

The Effect of Legal Television Shows On the Trial Process

By:

Aleksandra Kocelko

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Capstone Adviser: Keri Sikich

Abstract:

The American justice system requires that members of society act as a decision making body in trials. Those members of society each come into court with their own preconceptions about the law and the trial process. This project investigates how television has had an impact on jurors' expectations and how attorneys have begun catering their case presentations based on those expectations. Surveys of mock jurors were done to get a sense of their television watching habits along with their expectations about the accuracy of legal television shows. Additionally, attorneys in the DC area were interviewed about their perceptions of juror expectations. The research showed that attorneys do believe television shows have impacted what a juror expects, and in turn work to craft their presentations more like a television program. Additionally, jurors who watch legal television shows more frequently, are more likely to believe the depictions on these shows are more accurate.

Introduction:

On any given day, at nearly any given hour one can turn on the television and find a rerun of shows like *Law & Order* or *CSI*. The overwhelming availability of these types of legal dramas has allowed them to seep into the minds of everyday citizens. The fact that these shows may color people's perceptions of the justice system only becomes important when those everyday citizens serve on a jury. Television shows depict a variety of careers, however the legal system is singled out because only there do the perceptions individuals have about it have the power to send a person to his death (Mann 2006). Understanding the impact of legal dramas on the trial process is an incredibly important tool for attorneys to determine the expectations of their jury so they know what is necessary in order to achieve a favorable verdict.

At the end of the day, attorneys must understand what the jury expects if they hope to convince them of a verdict. It truly does not matter if the jury believes every word of *CSI* to be fact even when, in reality the science is not completely factual. If that is what they believe, no amount of eyewitness testimony is going to make up for the lack of forensic proof. Additionally, if they believe every single case is as fascinating and dramatic as an episode of *Law & Order*, the mundane reality of a trial may not hold their attention. Attorneys must address these issues because in the United States justice system, the people hold the power. Our system gives the jury ultimate decision-making power. The jury does not have to answer to anyone on regards to their verdict, and if they vote not guilty, the state has no recourse to retry the case. Even in cases where the verdict seems questionable, the court rarely overturns a jury's verdict, so truly the people serving on the jury hold an immense amount of authority in the United States justice system.

The first section of this paper will examine how and why television shows have had an impact on people's lives. Then it will explain how a jury's perceptions can dictate change in the legal system. Finally, it will address ways attorneys are working to combat these perceptions in the trial setting. The second section explains the methodology for my empirical research. The research includes interviews with local attorneys as well as a survey of mock jurors. The results portion of the paper will analyze my findings to determine if watching these television shows does have an impact on both potential jurors as well as attorneys. Finally, I will conclude by summarizing the changes legal dramas have made, conjecture as to how this issue will continue to influence the future, and highlight additional areas of research to continue filling in gaps in the literature on this subject.

The Power of Television:

Over the past few decades there have been many legal dramas on television. Mann (2006) points out that shows like *Dragnet* (1951), *Perry Mason* (1957), and *Matlock* (1986) all were influential in their time. The legal drama subset of television is interesting to the public because of the "inherent drama" within a courtroom depiction (Meyer and Hoynes, 1994, p. 32). That drama is a result of the natural confrontation present in trials, because of the adversarial nature of the legal system. By nature, there is a dispute between two parties, which is part of the excitement. Specifically in criminal cases, Tyler (2006) points out that people want to see "a drama that raises tension with crime and relieves that tension with...punishment" (p. 1065). As people watch these types of shows and follow the twisting path of a crime, they eventually get the reassurance that justice is served.

Today the two biggest and most popular legal dramas are *CSI* (2000) and *Law & Order* (1990). Just to put it into context, when NBC broadcasted a special about President Obama and

the White House, they pulled in fewer viewers than the *Law & Order* spin-off, *Law & Order: Special Victims Unit* (1999), two million fewer viewers to be exact (Toff 2009). *Law & Order* and *CSI* both are consistently in the most watched category, and have multiple spinoffs of the original. Based on Nielsen ratings *Law & Order* was regularly in the top twenty shows in terms of total viewers, and was the number four drama among adults for several years (“Law & Order” TV.com, 2011). In 2007, *CSI* was the most popular television series in the entire world (“CSI” TV.com, 2011). They still do not hold that honor, but in their eleven-year TV run, they have only left the list of top ten programs once.

These two shows are the main focus of this paper, because of their consistently strong ratings, their loyal following of viewers, and finally because they are aired with incredible frequency. Not only do they air regular weekly episodes, but cable networks also show reruns on a near daily basis. Other shows are mentioned occasionally, but simply narrowing the focus to those two allow for deeper analysis. *CSI* (Crime Scene Investigation:) portrays forensic science by beginning with a crime committed and then showing the ways forensic investigators use the evidence to find a suspect and arrest him. *Law & Order* similarly begins with a crime being committed, but then shows detectives investigating the crime, arresting a suspect, and then the trial is usually shown.

What these two shows have done for publicizing criminal trials, shows like *Judge Judy* have done for the civil realm. As Kuhm (2006) explains, “reality-based television programs that deal with small claims disputes such as car accidents, damaged property, and unpaid bills may be of more person relevance to audiences than programs dealing with the most serious criminal offenses” (p. 695). In shows like *Judge Judy*, viewers gain access to a relatively unknown part of the U.S. justice system, the civil system.

The public has very little interaction with the trial process. Unless an individual was a witness or a party in a case, they typically have never seen a trial (Podlas, 2001). Podlas (2001, p. 3) explains that while they may have more experience with civil cases, simply because it is more common to be a party in one, it is still incredibly likely that the average U.S. citizen has not interacted with the courts in any way. This in and of itself may be part of the reason why people are so drawn to legal dramas; it opens up a world with which they have no experience.

A lot of the research about the effects of these television shows focuses on how they do not accurately portray the American judicial system. However, we cannot discount their educational value. As far back as 1965, Supreme Court Justice Harlan recognized the importance of putting trials on television for their educational component, saying, “Television is capable of performing an educational function by acquainting the public with the judicial process in action” (Estes v Texas, 1965). In that case, *Estes v Texas*, the Court ruled on whether pre-trial publicity of pretrial hearings harms a defendant’s chances of getting a fair trial. They did rule in favor of the defendant in this case, but Harlan’s concurrence echoed a sentiment that highlighted television’s ability to be educational, and sixteen years later the Court ruled against *Estes* and allowed for television coverage of trials. While this case centered more on the coverage of actual trials rather than television shows, expanding the principle to include fictional programs is not a huge stretch. If publicizing the real trials can be educational, then insofar as the shows are doing a relatively accurate job of depicting a trial they too can educate society.

While fictional shows are not as realistic and truthful as live-TV coverage of a trial, they still can educate society. Whether or not these shows take their responsibility of education seriously is an entirely different matter, but they do have that opportunity. Tocqueville (1994) heralds the role of the jury in society, citing the fact that criminal juries allow society to have

significant influence in laws while civil juries provide an educational function in that most people are unlikely to find themselves in a criminal trial but “everyone is liable to have a lawsuit” (p. 284). Repeatedly Tocqueville (1994) recognizes how the jury as a political institution empowers the people and gives them ample opportunity to remind the government what the views and opinions of society are. The educational aspect of the jury is of high importance to Tocqueville (1863) and is an essential piece of the functioning American government he says.

The realization that television also has the power to educate is a double-edged sword though. While these types of shows can educate people as to what the trial process is like, if they do not do it completely accurately, Podlas (2001) explains that it gives individuals a false sense of reality. Shows like *CSI* may talk about DNA testing, but these shows do not really explain how and when they are used (Houck, 2006). Whether *Law & Order* is right or wrong about how a trial progresses or *CSI* accurately shows fingerprint technology does not actually matter. If people believe that these shows are exactly true it is enough to color their perceptions. The shows themselves do nothing to explain to people that everything is not exactly as it seems.

When *Law & Order* does episodes that mimic crimes that have happened in real life it adds a sense of authenticity to the episode. As Podlas (2009) describes, “Legal fictionals...are depicted as realistic if not factually based” (p. 495). For example, in the final season of the original *Law & Order*, they featured a murder based off the real-life shooting of a late term abortion provider, in the episode “Dignity.” People who watch episodes like that and understand that it has some basis in real news may then continue to overestimate the portion of the show which is actually real (Podlas, 2009). They may begin to believe that the time it takes from a crime being committed to actual resolution in the way of a verdict is minute, or they make think

witnesses and long-winded dramatic statements by the prosecutor will fill the trial with explosive comments. In reality, none of these things may be true, but the show could cause prospective jurors in the real-life case to want those same things (Poodles, 2009, p. 496). The expectations a juror has are incredibly important to the trial.

CSI deals with authenticity as well, but almost in a more powerful way. From the time we are in school, we herald science as the one field with black and white truths. Scientists perform experiments, and there are results that no one is ever taught to question. It has always been true that science is something that we can depend on; people do not believe the results are open to interpretation in the same way that literature or history is open to interpretation. As Mann (2006) states, “We are taught since grade school that science is the only sure thing, the only discipline that demands exact proof” (p. 182). Based on this principle we give incredible weight to the scenarios depicted in *CSI*. Because the entire show is based on science, it seems so credible to viewers and they place a high value on the lessons learned from the show. Not only does *CSI* rely on science to give it credibility with viewers, but it also follows the same format as *Law & Order*, where a crime is committed and by the end of an hour, viewers receive resolution, typically in the form of a conviction.

Overall, these shows are put on with such an air of truthfulness and reality that people find to be incredibly authentic. They may not watch the shows and outright believe that every trial follows this set-up, but the ideas portrayed become engrained in their subconscious and will play a part if they ever serve on a jury. In order to draw attention to the significant impact of pre-trial publicity, Cole and Villa (2009) draw attention to psychological studies that have been done about the impact of pre-trial publicity on the jury and the conclusion that this can change a verdict.

One such study they noted was conducted by Constantini and King (1980-1981). In their research they evaluated the correlation and causation of prejudgment by jurors (Constantini and King, 1981, p. 12). They used the telephone surveys conducted in one specific area about three notable court cases in the region (Constantini and King, 1981, p. 12). Their findings indicated that information on the case did impact prejudgment, along with their personal beliefs about crime and their social background (Constantini and King, 1981, p. 37). While Constantini and King (1981) found it difficult to completely isolate pretrial publicity from other factors that impact a juror's decision their data lends some credibility to the argument that information shown to the public impacts verdicts at trial.

