

Chapter 2 The 'Effect'

C.S.I., a program about a team of crime scene investigators in Las Vegas, started late in the fall of 2000 and by 2001 had become a phenomenon that spawned a spinoff C.S.I. set in Miami. It wasn't long before a third show came out set in New York, just as Law and Order attempted its fourth spin-off. There were also such programs as Criminal Minds, Bones, Crossing Jordan, Without a Trace, Cold Case and NCIS, as well as Cold Case Files, Forensic Files, and other cable network programs. By 2005, according to the Nielsen ratings, six of the ten most popular shows on television were crime dramas, and that trend continues to hold. In November 2007, C.S.I. was the number one show for several weeks running, and its Miami version was number one around the world. In fact, C.S.I. even spoofed the phenomenon in an episode, "I like to Watch," in which a film crew followed crime lab supervisor Gil Grissom, as he quipped, "There are too many forensic shows on T.V."



Linda Fairstein

These programs have offered the public an education of sorts about forensic science and investigation, which has had a three-fold effect on juries. Until recently, a key issue in the criminal trial process has been the translation of scientific testimony to laypeople on a jury, but these television programs have made potential jurors savvier about scientific methods and evidence. They listen now, whereas they used to stare at such experts with dull, vacant expressions. Yet with such knowledge comes an expectation that the type of evidence found on TV shows will be present in most, if not all, cases. Jurors may expect better results than can be produced or techniques that may not exist. Thus, say many prosecutors, they translate testimony from imperfect or technologically unsophisticated investigations into "reasonable doubt" and decline to convict. Thirdly, they have watched shows that hypothetically solved the cases before evidence was presented in court, so some jurors have gained what they view as insight into proper investigatory procedure.

Linda Fairstein, former director of the Sex Crimes Unit of the Manhattan District Attorney's Office, commented at a Virginia Institute of Forensic Sciences conference that when potential jury members are questioned for possible service on cases that have already inspired a fictional crime show, many of them say they already know how it ends. They don't, but they think they do, and that can be detrimental to the interests of justice.

In sum, the C.S.I. Effect is alleged to be this: thanks to these programs, people on juries erroneously believe they know all about forensic science and investigation. The problem worsens when shows make a grab for actual stories, blending fact with fiction.

Chapter 3 Ripped from Headlines

On October 27, 2001, a battered male body was discovered in a park in Fort Worth, Texas. Investigators initially believed the thirty-seven-year-old homeless man, Gregory Biggs, had been the unfortunate victim of a hit-and-run, and his death was declared an accident.



Chante Mallard

Four months later, a bizarre story began to emerge. Chante Mallard, a nurse's aide, had driven home one night under the influence of drugs and alcohol, and she struck Biggs while he was walking along the road. She confided this to an acquaintance, who then notified the police. Under questioning, Mallard admitted that she had hit the man, but insisted it was an accident.

Detectives searched Mallard's home and found her Chevrolet Cavalier, clearly damaged, still in her garage. The windshield was mostly knocked out and a seat

was gone, but crime scene investigators with special tools got to work on the interior and soon found what they needed. Blood spatters inside the car proved to be from Biggs, as was the blood that filled a side-door pocket compartment. Not only did it prove he was there but the various stains offered a map of what had occurred that night. One area of blood was consistent with spatter that had been wheezed or coughed out, and there were fragments of hair and flesh from a Caucasian on remaining edges of the shattered windshield. In addition, a hammer left in the back seat was proven with trace analysis to have been used against glass, an indication of evidence tampering. It all added up to a man twisting around and bleeding in that space.

From the accident, Biggs had sustained broken bones and a nearly-severed leg. At the trial, the medical examiner who conducted the autopsy stated that none of the injuries was consistent with instantaneous death, which meant that with medical assistance Biggs could have survived. He believed that Biggs had struggled for several hours and that Mallard had enough expertise to have saved him. At the very least, she knew how to call for help, instead of letting him die and dumping him in a park.



