

Revised 101C

ADOPTED AS REVISED

RESOLUTION

- 1 RESOLVED, That the American Bar Association urges judges [and lawyers](#) to consider the
2 following factors in determining the manner in which expert testimony should be presented to a
3 jury and in instructing the jury in its evaluation of expert scientific testimony in criminal and
4 delinquency proceedings:
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- 6 1. Whether experts can identify and explain the theoretical and factual basis for any
7 opinion given in their testimony and the reasoning upon which the opinion is
8 based.
 - 9 2. Whether experts use clear and consistent terminology in presenting their opinions.
 - 10 3. Whether experts present their testimony in a manner that accurately and fairly
11 conveys the significance of their conclusions, including any relevant limitations of
12 the methodology used.
 - 13 4. Whether experts explain the reliability of evidence and fairly address problems
14 with evidence including relevant evidence of laboratory error, contamination, or
15 sample mishandling.
 - 16 5. Whether expert testimony of individuality or uniqueness is based on valid scientific
17 research.
 - 18 6. Whether the court should prohibit the parties from tendering witnesses as experts
19 and should refrain from declaring witnesses to be experts in the presence of the
20 jury.
 - 21 7. Whether to include in jury instructions additional specific factors that might be especially
22 important to a jury's ability to fairly assess the reliability of and weight to be given [expert](#)
23 testimony on particular issues in the case.
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