If the media's portrayal of specific cases can change the jury's mind, then certainly repeated exposure to legal dramas can have the same impact in a more general sense (Tyler, 2006, p. 1056). In general, researchers have found that people sometimes have difficulty separating fact and fiction when it comes to the portrayal of the social sciences on television (Jacobs, 2010). Combine this consequence with the fact these shows are constantly on television and it further compounds any effects they may have on individuals. The power of these television shows has become overwhelming.

Effects on the System:

Most television shows may change the way people look at certain issues, but that is as far as their power goes. The justice system is different, here we ask those people who have expectations from TV shows to come into a courtroom and make decisions based on the evidence presented (Cole and Villa, 2009). If those people do not get the evidence they want or believe they are due based on some idea from a television show they may vote differently. This makes the portrayal of the legal profession inherently different from any other.

People generally understand that when they go in to serve on a jury they are undertaking an important task, however as previously stated these people still have no idea what exactly to expect. Therefore, Podlas (2009, p. 494) notes, the knowledge they receive from TV and movies is “relatively influential” in guiding them through the process. Even with strict instructions from the judge to evaluate a case based on what is presented and only what is presented, Tyler (2006, p. 1061) states that researchers say people are unable to completely avoid letting their subconscious expectations alter the way they view a case. Lieberman (2000) also cited studies done in 1974, 1990, and 1997, which showed mock jurors pretrial publicity about a case and then studied whether or not instructions to disregard the evidence proved effective. All three found the instructions to be an ineffective way of managing pretrial publicity (Lieberman, 2000, p. 685).

This is how these television shows work their way into the legal system today. Both shows that contain forensic science and shows like *Law & Order* carry different outlooks into the trial. These outlooks may or may not have a significant effect on verdicts, but a thorough examination of the possibilities is necessary in order to understand their impact.

Desire for the dramatic:

The typical reaction that shows like *Law & Order* give to individuals is that they demand a more interesting and dramatic trial. These episodes feature actors portraying a trial, not attorneys actually arguing a case. Because this is entertainment and not reality, Walton (2001) explains that the script is written to have scenes that produce shock and drama which will attract viewers. Attorney Jack McCoy, the lead prosecutor on so many *Law & Order* episodes is well-known by viewers for his long narratives in his opening and closing statements, denouncing the criminals and heralding the state. In the one-hour episode, most of the show focuses on finding

the criminal and very little focuses on the actual trial (Kuzina, 2001). While it is unlikely that viewers believe a trial only take a few minutes, they certainly are unprepared for the actual length. Additionally, avid watchers of this show may be surprised when the questioning of witnesses or the presentation of evidence is tedious and offers no excitement.

Viewers may also begin to believe that the lives of attorneys are constantly filled with the excitement and drama portrayed on television. When recalling which occupations are represented on television the most, people often rattle off doctor, lawyer, and police officer according to Farrington (1999). Of these three most often depicted professions, two are substantially related to the U.S. justice system. Not only is this a huge percentage of TV jobs, but the number of law-related positions are overrepresented based on how many people actually hold a job in that field. This perception of the occupation may skew their expectations about the behavior of attorneys during trial. By seeing the same types of behavior of the attorneys on TV repeatedly, it reinforces the stereotypes portrayed in television. If people only saw a fictional attorney behave a certain way once it may not affect their expectations, but seeing it over and over, on multiple shows, may slowly change their outlook.

The most common areas where jurors have high expectations are closing statements and cross-examination of witnesses, according to Podlas (2009, p. 483). In a study done by Wood et al (2011) it was found that closing statements and cross-examination had the biggest impact on the jury's verdict. While the study was not dealing specifically with television, there still could be a correlation between the two. Closing statements and cross-examination leave the most room for excitement and drama. It is much more difficult for lawyers to weave drama into the presentation of evidence, but in their closing, they are able to give the jury something more

interesting. Lawyers must be aware that their behavior and their ability to keep jurors interested and focused on the trial will be a necessity in winning cases.

CSI Effect:

According to Cole and Villa (2009, p. 1338) the term “*CSI* Effect” was coined in 2002 in a Time Magazine article about forensic science and crime solving. Prior to the term being coined there was still speculation about the premise of the theory; it just did not have this name. The general assumption is that the forensic science TV shows give jurors an improper idea about how forensic evidence is really used. Based on their expectations jurors then acquit too frequently because they are not given enough “*CSI*” grade evidence.

The reality of the situation is that few cases require such evidence be presented. For example, Goehner et al (2004) cite cases of robbery where it is extremely unlikely that DNA will ever be present, but since DNA is ever-present on *CSI* people begin to assume it is involved in every single case in order to prove guilt. Prosecutors are then faced with the challenge of making their case without the scientific evidence some jurors believe they need. These unrealistic expectations can dramatically alter a verdict, especially if multiple people on the jury hold them.

One of the most common real-life examples of a supposed case of the *CSI* Effect took place in Peoria, Illinois. Lawson (2009, p. 136) gave the example of a rape trial in which the jury was shown eye witness testimony, scientific evidence from a rape kit, DNA evidence from saliva on the victim, as well as incriminating testimony from the police. However, the jury still returned a verdict of not guilty, claiming that they had wanted tests done to determine if there was dirt on the woman’s cervix identical to dirt found at the scene (Lawson, 2009, p. 136). It seems unlikely that members of the jury knew about these types of test prior to watching forensic science shows. Therefore, the prosecutor strongly believed that the show has a significant influence on the

decision of the jury. That presumption appears likely based on the facts presented about the case. However, just because in one trial the outcome was affected by a show like *CSI* does not mean there is a rampant epidemic of juries acquitting because of TV.

Typically, it has been said that the *CSI* Effect is more beneficial to the defense (Cole and Villa, 2009). In theory, if a jury is looking for *CSI* caliber evidence and they do not receive it, they will acquit. This means that the burden lies much more heavily on the prosecutor, as it should in criminal cases, to prove beyond a reasonable doubt that the defendant is guilty. Therefore, when the *CSI* Effect is discussed in legal circles, prosecutors are quick to agree with its presence, if for no other reason than to explain away certain losses in court.

However, there have been researchers who suggest the effect can also go the other way. With juries putting scientific evidence at such a high value, Tyler (2006, p. 1068) if a defense team cannot combat the evidence or cannot show their own scientific tests the jury may be inclined to side with the prosecution. Defense attorneys are concerned about this option, because in general the state is much more likely to have the money, labs, and resources to run necessary tests. The cost of running things like a DNA test or even a fingerprint analysis can run upwards of \$10,000 (Goehner et al, 2004). With this cost placed on the defense, they may feel unfairly burdened by the expectations created by *CSI*.

Since its inception the *CSI* Effect has been highly debated by all members of the legal field. Prosecutors are more likely to insist upon its presence, while others are highly skeptical (Tyler, 2006). There have been several studies done on the topic and none conclusively found any evidence of a true *CSI* Effect. In theory, evidence in favor of the *CSI* Effect should show an increase in acquittals, as juries theoretically need additional scientific evidence in order to convict. In general, Cole and Villa (2009, p. 1356) state that it has not been found that recent

years show a spike in acquittals. Without this statistic it is difficult to prove that juries are in fact, acquitting more than usual because of a lack of forensic evidence. However, there could be other explanations for why the acquittal rate has not dropped, it may not be that the effect does not exist, but rather that prosecutors are accounting for such an effect. They may be bringing that additional scientific evidence to court, or they may be choosing not to prosecute cases that cannot supply such evidence. The prosecutors may understand such expectations and have already come up with other solutions. There is a variety of ways to work with expectations about scientific evidence and it is difficult for any study to account for all of them. This is part of the reason why it is so difficult to conclusively determine whether the CSI Effect does exist.

There have been several studies done about the *CSI* Effect from different angles, including interviewing attorneys and mock jurors, with the intent of capturing a well-rounded view of the issue. Cole and Villa (2006, p. 1351) looked to a study done by Michael Watkins involving interviewing a number of legal actors, including attorneys and judges about their thoughts and experiences with the *CSI* Effect. He found that that nearly 80% of all legal actors said they had seen a case where the jury's decision was impacted by forensic science television programs (Cole and Villa, 2006, p. 1352). This is a large portion of legal actors and shows that it is not simply prosecutors claiming the *CSI* Effect exists. While the experiences of these legal actors are not enough to conclusively prove a *CSI* Effect exists, it does show how frequently it comes up in the minds of the legal actors.

A study done by Podlas in 2006 found that there were not significant differences in verdicts or decision making by groups who regularly watched forensic science shows and those who did not (Cole and Villa, 2009, p. 1353). The study evaluated both the verdicts handed down by the mock juries as well as how each juror behaved in deliberation. While these studies

showed that the television watching habits did not have a significant impact on the verdicts, in 2006 Donald Shelton studied how various potential jurors' television watching habits affected their expectations about what kinds of evidence would be presented at trial (Cole and Villa, 2009, p. 1354). Those who watched *CSI* had higher expectations of all types of evidence, both forensic and nonforensic, this includes things like DNA as well as eyewitness testimony (Cole and Villa, 2009, p. 1354). These studies show that while the effects of forensic science television programs have never been conclusively linked to changes in a verdict, they still may have some bearing on a juror's expectations.

Regardless of the verifiable authenticity of this effect, if attorneys and others in the legal profession believe it exists, the *CSI* Effect continues to have an impact. If these attorneys change their behavior to account for what they believe people's expectations are because of these shows, they will shift the focus of trials to scientific evidence. As one litigation consultant notes, "Oftentimes attorneys will let their assumptions about a large group of people (i.e. the jury pool) dominate their expectations of an individual's behavior (i.e. the juror)" (McCusker, 2010). Making general assumptions about the jury leads to attorneys changing their behavior, which can then further increase the incidence of a jury's specific perceptions. Lawson (2009, p. 122) proposed the theory that fears of the *CSI* Effect has spurred a counter effect, which she refers to as the *CSI* Infection. This takes into consideration the idea that an attorney changing their behavior to fit jury expectations in turn affects the legal system. Other scholars such as Cole and Villa (2009, p. 1371) agree with this idea restating, "The '*CSI* effect' may not be an effect caused by the media, but one which has instead been promulgated by the media" (Okita as cited in Cole and Villa, 2009, p. 1371).

Attorneys' rebuttals:

Attorneys are aware of the different effects these shows can have on a juror. They also can view the research and see what academics have found. In turn they have come up with a number of different ways to work with the expectations of the jury to still receive a favorable verdict. Even though the portrayals of trials on television are not always correct, attorneys need to understand how to work with those depictions. As Podlas (2009) explains, TV produces a type of “script” that creates expectations for a jury, and, “Narratives consistent with these stories are inherently more believable” (p. 508). This shows that when attorneys keep their cases in line with the expectations television gives to a jury, they have a better chance at getting the jury on their side.

