



AALS Evidence Section Newsletter

Fall/ Winter 2009

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Send contributions for the Spring/ Summer 2010 newsletter to:

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Message from the Chair

Dear Section Members,

I have some important messages for you about the AALS Annual Conference.

ANNUAL CONFERENCE—January 7-10, 2010, New Orleans, Louisiana

The annual AALS meeting is fast approaching. As you probably know, this is the first time that the annual meeting will be held in New Orleans since Hurricane Katrina. I hope that you are planning to attend. More detailed information about the conference agenda, registration, and accommodations is available at www.aals.org

Our section is sponsoring two events at the meeting.

EVIDENCE SECTION PANEL

Saturday, January 9, 2010 at 1:30-3:15pm,

Transformative Evidence: Changes Inside the Courtroom and Outside the Courthouse

Our panel speakers are:

Dean Geoffrey S. Mearns, Cleveland-Marshall College of Law

Dean Mearns will discuss his work on the new National Academy of Sciences' report, "Strengthening Forensic Science in the United States: A Path Forward." The NAS Report, which was released in February 2009, recognizes that forensic science needs systemic reform. Based on his experience as a member of the NAS Committee on Identifying the Needs of the Forensic Science Community and his extensive experience as a federal prosecutor, Dean Mearns will discuss the implications of the NAS Report on criminal investigations and prosecutions. Dean Mearns will also discuss forensic science outside the courtroom by highlighting the importance of establishing enforceable standards to ensure

validity and consistently across the spectrum of forensic disciplines.

Professor Daniel S. Medwed, S.J. Quinney College of Law, University of Utah

Professor Medwed will address, *Evidence and Innocence in the Post-Conviction Sphere*. Federal Rule of Evidence 102 focuses on the three principal goals of the evidentiary regime: fairness, accuracy, and efficiency. These occasionally conflicting goals have manifested themselves in a complex and intricate rule regime designed to filter out the “worst” and let in the “best” evidence at trial. Yet what if the result at trial is the conviction of an innocent criminal defendant? This could possibly signal a failure of the filtration device or that of the fact-finder. In any event, it casts doubt on the utility of evidentiary rules in the post-conviction arena. Professor Medwed will focus on post-conviction claims of innocence and explain why the goal of accuracy should take center stage. That is, the extent to which evidentiary rules should apply at all to post-conviction hearings on innocence claims, which is not always clear in many jurisdictions, should be dictated based on whether the rules primarily advance accuracy as opposed to other objectives. Professor Medwed will discuss this topic in two contexts: the presentation of post-conviction innocence claims based on (1) scientific evidence, most notably, DNA evidence and (2) newly-discovered nonscientific evidence, often in the form of testimonial evidence.

Professor Stacey Tovino, Director, Health Law and Policy Center, Drake University Law School

Professor Tovino will examine the relationship between science and law in the context of mental illness and illustrate how the science that lawmakers use to establish and interpret mental health law and policy is not always accurate. The incorrect legal understanding of the causes, correlates, and consequences of mental illness can lead not only to the development of inappropriate mental health laws and policies, conflicts between different health laws and policies, and the public and legal misunderstanding of mental illness, but can also encourage the introduction of 'scientific' testimony in a range of civil and administrative contexts that would not meet evidentiary standards required for use in litigation. Professor Tovino argues that health law and policy makers need to better understand the difference between scientific and legal methods and revisit legislative findings as their medical and scientific foundations evolve.

SECTION LUNCHEON

Saturday, January 9, 2010 at 12:15-1:30pm

Our Section luncheon immediately precedes our Section panel. The luncheon will provide a great opportunity to catch up with fellow Section members in a more casual atmosphere.

This year I ask all Section members to make an extra effort to encourage their new (and new to evidence teaching) colleagues to attend the panel and the luncheon. Section members know that these events provide a great way to meet people who share your interests from other schools. These opportunities are

especially important to colleagues who are new to teaching and to the field.

I look forward to seeing you all at the annual meeting.