Natalee Holloway

Mallard was convicted of murder and sentenced to fifty years, with another ten-year sentence for tampering with evidence. Not surprisingly, because it was bizarre and required the expertise of crime scene analysts for accurate interpretation, this case inspired the writers of *C.S.I.*, but other shows offered a rendition of it as well.

Crime dramas have also incorporated into their plots elements other high-profile cases, such as the Scott Peterson case, the Buddhist Temple massacre, the disappearance of Natalee Holloway, and Peter Braunstein, the stalker who posed as a fireman to gain entry to an apartment. The problems with this rush to find grist for entertainment are now becoming clear.

Chapter 4 Negative Impact

While increased jury awareness has helped to make evidence handling and investigative practices more accountable, it has also set the bar so high at times that legal professionals despair. Few police departments are equipped with the high-tech gadgets and experts that the television shows have portrayed, and attorneys find themselves at pains to re-educate juries and correct their misperceptions. These crime programs often get things wrong, but audiences generally don't know the difference.

On the shows issues are often oversimplified, drained of ambiguity and the investigation is made to appear quick and easy. The investigators seem always to be correct and the tests conclusive, which makes trial procedure more or less moot. Nothing could be further from the truth. In addition, since the crime dramas are usually solved in a tidy and conclusive manner to satisfy viewers' preference for incontrovertible conclusions, many viewers who become jurors believe that real life crime teams should be able to accomplish what television actors can manage, thinking, "That's how it's done on *C.S.I.*" These shows pay little attention to human factors, and viewers gain the impression that there's ironclad certainty with science, when, in reality, most of these procedures are subject to interpretation. Even scientific experts are prone to disagreement and human error.

Science evolves, and some approaches that once received scientific acceptance fall behind the current standard. For example, an FBI expert claimed in 1995 that the analysis of lead content in bullets proved that a man had murdered his mistress. The accused was convicted and went to prison for life. But in 2005, the FBI discarded this type of analysis as flawed, and two years later the "expert" was revealed as a fraud. The convicted man had spent twelve years in prison based on "science" that wasn't science at all. There was no way for jurors to have made the distinction.



Quincy M.E. title screen

Despite the name, *C.S.I.* and the other recent programs are not entirely to blame. Before *C.S.I.*, there were others: Perry Mason and Quincy were both highly popular and also purported to show how the legal or investigative systems worked. Both were fiction, and both were flawed in ways similar to the crime shows today.

Perhaps the real issue is not so much what jurors believe, but what criminals learn about evidence and investigative techniques. They figure out how to stage crimes, plant evidence, invent a story if they're caught, and even manufacture an illness they don't have. Let's look at one such incident.

Chapter 5 If it Leads, It Bleeds

Bleach destroys DNA, or so said actors playing investigators. Criminals take note, adding bleach to their shopping list. Some also include razors to shave off body hair and gloves to prevent leaving fingerprints. Offenders and would-be criminals pay attention to these shows because they seek to commit crimes and evade capture. Some are even encouraged by the seeming ease of destroying evidence.

Jermaine McKinney, 25, was arrested near Youngstown in Trumbull County, Ohio, for a double homicide, and investigators found that he'd relied on crime shows to figure out how to eliminate evidence. A fan of *C.S.I.*, he had used bleach to wash blood off his hands after he'd used a crowbar to kill a seventy-year-old woman. He then shot her daughter, 45, twice in the head. Apparently he was looking for money in their home to support a cocaine habit.

After the killings, he told an accomplice who drove him there that he was concerned about his sweat and DNA on the younger woman, as he'd had sex with her. He burned their bodies in the basement and used a blanket to prevent transferring anything from the scene to the seat of his car. Although he had smoked at the crime scene, he removed the cigarette butts, knowing that investigators could use these to get his DNA. He also burned the clothing he had worn to commit the crimes and tried to wipe out his fingerprints. However, he still did make a few mistakes.