One of the first ways to combat these issues is through voir dire. Several researchers, including Cole and Villa (2009) and Lawson (2009) of the effects of TV on jurors' expectations, discuss how voir dire can be used, and it has become increasingly more common. During the voir dire process, potential jurors are questioned on a variety of topics. For use in understanding the expectations a juror may have, attorneys and judges have begun to question them about their TV watching habits. Questions like whether or not they watch legal dramas as well as how often they watch these shows are incredibly common now. Additionally, judges especially will ask jurors questions like whether or not they know the TV shows are not completely accurate, or whether they can evaluate cases based on only the facts presented and ignore previous misconceptions about the legal system (Lawson, 2009, p. 146). If potential jurors answer in ways that indicate they will allow TV shows to overpower the real evidence, they will be dismissed for cause. Lawson (2009) cites an interview with U.S. District Court Judge Marcia Cook, where the judge

said she will dismiss jurors who show they “require a showing of *CSI*-type evidence in order to convict” (p. 146). This is a relatively easy way to remove jurors from the jury pool.

The problem with this method is that it can take a long time to establish the television watching habits of people. Judges are also cautious about how much information can be extracted from potential jurors about their personal habits. Already in Maryland there have been cases about attorneys asking questions to address the *CSI* Effect (Lash, 2010). Lash (2010) explains that the wording and use of these questions have gone before the Maryland Superior Court to try to determine exactly how leading attorneys can be with their inquiries. In addition, this relies on the truthfulness of the potential jurors. Voir dire can be a useful way to weed out jurors who will be unable to forget the lessons of television in favor of those with an open mind.

Another excellent way to deal with the effects of these shows is during the jury instructions. Both Lawson (2009) and Podlas (2001) address this method of mitigating the effects of television on a jury’s verdict. Giving the judge the opportunity to make clear to the jurors that only the evidence presented in the courtroom is viable for deciding this case reminds them to remove all outside ideas. Some places are already implementing ideas such as these. In Ohio the judge reminds jurors to “put a limit on getting legal information from television entertainment” (New Ohio Jury Instructions, 2010). The instructions go on to list several of these types of shows to make clear to the jury exactly what they need to filter out when deliberating. It is likely that Ohio is not the only area that had adopted this idea, and it is a relatively simple and quick way to again ensure jurors are deciding guilt or innocence based on the merits of the case alone. However, looking back to the studies cited by Lieberman (2000) jurors often have a difficult time forgetting information that they have already heard. Tyler (2006) states that “The degree to which jurors are able to do this [disregard information] speaks to the consciousness of

decisionmaking,” (p. 1060) essentially saying that people can only try to disregard information that they know they are using to render their verdict.

Specifically dealing with the *CSI* Effect, Cole and Villa (2009) bring up the solution that some prosecutors have begun relying heavily on expert witnesses to deal with the forensic science aspect of cases. This comes in two slightly different ways. In cases where there is no DNA based on the circumstances of the case they may bring in a forensic scientist to explain to the jury why there is no DNA (Cole and Villa, 2009). These experts reassure the jury that the investigators did nothing wrong and that not every case is like the show *CSI* where there is a multitude of forensic evidence available for testing. The forensic specialists also will come and testify about the testing that was performed, explaining the significance to jurors (Cole and Villa, 2009). They are careful to put everything in non-technical language so that even those without extensive science backgrounds can understand what happened and what it means to the case.

Another method of working with the jury’s expectations involves making a trial more interesting. Often the jury expects a dramatic confrontation in trial, just like television portrays, but more often than not the trial tends to be boring and lengthy. To keep the jury’s attention, attorneys have begun crafting their opening and closing statements in a slightly more dramatic way. They may try to construct the trial into a narrative scenario to play off the perceptions caused by *Law & Order*. Podlas (2009) states, “Developing a viable narrative is far more important than focusing on constituent facts of legal issues” (p. 507). They try to capture the drama from television without taking it over the top. This is a fine line to walk because attorneys are still bound by the rules of ethics and of the court so they do not have the liberty Jack McCoy does on *Law & Order*.

Through these methods, attorneys have begun working to make sure television has not completely changed the trial process. Many of these techniques take into consideration the lessons being taught on TV and use those lessons to continue to hold the jury's attention. It is a delicate balance between following the official guidelines in court, and trying to keep the jury on your side to win the case.

Methodology:

The project consisted of two components, a written survey for potential jurors and interviews with current attorneys about their experiences in trial. Both intended to evaluate how these television shows influence the system albeit from two different perspectives.

The juror survey was conducted through a trial-consulting firm. I created a list of seven questions that was administered to all mock jurors for their focus groups. The survey questions are attached as Appendix 1 at the end of this paper. These questions were meant to first gauge what types of shows, if any, the participants watched. Then the questions brought up certain perceptions these shows tend to foster to evaluate if there are any correlations between the shows and these perceptions.

The interviews with attorneys were done to gather information on how attorneys feel about these types of shows. A general list of interview questions was created to allow the individual attorneys to describe their personal experiences. The list of questions can be found as Appendix 2 at the end of this paper.

The attorneys were divided into four categories: criminal prosecution, criminal defense, civil plaintiff, and civil defense. I created a list of attorneys to contact by doing a MartinDale search, limiting the search results to attorneys in the Washington, DC area and then again limiting it by each of the practice areas. A DC location was essential in order to ensure the ability

to interview the attorney in person if necessary. From each page of search results, I selected only one attorney to contact. To ensure as random a sample as possible, I chose the first attorney listed on the first page, the second attorney on the second page, and so on until a recorded 20 attorneys for each of the three private practice area fields. From this point I searched to find the e-mail address of each attorney to initiate contact. If for some reason there was no available e-mail address for the selected attorney, I continued down the list. I was also careful to record the firm name of each attorney so only one lawyer per firm was contacted.

I then sent a standard form e-mail to all of the attorneys on my list. These e-mails were sent on Monday January 24, 2011. The message included a brief description of the project as well as the request for an interview, see Appendix 3. Subjects were given the opportunity of an in-person interview as well as a phone interview to assist those with extremely busy schedules.

Interviews were then set up based on mutual availability with the attorney, either in person or on the phone depending on the request of the interviewee. Each attorney was asked the standard set of questions but given the opportunity to deviate if they had more or less to say about a particular topic. Hand written notes were taken for each interview and then typed up onto the computer. The only individuals with access to the notes were myself and the faculty adviser, again to protect the privacy of all the attorneys.

Empirical Research:

Table 1: Descriptive Statistics of Survey Respondents		
Descriptive Characteristic:	Distribution:	
Sex	Male	53%
	Female	47%
Age	19-24	9%
	25-34	22%
	35-44	20%
	45-54	25%
	55-64	16%
	65 and over	8%
Race	African American/Black	22%
	Hispanic Latino	18%
	Asian	3%
	Native American/American Indian	1%
	Caucasian/White	54%
	Multiracial	1%
Education	Less than HS	8%
	High School/GED	30%
	Technical/Trade School	2%
	Some College/ Jr Col Degree	27%
	College Degree	18%
	Post-Grad Degree	14%
Income	Less than \$50,000	44%
	More than \$50,000	56%
Employment	Full Time	57%
	Part Time	17%
	Not Employed	26%

Chart 1: Summarizes the descriptive characteristics of the sample

Of the surveys sent out to mock jurors through the jury-consulting firm, I received a total of 210 responses. The basic breakdown of the survey participants concluded, that about 53% of respondents were male, and 47% female. The age categories were broken down by ten-year increments. Percentages by age were approximately as follows: 9% of respondents were between 19-24, 22% were between 25-34, 20% were between 35-44, 25% were between 45-54, 16% were between 55-64, and 8% were 65 and older. The majority of respondents identified as being Caucasian/White, about 54%. The next largest race respondents identified as was African American/Black, with 22% of the sample. They were then followed by Hispanic/Latino at 18%, Asian at 3%, Multiracial at 1%, and Native American/American Indian at 1%. The highest level

of education completed was scattered, with 8% not completing high school, 30% with a high school degree or GED, 2% having done some type of technical or trade school, 27% having either completed some college or received their junior college degree, 18% received a college degree, and 14% have their post-graduate degree. Overall, more than 90% of respondents graduated from high school, with nearly 60% having completed at least some college. About 56% of respondents stated that their income is over \$50,000 a year, while 44% said it was under \$50,000. In terms of employment, 57% of respondents were classified as employed full-time, 17% part-time, and 26% said they were not employed.¹

In terms of respondents' knowledge of the justice system, a little less than 15% had experience with a jury before. This means that over 85% of the respondents to this survey had not served on a jury personally, nor did anyone close to them have experience serving on a jury. This is important to highlight the respondents' exposure to parts of the legal system. We also accounted for exposure in other regards which will be discussed later on. Finally, 78% of the respondents said they had never been in a courtroom for a trial or any other type of legal proceeding, and 22% said they had. Those who had not been in a courtroom before must get their expectations about the trial process and legal actors involved from other resources. This includes television, as well as other influences such as experiences of family and friends and the media.

Survey Data: Bias:

It is important to note that these surveys were only conducted in New York City, Chicago, and Akron, Ohio. In terms of location, 56% of respondents were part of the research conducted in New York City, 34% of the respondents were a part of the Chicago research, and the final 10% were a part of the Akron, Ohio study. I was limited based on the studies that were

¹ The category of unemployed included those who were retired, stay at home parents, and those who were unemployed but looking for work. There are no details as to the breakdown within this category, so it is impossible to determine which percentage were unemployed by choice.

conducted by the jury-consulting firm. The geographical limitations mean that those in settings that are more rural are not adequately represented in this study, and may provide a much different outlook. Additionally, the people included in this study were ones who voluntarily agreed to be part of the mock jury focus group. That also leaves out a portion of the population, as not everyone has the ability to participate in these groups. Additionally, they are compensated financially for their time, which may also affect the type of person who is willing to participate in such a project versus your average juror. The lack of a random sample for this project leaves open the door for the data to be susceptible to bias. However, for the purposes on this project the biases should not be so overwhelming as to negate the findings of the data, but rather should give a picture representative of the areas and individuals involved, as well as leave open the door for future projects.

Survey Data: Collapsed Categories:

After an initial examination of the data and discussion with my faculty adviser, I decided that collapsing some of the categories would make analysis easier and highlight the findings in a clearer way. In order to do this, I first examined each set of answers for the question to determine how best to group them without losing essential parts of the data.

