

## Expert Opinion is Used when the Court Does Not Have Specific Knowledge

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### Abstract

An expert witness opinion is a procedural act in which the expert witness, as a person who has special scientific or professional knowledge and experience, applies scientific and professional knowledge, skills and methods to the facts that represent the subject of the expert opinion. Expert examination is a procedural action by which special evidence is obtained - an expert's testimony, and as such contributes to the realization of the principle of searching for material truth.

**Keywords:** Expert Witness, Opinion, Criminal Investigation, Court, Trial

### 1. Introduction

Once the complete evaluation is finished, the query arises simply how the evaluation is for use [1]. The professional ought to usually endure in thoughts that his or her function is to help, now no longer decide, the judicial manner. Not all of the cloth that emerges in an evaluation may be used by the attorney, and, in reality, a number of it could undermine a given legal method. Therefore, one ought to usually discuss with an legal professional orally and percentage the outcomes of an assessment absolutely earlier than placing some thing into writing or agreeing to testify. In reality, it's miles superior for the psychologist to just accept a forensic case in parts; first, to do an goal and complete forensic assessment and second, to testify as an expert witness.

The complete forensic assessment consists of an oral document of the outcomes to the attorney. The attorney in session with the consumer and psychologist will decide whether or not and to what volume the findings can be utilized. This is usually a strategic selection due to the fact as soon as the call of an expert is found out as a capacity expert witness, all of the material and data upon which that expert's opinion is primarily based totally can be challenge to criminal discovery. Attorneys in addition to forensic mental health specialists just like the two stage technique because it lets in the professional to be completely sincere with their opinions. If the goal assessment isn't always regular with the attorney's criminal method, then the psychologist is paid for his

or her time and does no similarly works at the case. This avoids seeking to in shape the findings right into a method that doesn't actually work and continues the forensic mental health clinician from getting a popularity as a employed gun or a person who will say some thing to work on a case.

### 2. Knowledge

Because the outcomes in their work can be a issue in figuring out a character's final guilt or innocence, forensic scientists can be required to testify approximately their strategies and conclusions at an ordeal or hearing [2]. Trial courts have huge discretion in accepting an man or woman as an expert witness on any specific challenge. Generally, if a witness can set up to the pleasure of an ordeal decide that she or he possesses a selected talent or has information in a exchange or career with a view to resource the court in determining the fact of the matter at issue, that man or woman can be accepted as an expert witness. Depending at the challenge location in query, the court will generally recall information received via experience, training, education, or a combination of those as enough grounds for qualification as an expert witness.

Testimony is usually supplied through stay witnesses at trial [3]. However, the testimony of an ill, deceased, or in any other case absent witness can also be provided through deposition or earlier trial testimony.

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Fact witnesses, additionally referred to as percipient witnesses, testify approximately what they personally “saw, heard or smelled.” They are now no longer, in maximum instances, accredited to explicit reviews even as testifying. In contrast, expert witness testimony is sort of usually provided withinside the shape of an opinion. Expert witnesses hardly ever have personal information of the underlying data in a case. This isn't always to mention that an professional is loose to brush aside the data. Indeed, expert opinions are best accredited if they may be rationally primarily based totally at the data and derived from analytic strategies which are usually widespread through mainstream medication and technology. Percipient and expert witnesses play pivotal roles in each trial, however in instances the testimony of a credible, well-certified expert witness is regularly the identifying issue for lots jurors.

### 3. Criminal Investigation

Material reassets withinside the shape of lines and gadgets associated with the devoted crime can seem in forms: as actual proof, whilst the proof is everlasting and their clinical interpretation isn't always required, or as objects of expert examination [4]. Basically, those are: a) manner of commission, b) objects acquired through a criminal offense (those also can be human organs), c) objects due to the commission of the crime, d) objects acquired as a reward, e) objects that serve to perceive the perpetrator, victims, witnesses or third parties, regularly "involved" withinside the case, f) objects bearing material lines, g) left, forgotten or misplaced objects, h) objects indicating a motive, i) objects indicating the purpose to devote a blood crime, mainly at the reason to kill "animus nocendi" and j) different associated subjects.

The shape of the research performs an vital function in criminal investigations. In a broader experience, it consists of material, facts and power connections that allow the operation of this shape. In a narrower experience, it's miles a studies system that consists of measures and moves to hit upon blood crimes and their perpetrators via informal and formal measures and moves. Criminal research is a aggregate of theoretical information and abilities carried out through procedural our bodies of their works. It is a unique manner of gaining knowledge of, just like the manner of scientific research. The essence of the criminal process is the invention of the new, the unknown. This hobby is characterised through simultaneous and successive utility of cognitive capabilities: observation, opinion and practice. The widespread framework of the crook process is ready through sizeable Criminal Law, and the provisions of the Criminal Procedure Act without delay practice to it.