Joëlle Anne Moreno
Florida International University

The Consilience of Complex Evidence

Susan Haack
University of Miami

The following is abstracted from Susan Haack, “Proving Causation: The Holism of Warrant and the Atomism of *Daubert*,” IV.2 *Journal of Health and Biomedical Law* 53-89 (2008):

The Consilience of Inductions takes place when an Induction, obtained from one class of facts, coincides with an Induction, obtained from a different class. This Consilience is a test of the truth of the Theory in which it occurs. — William Whewell (1847).¹

At the age of 37, Robert Joiner was diagnosed with small-cell lung cancer. Believing the cause was his exposure to PCBs (polychlorinated biphenyls) contaminating the insulating oil in the electrical transformers his job required him to disassemble and repair, he sued the manufacturer, General Electric. His attorneys proffered experts to testify to various toxicological, *in vivo*, *in vitro*, and epidemiological studies, arguing that, while none of these was enough *by itself* to establish his claim, *taken together* they were sufficient to meet the standard for proof of causation. Excluding Joiner’s experts, the District Court granted summary judgment to G.E.; endorsing the legitimacy of Joiner’s experts’ “weight of evidence methodology,” the Court of Appeals reversed; but the Supreme Court reversed again, with only Justice Stevens seeing any merit in Joiner’s epistemological argument.²

Whatever the caliber of Mr. Joiner’s evidence specifically, it is clear that some combinations of pieces of evidence really *can* warrant a conclusion even though none of the pieces by itself would be sufficient to do so. Think of the complex congeries of evidence with respect to the theory of evolution; the intersecting lines of evidence suggesting that there was once bacterial life on Mars; or the array of archeological, documentary, etc., evidence of the Roman conquest of Britain. Whewell gave us a good word for this phenomenon – “consilience,” “jumping together” – but no real explanation of *which* congeries of evidence warrant a conclusion to a higher degree than any of their components, or *why*. The account I developed in *Evidence and Inquiry*³ and *Defending Science – Within*

¹ William Whewell, *Philosophy of the Inductive Sciences* (1847) in *Selected Writings of William Whewell*, ed. Yehuda Elkana (Chicago: Chicago University Press, 1984), 121-384, p.257.

² *General Electric Co. v. Joiner*, 522 U.S. 136 (1997).

*Reason*⁴ can help.

Evidence ramifies, like the entries in a crossword puzzle. How reasonable a crossword entry is depends on: (1) how well it fits with the clue and already-competed entries; (2) how reasonable those other entries are, independent of the one in question; and (3) how much of the crossword has been completed. Similarly, how well evidence warrants a claim depends on:

E1. how strong the connection is between the evidence and the conclusion: *supportiveness*;

E2. how solid the evidence itself is, independent of the conclusion: *independent security*;

E3. how much of the relevant evidence the evidence includes: *comprehensiveness*.

The more supportive the evidence with respect to a conclusion, the better warranted that conclusion is. But, while the more independently secure the evidence *favorable to* a conclusion is, the more warranted that conclusion, the more independently secure the evidence *against* a conclusion is, the *less* warranted that conclusion. Similarly, the more evidence there is favorable to a conclusion, the more warranted it is; but if adding more evidence makes the combined evidence less positive, the increase in comprehensiveness will *lower* the degree of warrant.

So: a combination of pieces of evidence will warrant a conclusion to a higher degree than any of its components when, but only when, combining the various elements *enhances supportiveness; and/or enhances the independent security of favorable (or lowers that of unfavorable) evidence; and/or enhances comprehensiveness by introducing further, no less favorable, elements*.

Applying my analysis to the types of evidence typically proffered in a toxic tort case, we see how combined evidence E will sometimes support a causal conclusion C to a higher degree than any of its components alone:

- E will be more comprehensive than any of its components alone; and, if the additional elements are positive, this will enhance warrant.
- While adding evidence from animal studies or toxicology, etc., won't make a flawed epidemiological study less flawed (nor adding epidemiological evidence make a flawed animal study less flawed), additional evidence may make the conclusion of a flawed study more secure than it would otherwise be. This will also enhance warrant.
- If the elements of E interlock to form an explanatory account – as, e.g., evidence of a biological mechanism by which exposure to substance S

³ Susan Haack, *Evidence and Inquiry* (1993; 2nd expanded ed. Amherst, NY: Prometheus Books, 2009), chapter 4.

⁴ Susan Haack, *Defending Science – Within Reason: Between Scientism and Cynicism* (Amherst, NY: Prometheus Books, 2003),

might bring about disorder D, or evidence that S contains b, which is known to be associated with D, would interlock with epidemiological evidence of elevated risk of D among those exposed to S – this will enhance supportiveness. The interlocking will be tighter, and the enhancement of supportiveness greater, the more narrowly the relevant terms are specified (e.g., if D is “small-cell lung cancer” rather than “lung cancer” or just “cancer”). This too will enhance warrant.