For the questions about the frequency respondents that watched each of the types of television shows, I first collapsed the categories by combining the answers, “Everyday” and “A couple of times a week” into the heading “frequently, I combined “once a week” and “a couple of times a month” together to form the new category “a few times a month”, finally I combined “once every few months” with “rarely” to form “rarely/occasionally.” The category “never” was left alone. Those who watch the shows a few times a week are not all together different from those who watch every single day, both watch more than once or twice a week so in essence this

collapse still maintains the same thing. For those who watch a couple of times a month, this probably equates to about 3-4 times in the course of a month. Comparing this with those who watch once a week, the difference amounts to one or more times more in a month period, which is similar. Finally, those who watch every few months are likely to only watch a handful of times in one year, which does not differ greatly from rarely watching.

I then further collapsed this data by combining all categories where respondents said they watched at least a few times a month into one group entitled “more frequently” and all those who watched less than that into the group “less frequently.” These determinations on how to collapse the categories were made after reviewing the findings and determining that the ways in which I chose to group the answers were not all together different from the original selections made by respondents.

In regards to any questions that asked respondents about the accuracy of depictions on television, answers of “Very inaccurately” and “Somewhat inaccurately” were grouped together in the collapsed category to form the answer of “inaccurately.” Additionally, answers of “very accurately” and “somewhat accurately” were combined to form “accurately.” This same type of format was followed for the agree and disagree questions, where “strongly disagree” and “disagree somewhat” were combined to form “disagree” and “strongly agree” and “agree somewhat” became “agree.” This was done on the basis that, while those who feel strongly in one regard do differ from those who chose the somewhat answer, in general both either did agree or disagree based on their answers. By collapsing these categories it was much easier to compare the different questions without losing the quality of the data.

All of the questions about experiences with different aspects of the justice system were grouped so that all answers in the affirmative, for example, that they themselves had had

experience with a judge in addition to their family or friend having experience, or if applicable both, all became grouped together to form “yes.” Therefore, in the collapsed category, any type of experience, whether personal or through a family member or friend became an affirmative response. Anyone who answered no, remained the same. This was done to further examine whether having any experience with the different aspects of the system affected their answers to some questions.

Finally, some of the demographic questions were collapsed as well. The category of age was collapsed from six groups into three groups. For the collapsed section, the answers became: 19-34, 35-54, and 55 and older. In terms of race, because there were so few respondents who fell into the Asian, Native American/American Indian, and Multiracial categories, they all were grouped together into an “other” section, all other answers were left alone. The education group was collapsed into those who had at least some college experience, and those who had not.

Survey Data: Initial Findings:

Of the three types of questions I asked, the first was concerning the television watching habits of respondents. This question was asked to get a baseline for the habits of the respondents and to get a feeling for how much exposure they have had to the different types of legal television shows. Chart 2 summarizes what percentage of respondents watched each of the three types of shows.

How frequently do you watch each of the following types of television shows?							
	Every day	A couple of times a week	Once a week	A couple of times a month	Once every few months	Rarely	Never
Legal dramas (ex. <i>Law & Order</i>)	4%	18%	15%	17%	7%	21%	19%
Forensic Science (ex. <i>CSI</i>)	2%	18%	15%	14%	8%	22%	20%
Reality Courtroom (ex. <i>Judge Judy</i>)	6%	8%	6%	12%	7%	24%	37%

Chart 2: Shows the percentage of respondents who watched each type of show and with what frequency.

When looking at legal dramas, which includes shows like *Law & Order*, more than half of the respondents answered that they watch these shows at least a few times a month. However, about 40% of respondents stated that they either never watch these shows or rarely watch them.

For the television shows that depict the forensic science portion of the justice system, like *CSI*, less than half of respondents watched the shows more than a few times a month. Again, around 40% of respondents either rarely watch these shows or never watch them.

While the legal dramas and forensic programs had similar statistics in this survey, the distribution of the frequency respondents watch reality courtroom programs was different. In this case, over 60% of respondents either rarely or never view this type of program, and only 31% stated that they will watch at least a few times a month. An interesting part of this answer was that reality courtroom television had the most respondents say they watched every day and the most respondents who never watch. It seemed less likely to fall in the middle of the choices for this category. This may be due to the fact reality television is different from scripted programs, while it still may have an entertainment value, it doesn't have the same continuing plot line or

constantly recurring characters, except for the judges, that other programs have. However, the fact that this category had the most every day watchers showed that there are viewers who follow *Judge Judy*-type shows regularly and make it a point to watch each day.

In general, respondents either fell somewhere in the middle of the choices, or stated that they rarely or never watched the programs. There were very few who stated that they watched some of these shows every single day. This may be due to the fact shows like *Law & Order* and *CSI* only air on their main network once a week usually, though they can be rebroadcast on cable networks nearly every day.

It was important to get an understanding of the television watching habits of respondents for this research both to use it as a comparison for their answers to other questions, but also to see how pervasive these shows are in society. To do so it was important to not only establish whether or not respondents watched the shows, but also to establish the frequency with which they were watched. There are differences between watching a show once a month and watching it every single day. Those who watch on a daily basis will have part of the show in their subconscious because what we watch and see has some type of effect on our lives.

The second set of questions was in regard to the experiences respondents had with the justice system and the various actors. In general, most of the respondents in this survey did not have experience with any of the actors in the legal system. For most questions, close to 90% of respondents answered no. About 4% of respondents had experience with legal professionals like paralegals, a little less than 3% had experience with court officers like judges, nearly 9% had personal experience serving on a jury, and almost 5% had experience with criminal justice officers. Typically, mock jury research excludes participants who have direct legal experience, which accounts for this lower number. The only group that differed in this way was those who

had experience with attorneys, which had about 27% of respondents who either had personal experience or knew a close family member or friend with experience. This is not surprising because they may have friends or family members who are attorneys or who have used attorneys for some type of reason, additionally respondents themselves may have contacted an attorney.

The third set of questions looked to get an understanding of whether or not respondents believed that television shows accurately depicted parts of the justice system. Chart 3 displays the findings through the collapsed category, where those who agree or disagree strongly and somewhat were combined on each side.

How accurately do you think TV shows depict each of the following?			
	Accurately	Uncertain	Inaccurately
Judges	42%	37%	21%
Juries	39%	42%	20%
Lawyers	41%	36%	23%
Forensics	44%	37%	20%
Criminal Justice Process	38%	43%	20%

Chart 3: Shows the percentage of respondents who believe TV are depicted accurately

The findings for each different category were relatively similar across the board. Overall, about 40% of respondents believe the depictions are accurate, about 39% were uncertain about the depictions, and about 20% believe that the television does not accurately illustrate the different actors or parts of the justice system. It is interesting that overall, the findings were relatively similar for each different part. Forensics were the part that received the highest percentage of respondents who find the depictions accurate. This may go back to the fact people believe that science is more full proof than other areas, and that whatever is shown on television

is in keeping with reality. Additionally, because a lot of the forensic evidence shown on these shows is complex and above a lot of individuals' ability to fully understand, they may just accept that what is shown is true and accurate because most viewers do not have the scientific knowledge to fully analyze the tests being performed.

The final set of questions were agree or disagree type of questions geared at addressing three different issues that may have been impacted as a result of television shows that depict the trial process. Chart 4 summarizes the findings of these questions using the collapsed categories, where those who feel "somewhat" or "strongly" were grouped together into either agreeing or disagreeing in order to better show the trends of these answers.

Agree/Disagree statements			
	Agree	Uncertain	Disagree
Attorneys have exciting jobs	41%	29%	30%
Courtroom dramas have improved public knowledge of the legal system	52%	26%	22%
Legal dramas sensationalize the trial process	66%	26%	9%

Chart 4: Summarizes what percentage of respondents agree or disagree with statements about television and the legal system

About two-thirds of respondents believe that legal dramas sensationalize the trial process. This shows that the respondents in this study understand that the shows are for entertainment purposes. However, over half of the respondents also believe that the courtroom dramas have improved public knowledge of the legal system. It is interesting that such a high percentage of people believe that these shows have improved knowledge while so many believe that the shows also sensationalize the process. Additionally, looking at how many respondents believe the shows sensationalize the process is interesting compared to how many believe they are accurate from the previous set of questions. It is difficult to reconcile how one can find the shows

sensationalistic but also accurate and knowledgeable. Perhaps people understand that the shows create more drama and excitement because they are only television, but at the heart of the matter they are educating the public in matters most people do not have significant experience with.

Another way to reconcile these differences is to look at the fact significantly more than half of respondents have not been in a courtroom proceeding, so perhaps they overestimate the accuracy of the shows and in turn their ability to educate the public about the ways of the justice system.

Overall these initial findings provide an interesting look at the beliefs and habits of the respondents in this study. The two most surprising statistics were that such a small percentage of respondents feel the different parts of the system are depicted inaccurately; most categories had about 20% of respondents feeling this way. This shows that people tend to find the shows more believable and in keeping with the true ways of the trial process. Additionally, I found the fact that such a high percentage of respondents recognize the sensationalistic nature of these shows to be surprising. I would have expected that fewer people admit that the shows are crafted for the dramatic moments. Because so many people understand that this is in fact true, it may dissuade arguments that things like the *CSI* Effect are real. If the viewers understand television is sensational in nature, they may not expect the things depicted to be real or accurate. However, this may be adjusted based on the findings from questions about the accuracy of the portrayals.

Survey Data: Who is watching these shows:

In order to better understand the demographics I found it necessary to cross each different demographic with each different type of show. In doing so I ran chi-square tests of each of the demographic categories, both the collapsed and non-collapsed groups, against each of the types of television shows. While most of the results found were not statistically significant, they help to paint a picture of the types of people who watch the different shows.

In terms of the legal dramas, 60% of men watch occasionally, which includes the qualifiers of rarely as well as once every few months. These findings were not statistically significant. On the other hand, 56% of frequent viewers were women. This includes those who watch every day and those who watch a few times a week. The results about the age and viewership were not statistically significant, but over 50% of those who never watch are between the ages of 35-54. Breaking this down further, those between 45-54 make up about 35% of those who rarely watch legal dramas. This may be attributed to the fact that those between 45-54 may have children in this time in their lives and busy jobs and not have the time to watch hour-long dramas on television. They may also prefer to watch different kinds of shows. In that same venue, those between 19-34 could be finishing school and still trying to find a career so they have fewer responsibilities and more time to watch television, and legal dramas.

When examining legal drama viewers by race, findings were not statistically significant, however 26% of more frequent watchers are African American. It is difficult to assess differences in viewership by education, but it seems as though respondents with less education were more likely to never watch. There was a p value of .05. Finally, the last demographic was income. While it is not statistically significant, about 63% of more frequent watchers had higher incomes, while 53% of less frequent watchers had lower incomes. This may be because those with high income may be more interested in the legal issues depicted in the programs.