### 4. Criminal Cases

Most proof in a criminal trial ought to be brought to the court via the testimony of witnesses who orally describe what befell and what that witness observed [5]. The bodily proof that can pertain to a crook case, consisting of a firearm or knife or the outcomes of a chemical test, are all added to the court via the testimony of witnesses. While multiple substitutes for proof do exist, consisting of judicial notice, inferences, presumptions and stipulations, it might be not possible to offer a criminal case with out using trial

witnesses. The characteristic of the witness is to offer the proof to the trier of reality in order that it could make a determination of what those data imply or what deductions can be crafted from the data. Properly provided, the proof will imply what befell, whether or not against the law occurred, and whether or not or now no longer that character ought to be held criminally responsible. On the belief that a criminal trial has as its sole motive the determination of whether or not an accused character is responsible or harmless of the crime charged it'd appear suitable to anticipate that each one proof associated with the case ought to be admissible in which there may be any viable connection to the specific case in the front of the court. However, there are numerous constitutional, statutory, and sound public coverage motives that restriction a number of the proof this is surprisingly associated with the crime, and but the proof can be prohibited from admission and in no way found out to the trier of reality.

In carrying out the criminal trial, the regular process is first for the prosecution to offer proof that has a tendency to show the offense charged through the leve of evidence referred to as past an affordable doubt. In so doing, the prosecution calls a sequence of witnesses after which proceeds to invite questions of the witnesses. The defendant may also cross-examine the prosecution's witnesses and the prosecution may also do the equal to the protection witnesses. After the prosecution has provided its case, the protection has an possibility to place its very own witnesses at the stand and introduce proof that follows the protection's idea of the case. As a initial be counted, every witness ought to be qualified as a witness, however there may be a presumption that each one witnesses meet the minimal requirements. The qualifications of a witness consist of that the witness take an oath to inform the fact, have private information of the historic data of the case, have reminiscence and recollection of these data, and feature an cappotential to speak.

### 5. Cross-Examination

Cross-exam regularly is the actual degree of a lawyer's trial skills [6]. After one facet has provided a witness to recite proof to strengthen its case, the opposing recommend is given an possibility to make clear or dismantle the testimony. The purpose of the protection in a crook case is to plant doubt withinside the minds of the jury regarding the witness, the testimony, or the opposite proof provided. The protection recommend desires to harm the professional witness's credibility. Even whilst the protection recommend conveniently has the same opinion to the witness's qualification as an expert, recommend may also nonetheless ask questions designed to assault the witness. In reality, the protection's method can be to decrease the witness's efficacy through demonstrating the professional's loss of information. Defense recommend may also assault the manner the exam changed into accomplished or the manner the proof changed into collected. The protection legal professional may assignment the conclusions drawn from the proof through eliciting admissions that contradict the main conclusions made through the expert. The protection attempts to discredit the expert or lead the expert to offer an opinion beneficial to the defendant.

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On cross-exam, the witness ought to be mainly conscious of the questions requested. The attorney can be pleasant, courteous, nonthreatening, and conciliatory on the outset to lull the witness right into a fake experience of security. The subsequent collection of questions will visit the coronary heart of the problem. Unlike direct exam, cross-exam is composed nearly completely of main questions, which normally incorporate the solution in the query and may generally be replied with a simple “yes” or “no.” For example, “Isn't it actual that the accidents sustained through the sufferer might have been because of lively intercourse?” The reason of the sort of query is to offer a practicable clarification apart from pressure for the sufferer's accidents.

## 6. Expert Witness

Forensic scientists are amongst people with expert knowledge who can be referred to as upon to offer proof withinside the courts, offering recommendation on topics as numerous because the reasons of fire, scientific negligence, and stresses and lines in bridges [7]. The function of the sort of expert, however, isn't the same as that of the everyday witness, in that the expert isn't always gift absolutely to copy the data adduced through the clinical checks which have been undertaken, however to provide an interpretation of the findings withinside the context of the case. Accordingly, expert witnesses may also provide, certainly are recommended to offer, reviews in addition to genuine proof.

The professional can be predicted to offer the courtroom docket facts which falls out of doors the overall information of the decide or jury. If requested, the expert may also legitimately provide an opinion on any problem which falls inside his or her competence, even though there can be motives why the decide may also finally endorse the jury to brush aside such facts. This opinion may also consist of, for example, applicable possibility estimates to demonstrate that a selected blood institution has been determined to arise in a single character in each 20 withinside the widespread populace of the United Kingdom.

There are circumstances, for instance, with the outcomes of sure DNA profiling checks, in which the proof may also appear like so effective that the forensic scientist may also agree with it to be past any affordable doubt that some other man or woman is probably liable for the incident. However, the expert ought to now no longer word his or her proof in the ones phrases. The query of the guilt or innocence of the accused does now no longer fall in the remit of the expert, or any different, witness. This problem is one that ought to be in the end addressed best through those who will determine the case, this is, the magistrates or jury.

