

BETH WHITNEY

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Question

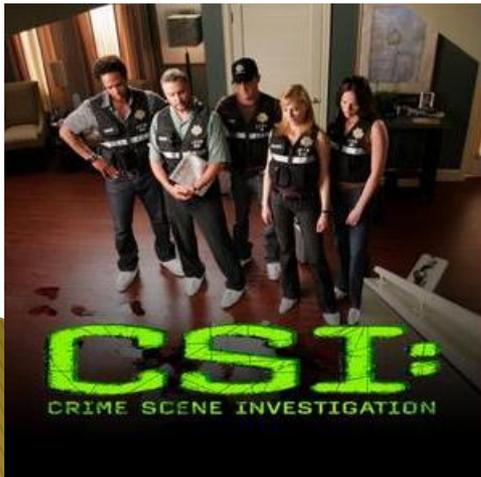
- ▶ What is the biggest challenge an investigator presenting evidence will have in a courtroom in 2009?
- ▶ How do you overcome it?

BETH WHITNEY

- ▶ I am a law enforcement officer with City–County Bureau of Identification and have worked there for 9 years, first as a Crime Analyst and then as a Forensic Computer Examiner. My caseload is primarily homicides, sexual assaults, and sexual exploitation of children but also includes robberies, narcotics violations, identity theft and fraud.
- ▶ My background as a criminal defense attorney gives me a unique perspective on forensic practice.
- ▶ I created my agency's digital forensic unit from the ground up and constantly work to keep it able to address new technologies. I am a Certified Forensic Computer Examiner (IACIS), a Certified Computer Examiner (ISFCE), and a Seized Computer Evidence Recovery Specialist (U.S. Department of Homeland Security).
- ▶ I am a member of the Executive Committee of the Scientific Working Group on Digital Evidence, a federal task force that creates white papers and practice guides for digital forensic examiners. I also serve on the cybercrime curriculum committee for her statewide law enforcement training academy and frequently teach on and speak on topics related to digital forensics.

Answer

THE *CSI* EFFECT



Answer

- ▶ The *CSI* effect:
 - Shows such as *CSI* have raised the jury's expectations of forensic science
 - Glamorize the field, overstate the accuracy of forensic techniques, and exaggerate the abilities of forensic science
 - Prosecutors feel pressured to deliver forensic evidence, even when it may not be available or dispositive
 - Real life v. TV life: the amount of time these exams take and the often equivocal nature of the results

Answer

- ▶ *CSI* effect already empirically studied and commented on in criminal cases
 - “Compared to non-*CSI* viewers, *CSI* viewers were more critical of the forensic evidence presented at the trial, finding it less believable . . . Forensic science viewers expressed more confidence in their verdicts than did non-viewers. Viewers of general crime program, however, did not differ significantly from their non-viewing counterparts on any of the other dependent measures, suggesting that skepticism toward the forensic science testimony was specific to those whose diet consisted of heavy doses of forensic science television programs.” N. J. Schweitzer and Michael J. Saks, *The CSI Effect: Popular Fiction About Forensic Science Affects Public Expectations About Real Forensic Science. Jurimetrics*, Spring 2007
 - In *State v. Cooke*, 914 A.2d 1078 (Del. Super. Ct. 2007), the Delaware Superior Court took judicial notice of the *CSI* effect and deemed various inconclusive test results and other evidence admissible in order to mitigate the *CSI* effect.

Answer

▶ How do we respond?

- Prosecutors: Add questions about potential jurors' television habits to *voir dire*
- Prosecutors: Directly address this effect during opening and closing arguments
- Prosecutors: Ask for jury instruction regarding using outside standards like those presented in television shows
- Investigators/Examiners: Use technology during testimony to explain forensic concepts and give jurors the “razzle dazzle” they may be expecting
 - PowerPoints
 - Screen recordings (Camtasia, etc.)
 - Virtual machines