The viewers of *CSI* follow some of the same trends as those who watch legal dramas. 59% of those who watch these shows at least once a week are female, while 60% of those who rarely watch the show are male. These findings are not statistically significant. Age findings were also not statistically significant. Those between 35-54 are less likely to watch forensic science programs, while those between 19-34 and those over the age of 55 make up about 71%

of those who watch at least once a week. This again may be attributed to the fact that between the ages of 35-54 people have more responsibilities and less time to watch television. African Americans make up nearly 40% of those who watch at least once a week. Hispanic respondents account for over 25% of those who never watch, though neither race finding proved to be statistically significant. Those with an income above \$50,000 are more likely to watch, with a p value of .01.

Reality courtroom viewers follow some of the same trends, but also differ in specific ways. Though not statistically significant it appeared that about 54% of more frequent watchers were female, and 56% of less frequent watchers were male. The only statistically significant tests were those with age and race, both having a p value of .05. These tests show that African Americans are more likely to watch more frequently, which means at least a few times a month. The statistically significant test with age demonstrated that those who are older than 55 are more likely to watch, along with those between 19 and 34. The test also showed that those between 35-54 were more likely to never watch. Of those who watch at least once a week, about 43% were in the age range of 25-34, while 35% of those who never watch are between the ages of 45-54.

However, reality courtroom diverges from the norm of legal dramas and forensic science programs in terms viewership by education and income. About 53% of those who watch at least once a week have an income lower than \$50,000 a year. On the other hand, 60% of those who rarely watch have an income about \$50,000, but these are not statistically significant. This may be that the issues depicted on the shows are more applicable to the lives of those who make a lower income. Those with a larger income may not represent themselves in a courtroom like is depicted on *Judge Judy*, but rather may seek formal legal counsel if the need would arise. Findings concerned with education were not statistically significant, but it showed that those who

completed high school as their highest form of education make up 38% of more frequent viewers. This may also be for the same reasons are those with lower incomes being more likely to watch.

Survey Data: Analysis:

In order to get an understanding of how the television shows impact people's perceptions of the justice system, I used a statistical program to run cross tabs of the type of show and the accuracy people expect the shows to depict. The intent was that the results of these cross tabs would show whether people who regularly viewed the programs tend to believe they are watching a true representation of the different parts of the justice system. The different aspects through which I examined accurate portrayals were judges, juries, attorneys, the criminal justice process, and forensic evidence.

Overall, all three shows had similar findings when looking at the relationship between the frequency of watching and the accuracy of the depictions. In all tests that were statistically significant, those who watch more frequently are more likely to find the depictions accurate, while those who watch less frequently are more likely to find the depictions inaccurate. This shows that there is a link between television and jurors' expectations. The individuals represented by this study may serve on a jury and those expectations about accuracy will effect what they think will occur in a real trial. It is interesting that those who do not watch find the depictions inaccurate, but it is impossible to know why that is such. For example, we do not know if they choose not to watch because they find it inaccurate, or if there are other reasons.

When looking closely at the different specific relationship, it is easiest to examine each show and then look at that compared to the different parts. Legal dramas provide the broadest depiction of the trial process of all three types. The shows often, if not always feature attorneys,

juries, judges, and obviously the criminal justice process. While forensic evidence is not always used, for example witness testimony may be heavily featured, in general fingerprints or DNA or ballistics make frequent appearances. Therefore, looking at the relationship between the accuracy of these depictions and the shows provides a full picture of the study.

Overall, these results followed the basic outline that those who watch more frequently are likely to find the depictions more accurate, while those who watch less frequently are more likely to find the depictions to be inaccurate. When looking at how accurately judges are portrayed, those who watch at least a couple of times a week make up 35% of those who find the depictions accurate. Those who never watch make up 32% of those who find the depictions of judges inaccurate. This chi-square test had a p value of .01.

While juries are often shown on shows like *Law & Order*, the shows rarely delve into deliberating or what goes on behind the closed doors of the jury room. They rather tend to stick to the actual trial, which contains a jury but viewers typically do not hear from the jury other than a verdict. However, with a statistically significant chi-square test, with a p value of .05, the study showed that those who never watch are more likely to think juries are depicted inaccurately, while those who watch at least a few times a week if not more are likely to find the depictions accurate. 33% of those who find the depictions accurate watch at least once a week, while 30% of those who find the depictions inaccurate never watch. This shows that people who watch the show regularly expect jury service to be as it is shown on television. This may lead to them underestimating the time and effort involved in reaching a verdict, since the shows rarely depict a jury deliberating for hours or days, but rather nearly immediately after closing arguments finish the attorneys are headed back to court for the verdict.

Attorneys are heavily featured in the legal drama genre, and their performances may change the jury's expectations about how a trial actually proceeds. All tests in this regard were statistically significant, with a p value of .001. Those who watch at least a few times a week were more likely to find the depictions accurate, with about 37% of those who find the depictions accurate falling into this category. Conversely, those who never watch legal dramas are more likely to find the depictions inaccurate, about 31% of those who find the depictions inaccurate never watch legal dramas.

In the criminal justice process section, the group of viewers most likely to find the depictions accurate was those who watched a few times a month. The test was statistically significant with a p value of .05. About 42% of those who believe the criminal justice process is depicted accurately watch a few times a month, while those who watch at least once a week account for 26% of those who find it accurate. This is slightly different from previous findings, where the most frequent viewers, either the everyday or a few times a week viewers, were the group most likely to think the shows accurately depict each category. The difference for this may be that the "few times a month" viewers, may in fact be those who watch the show as a series, once a week, each time a new episode is aired. Therefore, they see the show progressing and tend to believe what is shown is accurate. Additionally, the show *Law & Order* takes their new episodes from cases highly publicized in the news. Therefore, when an episode is based on something real, regardless of how closely it sticks to the real-life case, those weekly viewers may begin to have more faith in the show, and thus are more likely to believe it is an accurate depiction of how the criminal justice process works. Again, those who never watch are more likely to find the depictions inaccurate.

The final part of the justice system examined was the accuracy of forensic evidence. While this is not the main focus of legal dramas, evidence certainly plays a part in every trial, including ones on television shows. The findings of this test showed that those who watch more frequently are more likely to find the forensic evidence shown to be accurate, while those who watch less frequently are more likely to find it inaccurate. There was a p value of .01. Of those who find the depiction of forensic evidence accurate, 67% are more frequent watchers, while 59% of those who find it inaccurate are less frequent watchers. This keeps with the general findings and shows that even though the evidence is not primarily featured, it still plays a part in the expectations individuals have. They still take note of the evidence shown and presumably bring expectations about the evidence shown on television to any trial where they serve on a jury.

When examining the forensic shows, there are certain parts of the system that are not a part of the shows. For example, *CSI* rarely depicts judges and juries, because they are more concerned with how the evidence plays out and finding a criminal rather than putting someone on trial. Additionally, while attorneys may be featured, it is usually not in a primary role, so it did not seem relevant to examine the relationship between those three features and this type of television show.

The remaining two portions of the process were examined. The most anticipated result was how the frequency of watching these shows affects perceptions about the accuracy of actual forensic evidence. Since that is what is primarily shown on the programs, the relationship between the two seemed extremely important. The chi-square tests crossing the accuracy for forensic evidence with the frequency of watching, was done three times, for each of the collapsed or non-collapsed television show categories. All three tests proved to be statistically

significant, with all p values being .01. The results of this test showed that those who watch forensic programs more frequently are more likely to believe that the depictions of the forensic evidence are accurate, specifically those who watch a few times a week are the more likely to believe it is accurate. Conversely, those watch less frequently tend to believe the shows do not accurately depict this feature. About 65% of those who find forensics depicted accurately on *CSI*-type shows are more frequent watchers, while 64% of those who find it inaccurate are less frequent watchers.

These results may lend credence to those who believe *CSI*-type shows change expectations jury members may have. If these same respondents then serve on a jury, they may believe all of the evidence in a trial has the possibility of being the same caliber shown on television, when in reality it may not be possible. Additionally, as previously discussed forensic evidence isn't treated the same way in real life, for example DNA can take weeks to run, and if the jury believes television is accurate they simply may not understand why the real trial doesn't follow the same format.

I also studied the relationship between the forensic shows and the accuracy of the criminal justice process, the link was similar to previous ones in that those who watch more frequently are more likely to find the depictions accurate. Those who watch less frequently are more likely to find the depictions inaccurate. All tests were statistically significant. Among those who find the depictions accurate, 35% watches a few times a month while 30% watched at least once a week. It is interesting that watching only a few times a month, which is not that frequently compared with some every day watchers, is enough to make individuals believe the depictions are accurate. Those who never watch are the most likely to find the depictions inaccurate. Of

those who find the depiction of the criminal justice process to be inaccurate, 37% rarely watch these types of shows, and 27% never watch.

Similarly, to the forensic shows, certain aspects of the justice system are not portrayed on reality courtroom shows, therefore they were not analyzed. Based on the principles of the reality courtroom shows being small claims court type interactions, there are not attorneys shown, additionally, there are no juries as the decisions come from the bench, finally because the cases are not criminal in nature, there should be little reason for significant forensic evidence. The two variables that were examined were judges and the criminal justice process.

Because judges are so heavily featured in these shows, the link between the accuracy of judges and the frequency the shows are watched is important. The two collapsed categories, with the four categories of frequency and the two categories, were both found to be statistically significant with p values of .05, and .01 respectively. Those who never watch these shows are more likely to believe the judges are shown inaccurately, and those who watch more frequently are more likely to believe the judges are shown accurately. Of those who find the depictions inaccurate, 73% watch less frequently, while more frequent watchers make up 45% of those who find the depiction accurate. This may lead frequent watchers to enter a civil trial and believe the judge will be banging the gavel and dispensing all types of advice from the bench, when in reality it is not the case. Additionally, frequent watchers may forget the prevalence of the jury trial because these shows feature bench trials, and therefore it may have an effect on their perceptions.

Additionally, two of the tests for the accuracy of the depiction of the criminal justice process proved to be statistically significant. With a p value of .01, the test showed that those who watch more frequently are more likely to believe the process is shown accurately, 25% of

those who find the depictions accurate watch at least once a week. While this keeps with previous findings that frequency of watching is tied to accuracy, this proves to be particularly interesting because reality courtroom shows are not depicting the criminal process, yet people believe they do it accurately.