No be counted how state-of-the-art a jury panel can be, it unavoidably can be referred to as upon to make judgments approximately many topics, a number of which can be past the knowledge of its members [7]. Matters regarding specialised information are regularly provided to the jury in even the maximum mundane case. To help the jury in its look for the fact, and withinside the pleasant pastimes of justice, the offerings of professional witnesses come into play. As many regular topics maintain to come to be greater

technical and specialised, expert witnesses will play a fair greater vital function in trial complaints withinside the future. Expert witnesses may also end up regarded as assistants to the jury. An expert witness offers the jury the gain of information of a selected technology or talent. By such information, the jurors are assisted in arriving on the fact. Although the jury want now no longer take delivery of the opinion, an expert is allowed to explicit an opinion or draw conclusions regarding a selected set of data or approximately the exam of a few proof.

Generally speaking, beneathneath the FRE (Federal Rules of Evidence) an expert may also testify if the clinical, technical, or different specialised information she or he affords will help the jury in knowledge the proof or in figuring out a cloth reality. Before an expert may also testify, the decide ought to first decide whether or not the witness is certified as an professional withinside the specific discipline through information, talent, enjoy, education, or training and that the testimony will assist the jury arrive on the fact.

## 7. Court

In court, an expert witness can be requested questions meant to illustrate his or her cappotential and competence concerning the problem at hand [2]. Competency can be mounted through having the witness cite instructional degrees, participation in unique courses, club in expert societies, and any expert articles or books published. Also vital is the wide variety of years of occupational enjoy the witness has had in regions associated with the problem earlier than the court.

Most chemists, biologists, geologists, and physicists put together themselves for careers in forensic technology through combining education beneathneath an skilled examiner with impartial study. Of course, formal training withinside the bodily sciences affords a company basis for gaining knowledge of and knowledge the ideas and strategies of forensic technology. Nevertheless, for the maximum part, courts ought to depend upon education and years of enjoy as a dimension of the information and cappotential of the expert.

Before the decide policies at the witness's qualifications, the opposing attorney may also cross-examine the witness and factor out weaknesses in education and information. Most courts are reluctant to disqualify an man or woman as an expert even if provided with a person whose history is best remotely related to the problem at hand. The query of what credentials are appropriate for qualification as an expert is ambiguous and surprisingly subjective and one which the courts accurately try and avoid.

The weight that a decide or jury assigns to “expert” testimony in next deliberations is, however, pretty some other be counted. Undoubtedly, training and enjoy have sizable relating what price ought to be assigned to the expert's opinions. Just as vital can be his or her demeanor and cappotential to give an explanation for clinical data and conclusions sincerely, concisely, and logically to a decide and jury composed of nonscientists. The hassle of finding

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out the strengths and weaknesses of expert testimony falls to prosecution and protection recommend.

The ordinary or lay witness ought to testify on activities or observations that rise up from private information. This testimony ought to be genuine and, with few exceptions, can not incorporate the private reviews of the witness. On the opposite hand, the expert witness is referred to as on to assess proof whilst the court lacks the knowledge to do so. This expert then expresses an opinion as to the importance of the findings. The perspectives expressed are widespread best as representing the expert's opinion and can later be widespread or not noted in jury deliberations.

The expert can not render any view with absolute actuality. At pleasant, she or he may also best be capable of provide an opinion primarily based totally on an affordable clinical actuality derived from education and enjoy. Obviously, the expert is predicted to shield vigorously the strategies and conclusions of the analysis, however on the equal time she or he ought to now no longer be reluctant to speak about impartially any findings that might decrease the importance of the analysis. The forensic scientist ought to now no longer be an advise of 1 party's purpose however an advise of fact best. An adversary machine of justice ought to provide the prosecutor and protection enough possibility to provide expert opinions and to argue the deserves of such testimony. Ultimately, the obligation of the decide or jury is to weigh the pros and cons of all of the facts provided whilst identifying guilt or innocence.

## 8. Trial

The trial starts with the presentation of the hole announcement [9]. "To many criminal specialists that is the second one possibility withinside the courtroom docket trial manner to win or lose a case," after jury selection. Attorneys for the plaintiff, in a civil case, or for the prosecution, in a crook case, generally are the primary to inform the jury what they agree with the proof will show. Plaintiffs or prosecutors usually occupy the recommend desk closest to the jury and gift their establishing announcement first due to the fact they have got the weight of evidence. The defendant's attorney will then make a gap announcement; however, in a few instances, the protection attorney has the choice of delaying this establishing announcement till after the plaintiffs have finished imparting their case.