What I have offered is a theoretical analysis, not an algorithm for assessing the weight of complex evidence.⁵ But this analysis is enough to suggest plausible answers to such frequently-contested questions as whether epidemiological evidence is essential to proof of causation (no); whether a showing of a doubling of risk is required (no, it is neither necessary nor sufficient); and whether animal studies should be excluded when epidemiological evidence is available (no).

Giannelli on the NAS Report on Forensic Science

Paul C. Giannelli
Case Western Reserve University

The following is Professor Giannelli’s statement before the Senate Judiciary Committee on the National Academy of Sciences Report on Forensic Science:

Importance of Forensic Evidence

I want to stress the importance of scientific evidence in the criminal process. It is often superior to other forms of proof. Forty years ago, the Supreme Court noted that “fingerprinting is an inherently more reliable and effective crime-solving tool than eyewitness identifications or confessions and is not subject to such abuses as the improper line-up and the ‘third degree.’” *Davis v. Mississippi*, 394 U.S. 721, 727 (1969). More recently, the DNA exoneration cases have highlighted the problems with eyewitness identifications, jail informant testimony, and false confessions. *See Report of the ABA Criminal Justice Section’s Ad Hoc Innocence Committee to Ensure the Integrity of the Criminal Process, Achieving Justice: Freeing the Innocent, Convicting the Guilty* (Paul C. Giannelli & Myrna Raeder eds. 2006). According to the Innocence Project, there are now over 240 exonerations.

However, the exoneration cases also exposed problems with scientific evidence. *See* Brandon L. Garrett & Peter J. Neufeld, *Invalid Forensic Science Testimony and Wrongful Convictions*, 95 Va. L. Rev. 1 (2009); Paul C. Giannelli, *Wrongful Convictions and Forensic Science: The Need to Regulate Crime Labs*, 86 N.C. L. Rev. 163 (2007).

I want to focus my remarks on what I believe is the crucial issue: the lack of

⁵ Moreover, though we sometimes speak of supportive evidence as making a conclusion “likely,” or of a well-warranted conclusion as “likely to be true,” these are epistemic likelihoods, not to be confused with the probabilities in the sense of the classical probability calculus. *See* Haack, *Defending Science*, p.75.

empirical research in some forensic identification disciplines and how to address this deficiency.

Lack of Empirical Research

According to the NAS Report: “Among existing forensic methods, only nuclear DNA analysis has been rigorously shown to have the capacity to consistently, and with a high degree of certainty, demonstrate a connection between an evidentiary sample and a specific individual or source.” *Id.* at 100. Another passage reads: “[S]ome forensic science disciplines are supported by little rigorous systematic research to validate the discipline’s basic premises and techniques. There is no evident reason why such research cannot be conducted.” *Id.* at 22.

Common identification techniques — which rely on the examiner’s subjective judgment— lack sufficient empirical support. For example, the Report commented:

- “Sufficient studies [on firearms identification] have not been done to understand the reliability and repeatability of the methods.” *Id.* at 154;
- “The scientific basis for handwriting comparisons needs to be strengthened.” *Id.* at 166;
- Research is needed “[t]o properly underpin the process of friction ridge [fingerprint] identification.” *Id.* at 144;
- “[T]estimony linking microscopic hair analysis with particular defendants is highly unreliable.” *Id.* at 161; and
- “There is no science on the reproducibility of the different methods of [bitemark] analysis that lead to conclusions about the probability of a match.” *Id.* at 174.

Chapter 5 of the Report documents these conclusions in detail. My research is in accord. *See* Paul C. Giannelli & Edward J. Imwinkelried *Scientific Evidence* (4th ed. 2007).

Judicial Opinions

Similar concerns can be found in court decisions for more than a decade. After the Supreme Court’s decision in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), some lower courts began to question how expert testimony was being presented at trial:

- “Testimony at the *Daubert* hearing indicated that some latent fingerprint examiners insist that there is no error rate associated with their activities This would be out-of-place under Rule 702 [governing admissibility of expert testimony].” *United States v. Mitchell*, 365 F.3d 215, 246 (3d Cir. 2004).
- “The more courts admit this type of toolmark evidence without requiring

documentation, proficiency testing, or evidence of reliability, the more sloppy practices will endure; we should require more.” *United States v. Green*, 405 F. Supp. 2d 104, 109 (D. Mass. 2005).

- “The government has had ten years to comply with *Daubert*. It should not be given a pass in this case.” *United States v. Crisp*, 324 F.3d 261, 272 (4th Cir. 2003) (fingerprint and handwriting case) (Michael, J., dissenting).