The final section of analysis came from crossing the agree/disagree questions with the various types of television shows. In examining the question about whether or not television has sensationalized the trial process, the only type of show that had statistically significant results was the legal dramas. With a p value of .05, it showed that those who never watch legal dramas are more likely to disagree with the statement that legal dramas sensationalize the trial process. Of those who do not believe legal dramas sensationalize the trial process, nearly 40% never watch legal dramas. This seems contrary to the previous findings that those who never watch are more likely to find the depictions inaccurate. Disagreeing that the shows are sensationalistic would seem to be more like agreeing with what is depicted on them, and finding those depictions accurate. Perhaps the reasoning behind this statistic is that those who do not ever watch the shows are unaware of how the trial process is actually portrayed, thus they do not understand that it can be sensational.

The trends between the frequency of watching shows and whether or not respondents agree that the shows have improved the public's knowledge of the legal system more closely mirrors that of the frequency-accuracy relationship. Those who watch the shows less frequently are more likely to disagree that the shows improve knowledge, while those who watch more frequently agree that they have improved knowledge, with a p value of .01. 61% of those who do not believe courtroom dramas have improved public knowledge watch less frequently, while 63% of those who agree with the statement watch more frequently. Specifically, those who never

watch legal dramas are more likely to disagree with the statement and those who watch at least a few times a week are more likely to agree. About 33% of those who disagree never watch legal dramas, and about 29% of those who agree watch at least once a week. This test was statistically significant with a p value of .05. There were no statistically significant tests concerning the forensic science programs.

Respondents who watch reality courtroom shows less frequently are more likely to disagree with the statement, while those who watch more frequently tend to agree. The p value for this test was .05. Close to 80% of those who do not believe courtroom dramas increase public knowledge watch less frequently, while 41% of those who do believe they have increased public knowledge watch reality courtroom shows more frequently. The reason that those who watch more frequently find the shows have improved public knowledge may be that the individual respondents believe that watching the shows has improved their personal knowledge and they then apply that theory to the greater public. In addition, those who watch the shows so regularly may be more likely to want to believe they are getting something educational out of the show.

Surprisingly, there were no statistically significant tests between the frequency of watching legal dramas and whether or not respondents believed attorneys have exciting jobs. About 54% of those who don't believe attorneys have exciting jobs watch programs less frequently, while 60% of those who do believe they have exciting jobs watch more frequently. I had anticipated that there would be a stronger relationship between watching legal dramas and the expectation that attorneys had exciting jobs, specifically that those who watch more frequently would be more apt to believe the real life jobs of attorneys is filled with excitement and drama. However, while the tests tended to indicate as such, no test proved to be statistically significant.

I also tried to examine whether or not the accuracy of the shows was influenced by whether or not an individual have experience with serving on a jury. Unfortunately, none of the tests were statistically significant. About 87% of those who believe juries are accurately depicted on television have not had experience with the jury, while 20% of those who find juries depicted inaccurately on television have had experience with the jury. Though this is not statistically significant, it does show that those who serve on a jury become aware of the differences between television and real life.

Overall the surveys showed that respondents who watched televisions shows addressing the legal system were more likely to believe what they saw was accurate. This fact supports the theory that individuals who may serve on a jury that watch legal television shows are more likely to assume what they see on TV is real, and thus be surprised when serving as a juror in a real trial. While it is impossible to determine if the differences between television and reality will contribute to more verdicts for either party, the perceptions jurors bring into trial are an important tool for attorneys. When they understand that television does in fact color individuals expectations, they can prepare accordingly and hopefully work with those expectations and still win their case.

Attorney Interviews:

Attorneys were selected to be interviewed using the above outlined procedure. In total 12 interviews were conducted. The breakdown of the types of attorneys interviewed is as follows: 5 civil plaintiffs attorneys, 4 civil defense attorneys, 2 criminal defense attorneys, and 1 prosecutor. Each interview was generally conducted using the same set of open-ended questions, and they typically lasted approximately a half hour.

Of the twelve attorneys interviewed, three were female and nine were male. They worked at firms of all different sizes. Four of the attorneys worked at firms with over 100 lawyers, and five worked at firms with fewer than 10 attorneys. The other two attorneys fell somewhere in the 10-30 attorneys per firm range. This adds up to only eleven attorneys because the single prosecutor was not added in to this category. About three-quarters of the attorneys I interviewed were partners at their respective firms. Additionally, the attorneys I interviewed had differing levels of experience. The shortest length of practice time was a little less than ten years, and the longest was well over 20 years of experience. On average, the attorneys I interviewed had practiced for about 16 years, with seven of them having at least 15 years of experience.

Lessons from the Civil Attorneys:

In general I first tried to get a sense of what attorneys believe the jurors come into court expecting. Then I asked them how they work with those expectations to still keep the interest of the jury. Overall, the civil attorneys I spoke with said many of the same things, that juries want trials to be exciting and short whenever possible. They spoke of how juries use the much more publicized criminal trial process to construct their expectations for a civil trial. They also talked about how specific parts of a trial, namely the closing statements and cross-examination, two parts routinely shown on television, cause the jury to have heightened expectations. Then the attorneys went over ways in which they present their cases knowing and understanding these expectations. The biggest way to keep a jury interested in your case is to use technology to keep evidence attention grabbing. It may not include the intricate, expensive, and sometimes impossible types of forensic evidence displayed on shows like *CSI*, but they try to keep it interesting nonetheless. Several attorneys also said that they would use their opening statement or their closing statement to directly or indirectly address the expectations they believe the jury

has from television shows and other areas of life. The civil attorneys I spoke with have monitored television's effect on changing jury expectations and carefully taken lessons from TV to get and hold the jury's attention in order to win their cases.

The most common expectation they spoke of was the way television caused people to believe all trials would be exciting and filled with dramatic moments. As one civil defense attorney phrased it, "The trial is a lot more pedestrian and mundane than they think having watched *LA Law* or other shows." This harkens back to the idea that while television shows are created to hold viewers attention and keep them entertained because that is how they make money, trials are there to ensure justice is done. I was repeatedly told about how they believe jurors come into trial hoping to see a case with exciting moments, some called it a "smoking gun" the moment when the case is revealed to the jury and they suddenly know exactly how they should vote. One civil plaintiff's attorney said that a jury wants "you to get the defendant on the stand and show the defendant is lying and the plaintiff is telling the truth." The attorney believes this comes from the desire to be entertained exactly as they are by the television shows. A civil defense attorney stated, "Civil litigation doesn't involve sexy murder cases with a lot of intrigue, its businesses fighting with each other." In general, the types of cases going to civil court are much different than the exciting crimes portrayed on shows like *Law & Order*.

Overall, the overwhelming majority of legal dramas on television depict the criminal process and many civil attorneys believe this too colors a jury's expectations. When what they see on a regular basis is general guidelines of a criminal trial, they may not make the connection that the civil trial jury they will be serving on is different. One way that this can color a jury's expectations and change the outcome of a trial in regards to the burden of proof. As one civil plaintiff's attorney said, "Jurors want beyond a reasonable doubt, and I don't want to say that's

because of the legal dramas, but we suspect that it is.” When the actual burden of proof in civil cases is much lower, having a jury that expects beyond a reasonable doubt can change the outcome of many cases. Attorneys and judges are then left to work with the jury and remind them of the actual burden of proof.

Other attorneys spoke of how the jury needs to get involved in the case, and how in criminal cases it may be easier because of the facts of the case. As one civil defense attorney put it, “if you have a case of failure of industrial products, it’s harder for that to be interesting for jurors, just by nature it doesn’t have a human element.” Criminal cases, on the other hand, often have a victim on the stand to tug at the heartstrings, just like it is shown on television. It is important to understand that some of the attorneys, ones involved in personal injury or medical malpractice did say have a little different experience. One civil defense attorney said that, “In medical cases particularly you’ll have people break down and get very emotional,” and he likened those moments back to the sensationalistic moments on television. The ability to put a victim on the stand may help the jury feel sympathy, which could increase the likelihood they will side with victim.

The other often-mentioned expectation is the amount of time a trial takes. This is also tied in with the excitement of a trial, when an event is long and time-consuming the jury is much less likely to find it fascinating and may lose interest. For example, one civil defense attorney mentioned how television’s depiction of evidence is not completely accurate, saying that the shows cause jurors to “lose patience faster with actually have to go through the process of getting evidence authenticated.” A civil plaintiff’s attorney echoed this same sentiment discussing how strange of a process it is to get evidence admitted into court. This is just one example of how television will speed through, or even entirely eliminate, a “boring” but necessary part of a trial.

All of the attorneys interviewed were asked about the *CSI* Effect, but not surprisingly, none of the civil lawyers had much to say about it specifically, but in terms of evidence in general most of them believe the jury comes in with specific expectations. The attorneys do not necessarily believe that a jury needs DNA or other forensic evidence to convict, but rather that the jurors are looking for “A certain level of sophistication,” as one civil plaintiff’s attorney phrases it. For example, a civil plaintiff’s attorney spoke of a time when a jury found in favor of the defense, and when asked they said they wanted animations and video to show them how an accident happened. The attorney believes this expectation comes from what is shown on television, because forensic shows tend to focus on elaborate exhibits rather than common evidence. The attorney went on to say that, these shows give jurors the expectation “that you have the unlimited ability to recreate scenes.” Multiple attorneys also came back to the types of evidence depicted on television in terms of cost. They said that they can use these intricate displays of evidence, but only when trying large cases where they have the available funding to do so.

Attorneys understand how essential it is to understand what is going through a jury’s mind. Even if their expectations are wholly inaccurate, and based on created for TV entertainment purposes, attorneys have to work with that or they risk alienating the jury. As a civil defense attorney said, “If you lose the attention of a jury, you lose the case.” Knowing and understanding what is going on with the jury is important, in fact a civil plaintiff’s attorney stated, “A fundamental aspect of our job is reading the jurors as best you can.” As the jury’s opinions change throughout the trial, attorneys must adjust accordingly.

Sometimes this means cutting down a witness list or not presenting every piece of evidence they had originally planned. When it comes to jurors being bored during trial, it

presents quite a problem. A civil plaintiff's attorney stated that the top thing they do in order to hold people's attention is simple, "keep things short." If jurors are bored and begin not paying attention during trial, they will not hear important evidence. One civil defense attorney explained how this is often a problem for the defense side, because they present their case second.

Attorneys mentioned that a judge will try to tell jurors off the bat about how long a trial will last. The civil defense attorney said that "If you don't hold to those deadlines they [the jury] get kind of miffed and they start not listening to what you have to say and start getting upset with you for taking so much time." The attorney went on to explain that this can sometimes be unfair because if the plaintiff takes up three quarters of the time the defense is then forced to cut part of their case to fit it into a shorter time frame. While this isn't always ideal, forcing the trial into that shorter time frame is a better option than pushing away the jury because you took too long. It is impossible to determine how much of an effect television has had on the attention span of jurors. Most of the attorneys I spoke to understood it was hard to weed television out from other influences, but they did believe TV did have some type of impact.