It was winter in the Midwest and lakes were frozen. He threw evidence into a lake, including the bloody crowbar, but it remained on the surface. When he was arrested after using the victim's credit card, investigators found the crowbar. Apparently McKinney forgot that these shows also illustrate how offenders overlook details like this, leading to their arrest. It was a scenario perfect for a quick hour-long show.

McKinney was tried and convicted of both murders, receiving two life sentences. Ten jurors had even wanted him to be executed.

This story and others have made headlines because of the *C.S.I.* angle, but it's not possible to say whether any offenders who watch the shows have actually managed to get away with their crimes. Certainly, the three young men who killed Marina Calabro would have done so had one of them not revealed it nearly a year later. If they haven't been caught, we don't know about them.

Investigators do say, though, that the trend these days has been to find fewer clues than previously at crime scenes and more sophistication in covering up those which remain. Even the Locard Exchange Principle, which dictates that every contact leaves a trace, works only when a criminal fails to take the time to remove his or her traces. Even so, the equipment is actually becoming better at detecting traces the criminals can't see, and several investigators have insisted that it's impossible for anyone to remove every trace.

Yet it's not just about how offenders cover up a crime. There is also a concern that, if not for the inspiration these shows afford, some might never have committed a crime at all. The excitement and glamour that adhere to the television investigations can play on minds already primed for mischief.

Chapter 7 Evidence?



Tom R. Tyler

Among the first reports on the *C.S.I.* Effect was one published early in 2006 in the Yale Law Journal, written by psychology professor Tom R. Tyler. He noted that the real crux of the "effect" was that there was a higher percentage of acquittals, which supported calls for reform in the legal system. Since the "evidence" was entirely anecdotal, he thought the claim was baseless.

While Tyler and others said at the time that there was no quantified evidence of crime shows affecting the judicial process, many attorneys were nevertheless concerned to the point of talking to jurors about it in their opening statements and closing arguments. Few cases have all the pieces of the puzzle, and *C.S.I.*, they said, made the process of getting them seem effortless. And there was another, more potent, concern: the public had viewed shows that have hypothetically solved real-life cases before the actual case went to trial. In other words, a person's guilt or innocence was decided in the media. By 2007, attorneys were worried that jurors expected hard science, such as DNA analysis, in nearly every case.

U.S. News and World Report attributed the show's influence to its ability to attract 60 million viewers (for the three combined) to a presentation of science that is "sexy, fast, and remarkably certain." But even when the show is not "sexy," it has a way of showing a step-by-step process that makes viewers feel competent about behind-the-scenes investigation. A few graduate students and some professors began looking into ways to collect hard data on the

show's impact on jurors, but the results were mixed, as well as unscientific. Sometimes the subjects were not even jurors but students.

Washtenaw County Circuit Court Judge Donald Shelton



Washtenaw County Circuit Court Judge Donald Shelton and two researchers from Eastern Michigan University decided to learn from jurors themselves whether they were affected by watching crime TV shows. While jurors in the general Ann Arbor-Ypsilanti area are not a random sample for the entire nation, the study, which used 1027 subjects, is far better than anything else undertaken thus far.

Shelton had even presided over a trial in which a juror complained that investigators had not dusted the lawn for fingerprints, something which can hardly be blamed on a show. No crime show

has ever demonstrated this particular technique, in part because it can't be done. Jurors did expect significant scientific evidence in trials, the researchers found, but less because of television than the impact of a computerized and technological age. Judge Shelton called it the "tech effect": Jurors expect that modern technology will be utilized in investigations, especially when prosecuting serious crimes.

But there are other factors as well. The crime dramas can actually promote a pro-law enforcement perspective and bias, which should result in more, not less, convictions. Thus, it's possible that people are less trusting than they used to be of law enforcement in general. This may be due to the many exonerations via DNA of innocent people or to recent news about how crime labs in several states have failed to protect against contamination and fraud.

Yet it's also true that a *C.S.I.* Effect is consistent with psychological studies in other contexts. People respond to subtle influences more than they realize. It is not necessary that one have seen a crime TV show for one to be affected by its impact on the culture.