- The firearms identification “examiners testified to the effect that they could be 100 percent sure of a match. Because an examiner’s bottom line opinion as to an identification is largely a subjective one, there is no reliable statistical or scientific methodology which will currently permit the expert to testify that it is a ‘match’ to an absolute certainty, or to an arbitrary degree of statistical certainty.” *United States v. Monteiro*, 407 F. Supp. 2d 351, 372 (D. Mass. 2006).

- “Based on the *Daubert* hearings . . . , the Court very quickly concluded that whatever else ballistics identification analysis could be called, it could not fairly be called ‘science.’ . . . [T]he Government did not seriously contest the Court’s conclusions that ballistics lacked the rigor of science and that, whatever else it might be, its methodology was too subjective to permit opinions to be stated to ‘a reasonable degree of ballistic certainty.’” *United States v. Glynn*, 578 F. Supp. 2d 567, 570-71 (S.D. N.Y. 2008).

- “This court has been unsuccessful in its attempts to locate *any* indication that expert hair comparison testimony meets *any* of the requirements of *Daubert*.” *Williamson v. Reynolds*, 904 F. Supp. 1529, 1558 (E.D. Okl. 1995), *aff’d*, 110 F.3d 1508 (10th Cir. 1997).

- “[F]orensic document examination, despite the existence of a certification program, professional journals and other trappings of science, cannot, after *Daubert*, be regarded as ‘scientific . . . knowledge.’” *United States v. Starzecpyzel*, 880 F. Supp. 1027, 1038 (S.D.N.Y. 1995).

Moreover, within months of the NAS Report’s release, Justice Scalia cited it, noting that “[s]erious deficiencies have been found in the forensic evidence used in criminal trials.” *Commonwealth v. Melendez-Diaz*, 129 S. Ct. 2527, 2537 (2009).

Independent Scientific Research

However, the most thorough and well-reasoned reports in the field have come from *independent* scientific investigations:

- National Research Council, *On the Theory and Practice of Voice Identification* (National Academy Press 1979).

- National Research Council, *DNA Technology in Forensic Science* (National Academy Press 1992).

- National Research Council, *The Evaluation of Forensic DNA Evidence*

(National Academy Press 1996).

- National Research Council, *The Polygraph and Lie Detection* (National Academy Press 2002).
- National Research Council, *Forensic Analysis: Weighing Bullet Lead Evidence* (National Academy Press 2004).
- Office of Technology Assessment, U.S. Congress, *Genetic Witness: Forensic Uses of DNA Tests* (1990).

This independent scientific expertise is the reason that the FBI laboratory turned to the National Academy of Sciences when it sought review of voiceprints, DNA, and comparative bullet lead evidence. I assume that Congress asked the NAS to conduct the present study for the same reason.

National Institute of Forensic Sciences

The creation of a National Institute of Forensic Sciences (NIFS) — Recommendation 1 in the Report — is essential. An independent agency, steeped in the traditions of science, is required. In addition to independence and strong scientific credentials, a new entity should be dedicated *solely* to forensic science. It should not be encumbered with multiple missions. Once in place, NIFS could quickly focus on the agenda outlined in the NAS Report.

Moreover, NIFS would have the prestige to attract top scientists to the field and to influence universities to conduct peer-reviewed research and to establish rigorous educational programs. In contrast, an entity that is part of an agency in another department will not attract the requisite level of talent.

Finally, there are many talented, conscientious examiners working in crime laboratories throughout this country. These examiners need to be supported; they need funds for better equipment, advanced schooling, and continuing education. The underfunding of forensic science in this country has been chronic. In 1967, President Johnson's Crime Commission noted that "the great majority of police department laboratories have only minimal equipment and lack highly skilled personnel able to use the modern equipment now being developed." *President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society* 255 (1967). In 1974, President Nixon's Crime Commission commented: "Too many police crime laboratories have been set up on budgets that preclude the recruitment of qualified, professional personnel." *National Advisory Commission on Criminal Justice Standards and Goals, Report on Police* 304 (1974).

Forensic science has been a stepchild in the law enforcement community and an orphan in the scientific community. NIFS offers the best hope for placing forensic scientists on a par with other scientists. Its creation is essential. Recommendation 1 is the most important recommendation in the NAS Report.

“False, but Highly Persuasive Evidence”: How Wrong Were the Probability Assessments in *McDaniel v. Brown*?