Attorneys will also try their best to make the trial more exciting if possible. When asked what jurors want, one civil plaintiff's attorney summarized it by saying, "I think jurors appreciate good lawyers. They appreciate a performance." Sometimes that goes back to keep things short, but others will utilize dramatic statements or evidence if possible. As one civil plaintiff's attorney stated, "Everybody wants the quick excitement, and TV has had an effect." That excitement is not always attainable even when the attorney is doing their very best. In fact, while some attorneys understand the reasoning behind making trials a little bit more exciting, they also note that, as one civil defense attorney said, "Your first mission is to win the case, if that means having to bore the jury then you'll have to do that." He did note that when you are able to make

it more interesting you should, but not at the expense of not presenting key aspects of the case, simply because they may not be as exciting as what is shown on television. This outlook is important because it shows that, while attorneys want to work with the jury and give them what they want, they also understand there are limits as to how far it can go.

Attorneys were quick to point out that some cases are simply more mundane than others, and there are not ways to put the excitement on par with television. One suggestion given by a civil plaintiff's attorney was in regards to cross-examination. For example, on television, in cross attorneys will occasionally be able to trap a defendant into confessing, or get a witness to admit they were in fact the one who committed the act. The attorney said that to the extent an attorney can ask questions in that "gotcha" way, jurors will "appreciate it more...because it's what they see on TV." Little adjustments that attorneys can make to their case may go a long way with keeping juror interest throughout the lengthy trial.

The one way to work with a jury's expectations that was said in every single interview, and oftentimes more than just once, was that attorneys should use technology to present evidence in new and exciting ways. Some spoke of using slide shows and animations, others described creating videos, and some said they will blow up images on television screen in the courtroom. As one civil plaintiff's attorney said, "It can be tedious to listen to people talking for five or six days, so anything to entertain." The attorney found that using technology breaks up the monotony of a trial and in doing that will keep the jury interested during longer cases. While there were varying degrees among the attorneys of how frequently they used technology in court, most understood the appeal of doing so. One civil plaintiff's attorney said that he has plans to use an Ipad at trial in the near future. It is important to understand that this specific attorney stated

that his firm is “pretty high tech” and not all firms are able to utilize the same types of technology.

Another civil defense attorney said that for a case the firm spent thousands of dollars in order to develop a custom animation showing a particularly complicated scientific process, so that the expert witness has a video clip to show the jury, hoping it would retain their attention and simplify the complex matter. These animations or recreations are often shown on television, as scientists use computer-generated images to visually depict for a jury what happened. The use of images is more compelling than simply have a witness recite facts for a jury. As a civil defense attorney phrased it you must “breathe life into dull subjects” and in doing so you are more likely to get the jury.

Even for cases where a firm does not have the resources to spend thousands of dollars on an animation, or in circumstances where such advanced technology is not warranted for the facts of the case, attorneys have developed innovative ways to still keep the evidence interesting. For example, several attorneys who work in medical malpractice stated they will blow up medical records or charts onto a television screen so experts have something to point at and reference during trial. Another way to keep it interesting is to use videotapes depositions as opposed to live witnesses. One civil plaintiff’s attorney said that years ago it was frowned upon to use video, but “nowadays people are kind of used to watching TV so it’s not bad.” The attorneys would always go back to the fact that they have begun using these new types of technology because they believe that is what the jury wants to see at trial, and they want to see those things because they think it is possible because it is on TV.

In the interviews, I would ask the attorneys if they ever used some of the common solutions I read about in the literature, such as voir dire or jury instructions in order to mitigate

the impact of television. Most of the attorneys said they had not seen either of those things done but could understand and appreciate how they would be useful. A few attorneys, including one civil plaintiff's attorney, even said they "would like to add" questions like that in the future. In terms of voir dire, nearly every single attorney brought up the issue that the voir dire process in the District of Columbia is extremely limited. Judges control the questions being asked, and often do not let attorneys bring up things they may like to. However, many of the attorneys stated that if they had the opportunity to ask about television watching habits they would capitalize on it so they could get a thorough understanding of a potential jurors.

A limited number of attorneys who have experience in other jurisdictions stated that they can sometimes ask about television watching habits to get an understanding of the potential jurors expectations. One civil defense attorney explained that you can ask if anyone watches a show like *Law & Order*, and ask what potential jurors take from the show, and from there you can determine what expectations those jurors hold. The attorney went on to say that can work in your favor during trial, because occasionally you will get the opportunity to ask a question of a witness that builds off of an expectation you believe a juror holds, so essentially you are able to "Ask a question that comes right out of the mouth of the juror." The other attorney with some experience asking about television in voir dire stated that some judges will let you ask a few questions but you are still very limited and the judge will often cut you off.

Instructions given by the judge to the jury are another suggestion offered by scholars, however few attorneys had ever seen this done. None had any experience where the judge will specifically tell the jury they should not use lessons learned from television shows to render a verdict. However, some have said that jury instructions implicitly acknowledge expectations drawn from TV. For example, several attorneys mentioned that judges would remind the jury to

make decisions solely based on the evidence at hand, and to not bring in any outside influences when deliberating. This encompasses a variety of things, but can also show the jury TV has no place in their verdict. Another way jury instructions can play off TV expectations is in regards to the differences between civil and criminal trials. As previously stated, some civil attorneys are concerned that a jury brings in heightened expectations about the burden of proof because of criminal legal dramas. To that end, judges will usually explicitly detail the differences in the burden of proof. As one civil plaintiff's attorney said, judges will often say, "This is not proof beyond a reasonable doubt." She believes this can be tied to expectations from television, among other things, because the phrase "beyond a reasonable doubt" is on television a lot.

The final way that attorneys said they work with jury expectations is by addressing them, whether outright or implicitly in their opening or closing statements. Some said they will come right out in their opening statements and tell the jury that the trial is not going to be like TV. They hope that doing so early will dispel any notions they have of a particularly exciting or quick trial. One example from a civil plaintiff's attorney was that his opening would include telling the jury, "There will be part of this trial that will be boring because I have got to get certain evidence in and I ask you to do your best to pay attention." Others are more direct in their approach, one civil plaintiff's attorney said he opens and says something to the effect "this isn't a TV show." Doing this helps to frame jury expectations in a more realistic way.

While using the opening statements in this way has the ability to head off jury expectations from the very beginning, the power behind using closing statements is they are one of the last things a jury hears before deliberations. One civil plaintiff's attorney explained that you can use closing arguments to "address anything that may be influencing the jurors." Other attorneys will use their closing statements to tell the jury exactly how they should rule in the

case. As one civil plaintiff's attorney phrases it, closing is "the time we get to talk directly with the jury." Reminding the jury of the high points of the case and telling them exactly how to decide also helps the jury resolve the case. The attorney goes on to say that the jury often does not realize all of the pre-trial work that goes into a case. They do not know that if the facts of the case were completely black and white it is likely the case would have settled before even getting to court, so by nature the cases falling into a gray area are the ones they see and there are not easy answers like those that you see on TV. The closing argument gives the attorney the chance to tell the jury that it is simple, breaking everything down one last time.

In regards to whether television biases individuals for a particular side as opposed to just being a neutral effect there were no conclusive answers. Of the eight civil attorneys, four said it was a neutral effect, two from each side. Two of the civil defense attorneys believe that there is a bias for the plaintiff or prosecution or against the defense. Some of the reasoning behind this is likened to television portraying the plaintiff or prosecution as the "good guys." Additionally, one civil defense attorney stated that he believed it to be more "exciting" to find for the plaintiff as it is shown on TV, more of a "high drama" verdict. On the other side, the two civil plaintiff's attorneys who did not see it as a neutral effect had the exact opposite view, that television biases people in favor of the defense. As one of the attorneys said, "I think it helps the defense all around, criminal and otherwise." It is interesting that those who did not believe it to have a neutral effect, did find that the effect biases jurors in favor of their opposing side. Similar to research done on the *CSI* Effect, where both sides claim the effect biases the jury for their opponents.

Criminal Attorney Perspectives:

The criminal attorney interviews followed the same general format as the civil attorneys in that the first broad ideas I tried to gather were the kinds of expectations they believe jurors are bringing to trial, and then I asked them to explain the tactics they use to work with those expectations. There were far fewer criminal attorneys interviewed than there were attorneys who practice in the civil arena, however they both voiced similar thoughts. In fact, it was surprising how similar most of their comments ran. The main difference was that the criminal attorneys spoke more about evidence presented in court and what kinds of evidence is presented and what expectations the jury will have about evidence. This is not surprising because of all of the hype surrounding the *CSI* Effect.

The criminal attorneys all spoke about how they too feel the need to keep a trial interesting and exciting if at all possible because that is what the jury will expect from watching television. They felt that the jury expects attorneys to put on a performance, per say and to keep the trial interesting throughout. As the prosecutor put it, juries expect the attorneys to be “fantastic knockout TV type of lawyers.” The expectation of an attorney who will keep them guessing and keep them exciting during the trial may be unrealistic. While the prosecutor acknowledged that some attorneys try to behave in that way others do not, and perhaps in not doing so the attorney then loses the jury a little bit.

They also shared the same sentiments as the civil attorneys in regards to which part of the trial jurors have the highest expectations. They too believe it is closing statements and cross-examination. As one defense attorney stated, “the closing argument is what you leave the jury with and the expectation is very high there.” Essentially the attorney felt that because it is your last chance to make an impact on the jury it is highly anticipated. Additionally the attorneys felt

that cross-examination was anticipated because it highlights moments for drama. On television when an attorney is crossing someone, they usually are able to trap them in a lie or get them to confess or do something to produce shock in the audience. The specific cross that juries have high expectations about is when the defendant is cross-examined. As the prosecutor put it, “Juries expect them to stand up and start crying or confess or get tough questions.” Additionally the attorney stated that those expectations were rarely met in a real trial and that “most let down jurors,” due to the fact the real cross-examination is nothing like it appears to be on television.

In terms of the ways in which the attorneys tried to address the expectations a jury has they offered many similar suggestions. Most agreed with civil attorneys in regard to trying to make evidence more interesting. As one criminal defense attorney said, “If you can animate the incident its more interesting...even the actually physical evidence, pull out the gun and let them see it.” The criminal attorneys typically have more concrete physical evidence that a jury can see. They may have things such as weapons, whereas civil trials typically consist of a wealth of documents, which by nature are less exciting than seeing a gun or a knife. The prosecutor agreed with these sentiments citing the use of the more demonstrative exhibits to get your point across while retaining the jury’s attentions.

