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Tip the Scales

A newsletter brought to you by TrialTech, Inc./305-371-5991

Who is TrialTech?

TrialTech is a full service litigation consulting firm located in Miami, Florida founded in 1990 by Sanford (Sandy) Marks. As a nationally recognized company, *TrialTech* provides both civil and criminal attorneys with affordable innovations in litigation research and trial preparation. *TrialTech* provides services such as: case analysis, trial strategy, change of venue surveys, community attitude studies, focus groups, mock trials, witness preparation, voir dire strategy, and of course, jury selection. *TrialTech* successfully combines the applications of social and behavioral science with state-of-the-art technology to give our clients a distinct courtroom advantage. *TrialTech* is constantly evaluating the newest research so we can be of better service to the legal community.

We firmly believe that it is our responsibility to provide our clients with the most current and up-to-date techniques available today. Each month we will be bringing you information about psychology and the law through articles written by members of our staff. We hope that you enjoy these newsletters and welcome your suggestions.

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The "CSI Effect"

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A great deal of media attention in recent years has focused on something called the *CSI* Effect, a phenomenon in which popular TV shows are thought to raise jurors' expectations about forensic evidence. According to anecdotal media reports, these expectations do more harm than good. Prosecutors who fail to present an exhaustive case may experience a backlash from jurors who expect large quantities of evidence, even when the evidence is nonexistent, inconclusive, or irrelevant to the case. Defendants are similarly at risk from the expectations of TV savvy jurors, with attorneys concerned that jurors give *too much* weight to prosecution evidence, regardless of its validity.

In *State v. Cooke* (2007), the Delaware Supreme Court examined the *CSI* Effect. The defendant filed a series of motions to exclude ten pieces of prosecution forensic evidence, arguing that tests for each piece of evidence were either inconclusive or exculpatory, and he challenged their relevance. Noting widespread media coverage of criminal trials and the prevalence of forensic-based TV shows, the prosecution argued that it needed to produce enough evidence to address jurors' heightened expectations for a thorough criminal investigation. The court noted that the prosecution was in a "Catch 22" conundrum, in that it could be criticized for either proffering too much irrelevant evidence or not presenting enough evidence, as the court had witnessed first-hand defendants taking advantage of absent prosecution evidence. In the end, the court found little harm in allowing the prosecution's presentation of inconclusive evidence.

Although the court relied on at least two academic opinions related to the *CSI* Effect in its decision, little is actually known about the *CSI* Effect, and preliminary research on the existence and direction of the *CSI* Effect has produced mixed results. Some studies have failed to observe the *CSI* Effect among students participating in mock jury simulations, though other studies have found support for the prosecution version of the *CSI* Effect with non-student samples. In one study, non-student mock jurors who watched more *CSI*-like TV programs had higher expectations for the amount of forensic evidence necessary to prove the defendant's guilt, and they were less likely to find culpability. Other studies found evidence for the defense version of the *CSI* Effect, with mock jurors who thought *CSI* and similar programs were believable overvaluing forensic evidence and returning guilty verdicts when presented with *any* DNA evidence, be it good or poor quality. In light of the limited and mixed empirical findings, future research is necessary before any definitive claims can be made about the existence and veracity of the *CSI* Effect.