David H. Kaye

Penn State Dickinson School of Law

In *McDaniel v. Brown*, the Supreme Court will review the use of DNA evidence in a 1994 trial for sexual assault and attempted murder. The Court granted certiorari to consider two procedural issues—the standard of federal postconviction review of a state jury verdict for sufficiency of the evidence, and the district court’s decision to allow the prisoner to supplement the record of trials, appeals, and state postconviction proceedings with a geneticist’s letter twelve years after the trial. The letter, from Professor Laurence Mueller, identified two obvious mistakes in the state’s expert testimony.

This report clarifies the nature and extent of one of these two errors. It is adapted from a forthcoming book and a more comprehensive essay published on 108 Michigan Law Review First Impressions No. 1 (2009). As all evidence professors will quickly recognize, the error I focus on is a modern version of the transposition that took place forty-odd years ago, in the infamous California case of *People v. Collins*.

I. The DNA Match and Transposition

Troy Brown was tried and convicted of a brutal rape in Carlin, Nevada, primarily on the basis of DNA evidence. Renee Romero, a criminalist for the county, discovered semen on the victim’s bloody panties. Romero reported that DNA from the semen matched Troy’s at the locations, or loci, for six genes. Her report estimated that the versions of the genes occur in “1 in 18,900 in the Caucasian population, 1 in 2,460,000 in the Black population and 1 in 4,800 in the Hispanic population.” Additional testing showed matches at five VNTR loci. (Variable Number Tandem Repeats are DNA sequences that come in many possible lengths. This makes them very discriminating, but the typing process is laborious and no longer in common use in forensic science.) Romero estimated the random match probability (RMP) for the additional loci to be 1 in 3 million. This quantity is the chance that a randomly selected, unrelated individual would share the loci—a URMP, for short. A more modern computation gives a value below 1 in 150 million. The full 11-locus profile would occur in fewer than 1 in 15 billion unrelated individuals. This full profile is likely to be unique among individuals in the western United States not closely related to the rapist.

At trial, the state did not present all the numbers given above. On direct examination, it focused on the 5-locus VNTR match and the 1-in-3-million figure. On redirect examination, however, the expert misrepresented the conditional probability of a match to an unrelated individual as the probability that the DNA discovered in the victim’s underwear was Troy’s. The mistake occurred when the prosecutor asked for “the likelihood that the DNA found in the panties is the same as the DNA found in the defendant’s blood.” This is a “source probability”—the

chance that Troy is the source given that his DNA profile matches. Using standard mathematical notation, this source probability can be written as $P(\text{Troy} \mid \text{Match})$. Romero agreed that “that percentage” could be obtained by subtracting 1 in 3 million from 1, and hence “would be 99.99967 percent.” (Actually, there should be four nines after the decimal point.) Mathematically, the characterization of $\tilde{1}$ URMP as a source probability treats 1 in 3 million as $P(\text{Unrelated} \mid \text{Match})$, the probability that an unrelated person is the source given the match. That is, Romero flipped around the hypothesis Unrelated and the data Match.

This transposition of the conditional probability can produce results that range from the approximately correct to the grossly inaccurate. Without discussing the extent of the mathematical error, Mueller’s letter stated that this transposition was “so common it has been given a special name, the prosecutor’s fallacy.” The name is less than felicitous, since naive transposition does not always favor prosecutors. Indeed, the fallacy abounds in the statements of judges, defense counsel, and journalists. Statistics textbooks, evidence casebooks and treatises, and judicial opinions all caution against it. Consequently, the letter is hardly necessary for an appellate court to take cognizance of the transposition. The lower courts were therefore justified in considering the error regardless of whether the Mueller letter is officially part of the record.

B. Bayes’ Theorem

The misrepresentation at trial can be clarified by a correct application of Bayes’ Theorem. Using the theorem, the Ninth Circuit railed against the transposition. Judge Wardlaw wrote that Romero’s transposition was “especially profound given the weakness of the remaining evidence against Troy.” She explained that:

Statistically, the probability of [a source] given a DNA match is based on a complicated formula known as Bayes’s Theorem, . . . and the 1 in 3,000,000 probability . . . is but one of the factors in this formula. Significantly, another factor is the strength of the non-DNA evidence.

But Bayes’ theorem is not a “complicated formula.” It is derived in nearly every introductory text on probability or statistics. It has been discussed ad nauseum in law reviews. It states that the probability of a hypothesis changes with new information in the following simple way: posterior odds = likelihood ratio \times prior odds. This equation applies when there are only two hypotheses as to the source—Troy or Unrelated.

