case work may actually be performed by (under)graduate students rather than the professor. The confidentiality agreement usually does not extend to (under)graduate students since the attorney assumes that the academic expert is going to do the work. Eighth, the CV may reveal problems to other academics but not to lawyers. It may be necessary to hire another academic in the same field to review the CV, to have a chronological series of the academic's CV to reveal an illogical timeline of "worked cases." Tricks on the academic CV are presented.

Finally, this talk concludes with potential regulations for academics as experts so that the judicial system can be afforded all the benefits of academic expertise while avoiding the pitfalls during trial.

Reference(s):

1. Giannelli, Paul C. Expert Qualifications: Traps for the Unwary. (2000). *Faculty Publications*. Paper 230. http://scholarlycommons.law.case.edu/faculty_publications/230.
2. Stern, Avidan J. Challenging an Expert's Opinion and Testimony. (2011). *Federal Civil Practice Update 2011: A Practical Guide to New Developments, Procedures & Strategies*. Practising Law Institute.

Academics, Expert Witnesses, How to Read Academic CV