The criminal attorneys also said they will use their opening and closing statements as a time to draw distinctions between television and reality. All three specifically said that at times in trial they will actually come out and tell the jury that “this isn’t TV.” This quick declaration can be used to draw attention to the jury’s mindset. It may be more effective than using a euphemism and reminding the jury to ignore all outside influences without specifying what they could be, because sometimes a juror may be unaware of their biases from outside sources.

Simply reminding them to forget about television may help them actively sort out their expectations garnered from television from what reality consists of.

The major difference between the statements of the criminal attorneys and those of the civil attorneys came in regard to evidence. They said that a jury simply wants more evidence. As the prosecutor explained, “the law hasn’t changed much since the days of Perry Mason. If I give you a witness that says its him you can convict.” Essentially his point was that eyewitness testimony is still an extremely valid form of evidence, but since the days of *CSI* and other forensic shows, people are not satisfied with only eyewitness testimony. They want concrete physical evidence to link defendants to the crime. A defense attorney echoed that thought saying, for a jury “there may be more circumstantial evidence.” However, the attorney noted that the jury can still convict based on that circumstantial evidence.

With the forensic shows on television it simply leads jurors to believe there is an overwhelming presence of forensic evidence at trial, when in reality it may not be true. The prosecutor recalled a case where the jury came back with a not guilty verdict and when asked said they believed that the defendant was guilty but that they needed a specific type of evidence to prove it. The prosecutor said he had never even heard of the evidence and that “it was something they saw on *CSI*.” That directly links evidence presented on television to what a jury expects. Especially in cases where the current trial has a similar fact pattern to an episode of TV, the jury may want to see the same things the show put on.

Additionally, the criminal attorneys were more likely to have seen things like using voir dire to get an understanding of the jury’s television watching habits. All three attorneys said they had seen questions that attested to a potential juror’s television habits at some point, some were more specific, but most said they were more general and not just directed at legal shows but also

things like news programs. The prosecutor also said that he had seen jury instructions that specifically deal with managing the *CSI* Effect. For example, a judge may say, “there is no legal requirement that the State utilize any specific investigative technique or scientific test to prove its case.” This clearly gets at the heart of the *CSI* Effect, reminding jurors that things like DNA are not required in order to prove guilt.

The reason that voir dire may be more extensive or there are increased jury instructions in the criminal side may have to do with the fact criminal juries may be deciding life or death in some cases, and in other have the power to put a defendant in jail. While in civil cases there are significant penalties, under no circumstances can a jury sentence someone to death or jail time. Another reason for the difference may be that most of the literature on the subject of how television impacts a jury’s expectations focuses on the criminal side, so perhaps civil court officers are less inclined to address these issues because they do not believe they are as prevalent.

It was interesting that one criminal defense attorney stated that, “The effects of shows probably comes through more in a criminal process.” None of the civil attorneys stated that they believe the shows effect one type of law more than another, but again the majority of legal television shows are based on the criminal process so that may factor into the attorneys opinion.

Another interesting statement that was made by one defense attorney was that “shows have highlighted the importance of the jury trial.” This attorney was the only one to note a positive aspect these shows may have on society. He believed that by seeing the jury and the role they play on television it makes people aware of their important duty. It is difficult to determine if this is true, but it is interesting to note that an attorney can recognize that while the shows can

negatively affect an individual's expectations, the shows also have the ability to have a positive impact.

Conclusion:

Overall, there were findings to assert that television has changed the ways in which the justice system functions on a day-to-day basis. Potential jurors tend to believe that what they see regularly on television in regards to the justice system is an accurate portrayal and they then bring those expectations to court. If their expectations are then not met, because they are truly inaccurate, they still may decide based on their TV images of the legal system. Interviews with the attorneys indicated that they believe jurors have certain expectations about trial, such as the fact it will be exciting. While none of the attorneys believe television is the only thing influencing a juror's expectations, it has played a part. It is difficult, if not impossible to distinguish between the effects of television, and those of the internet, the media, or simply interactions with family and friends. Even if it could not be proven that television alone has significantly changed society's outlook on trials, when attorneys are adjusting their case presentations in that manner, the effect becomes more substantial.

With trials now filled with complex technological depictions of evidence and dramatic closing arguments there is no disagreement that the system has evolved. To further study this issue, it would be beneficial to try to separate out influences on individuals and try to isolate the exact effect television has on expectations. You would need to study both the verdicts coming out of those studies but also the thought process during deliberations to gain a thorough understanding of the effects. Using mock trials and mock jurors to study these effects would be a helpful tool. Additionally, a larger sample size of attorneys, ones from across the country would provide a more complete picture of changes in the practices of trial attorneys.

At the end of the day, our trial process is constantly evolving. Decades ago, we did not have the ability to produce evidence like DNA, but with technology, this is always changing. Television may not actually have people demanding forensic evidence in every single case, but rather the change may be more subtle, looking for a little drama peppered in among the boring discussion of documents. These transformations also do not have to be a bad thing, insofar as attorneys understand the shifting times and how to work with them, the justice system should not be negatively affected.

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Appendix 1—Mock Juror Survey Questions

1) How frequently do you watch each of the following television shows?

Please circle one answer for each choice

	Every day	A couple of times a week	Once a week	A couple of times a month	Once every few months	Rarely	Never
1) Legal dramas (ex. Law&Order)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2) Forensic Science (ex. CSI:)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3) Reality Courtroom (ex. Judge Judy)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

2) Do you or anyone close to you have work experience in any of the following?

	Yes-Self	Yes-friend/ family	Yes-Both	No
1) Attorneys	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2) Legal professionals (ex. secretaries, paralegals)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3) Court Officers (ex. judges, bailiffs)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4) Juries	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5) Criminal Justice (ex. police officers, detectives)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

3) Have you ever been in a courtroom for a trial or any other proceeding (ex. Jury service, witness, involvement in a law suit, etc)

Yes ☐
No ☐

4) How accurately to you think TV shows depict each of the following?

	Very Accurately	Somewhat Accurately	Uncertain	Somewhat Inaccurately	Very Inaccurately
1) Judges	5	4	3	2	1
2) Juries	5	4	3	2	1
3) Lawyers	5	4	3	2	1
4) Forensics (ex. DNA, fingerprints, ballistics)	5	4	3	2	1
5) Criminal Justice Process	5	4	3	2	1

Agree/disagree	Agree Strongly	Agree Somewhat	Completely Uncertain	Disagree Somewhat	Disagree Strongly
1) Attorneys have exciting jobs	5	4	3	2	1
2) Courtroom dramas have improved public knowledge of the legal system	5	4	3	2	1
3) Legal dramas sensationalize the trial process	5	4	3	2	1

Appendix 2—Attorney Interview Questions

Hi, I am a senior at American University here in DC. For my honors senior capstone I chose to undertake a project about how legal dramas on television have changed the legal system. After doing quite a bit of research, I thought it would be interesting to get the perspective of attorneys who deal with the issue.

For the project I will maintain your privacy and not use any names or identifying characteristics when writing my paper. Additionally, any notes I take from these interviews will only be seen by myself and my faculty adviser. If you are comfortable with it, I will record this interview, simply to have it for playback to ensure I get everything down during the interview. After I play it back I will erase any content. If you are uncomfortable with the idea of being interviewed I'd be happy to simply take handwritten notes.

Background:

1. Can you tell me a little bit about your career?
 - a. Where did you go to law school?
 - b. How long have you been practicing?
 - c. Did you always work in this area or have you practiced other types of law?
2. How extensive is your jury experience?
 - a. How many jury trials have you conducted? Have they all gone to a verdict or have some of them been settled prior to a verdict?
 - b. Have you ever worked with jury consultants or had any jury training?
 - i. Have you attended any workshops or CLE's on TV and the jury?
 - ii. How has this changed your outlook on jury trials

Jurors' Perceptions:

3. How have legal dramas affects jurors perceptions about the following:
 - a. The general trial process
 - b. How attorneys behave at trial/their general role in a trial (i.e. do they expect them to break open a case in the middle through cross-examination, etc)
 - c. Evidence in court
 - d. Changes over time
4. Is there a particular part of the trial more than others (voir dire, opening statements, cross-examination) that you think jurors have an expectation about?
5. What experiences have you had with the CSI Effect?
 - a. How do you define it?
 - b. How exactly does forensic science affect a trial?
 - c. Do you feel the effect is substantial or negligible?

Changes to the legal system:

6. What kinds of things do you do to combat the expectations jurors bring to trial?
 - a. How can you use voir dire to get an understanding of juror's expectations
 - b. Are there different ways to present your case to cater to a jury's expectations?
 - c. How is evidence dealt with differently?

- d. Are there new jury instructions from the judge that help?
- 7. Do you think the effect of legal TV shows bias the jury for either side or is it a neutral effect?

Attorney Perceptions:

- 8. *For Civil Attorneys only: How do you think the fact that most legal dramas are about criminal cases effects jurors' perceptions? (i.e. do you think they translate examples of criminal trials to what a civil one will be like?)
- 9. How do you think that jurors perceive attorneys and the legal profession?
- 10. Have you ever seen your opposing counsel behave in ways that make you believe they are trying to mimic a TV –attorney persona?

I'd like to thank you so much for taking the time to meet with me. It will be incredibly helpful in my paper. I think I covered everything I needed to, but if for some reason I missed something, would it be all right to e-mail you a follow-up question? Thank you again for your time.

Appendix 3—E-mail sent to attorneys requesting interview

Dear Mr./Ms. X:

I am a senior at American University studying Communications, Law, Economics, and Government (CLEG). As a part of my Honors Research Project I am studying how legal television shows affect perceptions of the justice system, specifically jury trials. Having done extensive secondary research on this topic, I am eager to get real-life perspectives from attorneys who have jury experience and who may have witnessed this impact first-hand. I would love to have an opportunity to speak with you about your experiences to gain a better understanding of the extent of television's impact on the trial process.

I understand that you are very busy, but if you would be willing to meet with me, I would truly appreciate it. I promise to be brief. Since I am in D.C., I can meet with you at your office or, if you prefer, we can speak over the phone. Please let me know if you are available. I can be reached via e-mail. Please know that I am aware of potential privacy concerns with conducting interviews. Be assured then when reporting my findings, I will not use any names or other identifying characteristics of my interviewees. If you have any further questions, please let me know. You can also contact my Honors Capstone adviser, Professor Keri Sikich.

Thank you for your time. I look forward to hearing from you.

Sincerely,

Aleksandra Kocelko
American University, Class of 2011