The establishing statements monitor to the decide and jury the opposing tale lines. In the hole announcement, the lawyer outlines for the jury the troubles worried withinside the case and the proof to be provided with a view to firmly set up the validity of the declare or the protection. It is likewise an opportune time to introduce and give an explanation for in widespread phrases any expert testimony for use withinside the case. The lawyer ought to give an explanation for to the jury the proof to be provided, display how it'll be provided, offer a short review of the qualifications of the expert(s) who can be testifying, and describe in huge phrases the idea for the expert opinions. Exhibits may be used to higher illustrate factors made at some point of the hole announcement and may be a long way greater powerful and convincing than oratory

alone. The establishing announcement additionally affords an possibility to deal with any capacity weaknesses in professional testimony to be offered. By introducing such weaknesses at some point of the hole announcement, the lawyer has an possibility to preempt the opposing facet's argument regarding that testimony, even as constructing credibility with the jury.

The establishing announcement is an possibility to teach the jury at the manner of the trial. The lawyer will give an explanation for why expert witnesses are getting used and why they had been selected. This clarification will increase the legitimacy of each the expert and the expert's function withinside the case. An establishing announcement is powerful if it will increase the jury's hobby withinside the testimony and proof to be provided and if it piques interest in what the specialists will say. The establishing announcement ought to additionally put together the jury for the greater hostile components of the trial, consisting of an competitive cross-exam, in order that they may be now no longer amazed and do now no longer see the lawyer, or the party being represented, in a terrible light. Juries regularly admire candor and, as a result, greater conveniently apprehend the lawyer's technique.

## 9. Expertise

All advanced courts in Australia, New Zealand and the United Kingdom have promulgated codes of behavior, variously described, for specialists who write reviews with regards to civil litigation [10]. These codes had been drafted a good way to lessen the subculture of partiality amongst a few specialists and to facilitate transparency and duty of reasoning strategies at the a part of specialists. Thus, specialists' number one responsibilities are sincerely said to be owed to the courts and now no longer to the events commissioning or procuring them. All data, checks used and assumptions made ought to be diagnosed. Reasons ought to accept for every opinion expressed and in which reviews are initial, certified or tentative this ought to be said. Experts are predicted to speak co-operatively and constructively with one some other, whilst so ordered through courts, which will perceive troubles upon which they agree and disagree. Perhaps maximum importantly, specialists are required to country that they have got made all enquiries essential to allow them to explicit their perspectives. This is a similarly try to unharness specialists from the distorting constraints of an adversary machine wherein they is probably willing to explicit reviews on the idea of a selective cross-phase of applicable facts. In essence, it calls for that they adopt their forensic capabilities in a comparable manner and with same rigour to the manner wherein they adopt their scientific capabilities.

While those codes of behavior practice strictly best in civil topics, it's been held that they ought to additionally be seemed as widely relevant in crook topics. They are reflective of a desire at the a part of courts that the strategies and the bases upon which specialists attain their perspectives be available and thereby amenable to powerful assessment through reality-finders. Findings from surveys undertaken on behalf of the Australian Institute of Judicial Administration diagnosed partiality/bias and a loss of readability

withinside the expression of reviews as specific issues at the a part of each magistrates and judges with regards to expert evidence. Both the quantitative and qualitative solutions to the surveys found out a sizeable stage of disillusionment approximately the independence and objectivity of a difficult percent of expert witnesses. Medical witnesses had been singled out on this regard each with regards to their reviews and their oral testimony. In turn, those research have given a fillip to each the tightening of codes of expert conduct and judges' preparedness to insist upon adherence to them.

## 10. Opinion

Ordinary witnesses in court confine themselves to giving evidence to which they had been eye witnesses (this is of fact), and now no longer what they agree with (this is opinion) [11]. Otherwise they danger usurping the function of the court through inviting it to just accept their opinion, instead of forming its very own. Nevertheless in lots of instances, the court ought to attain judgments regarding complicated topics past the enjoy of these gift. Expert witnesses help the court through giving opinion proof on such topics, which usually entails using information received through significant enjoy or education.

When instructed, specialists ought to request a clean define of the troubles on which their knowledge is sought, and make sure that they may be certainly certified for the task. They have an overriding obligation to the courtroom docket to offer independent opinion proof, and ought to in no way come to be an advise for the birthday birthday celebration teaching them. Unlike ordinary witnesses to fact, specialists can take a seat down in court previous to giving evidence to pay attention different witnesses' evidence of reality. Inadequate overall performance through an expert may also harm the right behavior and final results of an ordeal, and can result in grievance through the decide, or worse the referral of the expert to a relevant professional body.

## 11. Conclusion

Expert witness' are persons who, with their professional knowledge or special experience, enable the court to learn a certain fact. Experts are used as means of evidence when the court does not have certain expert knowledge, necessary for finding out certain facts. An expert witness opinion is the only finding and opinion

made by a permanent court expert at the request of the Court.

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