

**Task Number:** 2012-037

**Article Title:** "I am 100% certain of my conclusion" (But should the jury be certain?)

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### **Article's Subject Matter:**

- Discussion on the importance of using clear, precise language in court to express opinions on fingerprint comparisons and not to state opinions as incontrovertible facts.

### **Key Points in Article**

- NAS report cautions against using a phrase such as "100% certain" with respect to conclusions resulting from fingerprint comparisons as personal opinion does not equate to scientific certainty.
- Layman's understanding of scientific exploration:
  1. Research a question.
  2. Deduce a reasonable answer from data collected.
  3. Share results with peers.
  4. Others try to challenge the answer.
- Science rarely provides an absolute answer so if fingerprint examiners claim their opinions are 100% certain then they appear unscientific.
- Jurors and judges are laypeople with little, if any, scientific knowledge and they will accept phrases at face value without having the level of understanding enjoyed by experts.
  - "Fingerprint comparison science has a zero error rate" could mean "Fingerprint conclusions are never wrong".
  - "Fingerprints are unique" could mean "It is a proven fact that every fingerprint is different".
  - "I am 100% certain of my conclusion" could mean "I am an expert, and I'm telling you that this conclusion is a fact and cannot possibly be wrong"
- In truth, fingerprint examiners offer an opinion to the court which is not a fact and sometimes they can be wrong.
- Fingerprint examiners must use clear and precise language when expressing their opinion.
  - OK to say you are certain if you qualify the statement.
  - Talk about your personal level of confidence in the conclusion.
  - Talk about the work involved in reaching your conclusion.
- Don't imply your opinion is fact.