The right-hand side of the formula is easily computed. The likelihood ratio (LR) is $P(\text{Match} \mid \text{Troy})$ divided by $P(\text{Match} \mid \text{Unrelated})$. Troy’s DNA will match if he is the source (and if there has been no laboratory or handling error); hence, $P(\text{Match} \mid \text{Troy}) = 1$. The probability of a match if the source is unrelated to Troy is the URMP. Therefore, $LR = 1/(1/3,000,000) = 3,000,000$. The match to Troy is 3,000,000 times more probable given that Troy as opposed to an unrelated person is the source. Meanwhile, the prior odds reflect the nongenetic evidence in the case. Suppose that before the DNA samples are tested, the odds of Troy (based on the other evidence in the case) are 1:1—it is as likely that Troy left the stain as that some unrelated person did. We multiply by the likelihood ratio to obtain posterior odds of 3,000,000:1. The corresponding probability is

3,000,000/3,000,001, or 99.999967 percent—as Romero said.

The problem is that the prior odds could be higher or lower than 1:1. The court of appeals wrote that transposition “could lead to serious error, particularly where the other evidence in the case is weak and therefore the prior probability of guilt is low.” But a very large likelihood ratio swamps even a low prior probability. For example, even if the other evidence were so weak that the prior odds were 1:1000, the posterior odds would be $(1:1000) \times 3,000,000 = 3000:1$. The corresponding probability of 99.96668 percent is smaller than Romero’s 99.99967 percent, but the discrepancy hardly leaps out as a violation of due process.

C. The Implications of Transposition

One might argue that even a slight numerical error due to transposition is constitutionally offensive because the witness’s description of the “chance that the DNA . . . was from Troy” invites a more serious error. It encourages the jury to think that the source probability is 99.9+ percent even though the figure ignores the possibility that one of Troy’s four brothers was the rapist, as well the other evidence in the case. Perhaps this is the point about other “factors in the formula.” Under this view, the difficulty with the 99+ percentage in *Brown* is that it has too great a psychological impact on jurors.

But one can support (as I do) a rule of evidence excluding poorly explained and conceptually flawed computations of a source probability as unfairly prejudicial without concluding that a trial judge who fails to exclude such testimony and argument—despite the absence of any objection to it—commits constitutional error. The view that the testimony here was constitutionally impermissible because of its prejudice raises a host of questions. Will a jury hearing the 99+ percent figure be unable to reason effectively about the possibility of a brother or a mix-up with the sample when defense counsel refers to these matters? A closing argument stating that a highly improbable match means that the defendant is the only person in a locality who realistically could be the source is not inherently unfair. Does this argument become constitutionally impermissible when the prosecution uses the transposed URMP to add that the match establishes a 99+ percent source probability? State and federal courts have allowed DNA analysts to testify that, to a reasonable scientific certainty, a defendant is the source of DNA recovered at a crime-scene. Is that testimony also unconstitutional?

The Supreme Court removed the case from the oral argument calendar, signaling a likely summary disposition. It seems doubtful that the Court will uphold the Ninth Circuit’s puzzling use of the sufficiency-of-the-evidence standard to grant habeas relief, but it remains possible that the lower courts will be called on to provide a better informed analysis of the due process issue.

Announcements

David Kaye’s (Penn State) new book, *The Double Helix and the Law of Evidence*, forthcoming from Harvard University Press, will be released in November. The publisher describes it as “an informative and provocative

contribution to the interdisciplinary study of law and science.” Professor Kaye has also established a blog, *Double Helix Law*, which focuses on evidentiary and other legal issues raised by developments in forensic genetics.” It is at <http://www.personal.psu.edu/dhk3/blogs/DoubleHelixLaw>.

Jules Epstein (Widener), **David Kaye** (Penn State), **Edward Imwinkelried** (UC-Davis), and **Jennifer Mnookin** (UCLA) are serving on a committee—the Expert Working Group on Human Factors in Latent Print Analysis—established by the National Institute of Justice and the National Institute of Standards and Technology to prepare a report on latent fingerprint identification. The report will include chapters on interpretation, reporting, and testimony.

Martin Schwartz (Touro Law Center) and **Judge William Young** (D. Mass) will present their annual Trial Evidence Program for the Practicing Law Institute on April 14, 2010 in New York City.

Joining the Evidence Listserv

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AALS Section on Evidence (2009)

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