

The Verdict on the CSI Effect
A Study of the Effect in Monroe County Courtrooms

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Abstract

This senior honors thesis looks at a phenomenon known as the “CSI Effect”. The CSI Effect is a greatly debated topic with many different opinions as to its existence. The immediate objective of this study is to determine whether the CSI Effect is present in Monroe County, New York courtrooms. A survey distributed to judges, prosecutors, public defenders, and private defense attorneys, practicing in Monroe Country, New York, gives information regarding their experience with the CSI Effect, helping to come to a conclusion about the Effect’s existence. The results of this study show that the CSI Effect does exist, in some form. While the Effect exists, there are other possible “Effects” that may present similar symptoms as the CSI Effect, as earlier research has shown. Major differences among participant groups provide an explanation for the existence of the CSI Effect.

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Introduction

There is a common belief among attorneys, judges, and other criminal justice personnel that watching Crime Scene Investigation (CSI)-type television shows is leading jurors to wrongfully acquit guilty suspects, or inversely, convict innocent suspects. This phenomenon is known as the “CSI Effect”. The term the “CSI Effect” began appearing in legal lexicon in 2003, three years after the show *CSI* and its spin-offs became popular with American television viewers (Heinrick, 2006). Since then, the CSI Effect has been a greatly debated topic with many different opinions. It is defined by the American Bar Association (ABA) as the

“phenomenon whereby high-tech, forensic science dramatized in television crime dramas such as *CSI*, *Law & Order*, and *Forensic Files* theoretically promotes unrealistic expectations among jurors of how apparently clearly and definitely forensic evidence can determine innocence or guilt” (Dysart, 2012).

This has led to an increasing demand in physical evidence where such evidence may or may not be available. Not every case has direct physical evidence and relies heavily on circumstantial evidence, which does not always mean that the case has serious flaws. While some cases present little evidence, others may have evidence that is not permissible in court (Dysart, 2012). In the cases *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, *Frye v. United States*, and *Kumho Tire Co. v. Carmichael* the U.S. Supreme Court set a framework for the admissibility of scientific and expert evidence (Dysart, 2012). Since these frameworks have been set, not every piece of evidence is allowed into trial, even if the jury is looking for it. Despite these realities, jurors still hold onto their seemingly error-proof forensic, scientific, and technological evidence.

While some agree that the Effect is in fact a real phenomenon (Mancini, 2013; Heinrick, 2006; Hans and Vidmar, 2007; Baskin and Sommers, 2010) others have their doubts (Brickell, 2008; Holmgren and Fordham, 2011; Shelton, 2008; Shelton, 2011). These researchers, while they

may not argue that there is not a change in demand for more physical evidence, present alternatives to the CSI Effect. These alternative “Effects” may produce similar symptoms as the CSI Effect, making it difficult to distinguish between each Effect.

There are a number of questions that this fairly new concept poses. First, we must look at what this phenomenon is in theory and what it is theoretically doing in the courtroom. Second, does this Effect in fact exist? The immediate objective of this study is to determine whether the CSI Effect exists in Monroe County, New York courtrooms. A survey distributed to judges, prosecutors, and public defenders, practicing in Monroe Country, New York, gives information regarding their experience with the CSI Effect, helping to come to a conclusion about the Effect’s existence (See Appendix A-C). This thesis addresses the possible existence of the CSI Effect in Monroe County, New York, its implications, and, if it is demonstrated to exist, ways in which the Effect can be managed in criminal courtrooms.

Background

The CSI phenomenon is a fairly new issue that is raising concern throughout the criminal justice system. Since it is fairly new there has been little research done to identify its presence in courtrooms and, if present, if what we are seeing is in fact the CSI Effect or some other influence in the system. While the research done on the CSI Effect is rather limited, the studies done to date show mixed results, meaning that some show its existence while others either do not see any “Effect” or believe it to be caused by some other influencing factor (Baskin and Sommers, 2010; Brickell, 2008; Heinrick, 2006; Holmgren and Fordham, 2011; Mancini, 2013; Shelton, 2008; Shelton, 2011; Vidmar and Hans, 2007).

The general consensus on the existence of CSI Effect is split. Both sides make a valid argument for or against its existence. Mancini (2013), Heinrick (2006), Hans and Vidmar (2007), and Baskin and Sommers (2010) have agreed that the CSI Effect is present in many courtrooms. Much of the research done is based on interviews of prosecuting and defense attorneys (Brickell, 2008; Vidmar and Hans, 2007) as well as jury surveys and interviews (Holmgren and Fordham, 2011; Mancini, 2013; Shelton, 2008; Shelton, 2011), and telephone surveys of a randomly selected group of registered voters (Baskin and Sommers 2010). While the methods used and results obtained in each study differed, there was one consistency among them: the effects that CSI-type shows are having on jurors are quite complex and difficult to measure.

According to some studies, jurors who watch more CSI-type shows are more likely to convict a suspect than jurors who do not watch CSI-type shows, or who watch less frequently (Mancini, 2013; Heinrick, 2006; Baskin and Sommers, 2010). Prosecutors are concerned with the fact that jurors are expecting more scientific evidence even when there is a full confession or more than enough evidence to convict (Vidmar and Hans, 2007). These shows are also apparently having another effect, as Vidmar and Hans (2007) have shown in their research together, in which jurors rely so heavily on the scientific evidence that is presented to them that they believe everything to be true, overvaluing forensic evidence and leading to wrongful convictions (Vidmar and Hans, 2007). The CSI Effect can also be examined through controversial cases that have received unexpected verdicts (Mancini, 2013; Baskin and Sommers, 2010; Heinrick, 2006). These cases help to expose the CSI Effect when the evidence presented is predicted to render a certain verdict but jurors view the evidence differently than expected.

With regard to jurors demanding more evidence, these studies have found that the demand for more scientific evidence is changing the dynamic of the courtroom. Prosecutors and defense

attorneys are facing change in the way they conduct trials, and need to prepare for trial differently than before, accommodating these demands (Heinrick, 2006). Unfortunately, such accommodation oftentimes requires the use of expensive and unnecessary tests that may not be needed depending on the facts of a specific case (Heinrick, 2006).

A common recurring theme throughout many of these studies is that while surveys of attorneys and judges show a strong belief that the CSI Effect is a real phenomenon and problem for criminal justice personnel, it has received little empirical support (Mancini, 2013). The CSI Effect is a very difficult topic to measure, as Mancini (2013) discusses in his research findings. This is a common problem for most studies. An important finding in these studies, especially noted in Mancini's (2013) research, is the fact that this Effect is very complex and highly misunderstood, which means that further research is needed in order to have a better understanding of the Effect and its possible presence. While Mancini's (2013) research supports his conclusion that the CSI Effect may be present in some cases, he recognizes that there may be other variables causing this change in juror behavior (Mancini, 2013). Honorable Donald Shelton is another researcher who presents alternatives to the CSI Effect (to be discussed in further detail). Heinrick (2006) also notes this point in his article on the negative impacts the CSI Effect has on jurors. It is difficult to find ways to measure this cultural phenomenon and it is difficult to attribute the CSI Effect to "lost cases" (Heinrick, 2006). Clearly, further research is needed on this subject.

The opposition to the above argument states that the CSI Effect is a myth rather than a real phenomenon. Most studies will not argue that there is no change in jury behavior, but do make a different argument as to the causes of these changes. An example of this conclusion is a study conducted through the National Institute of Justice (NIJ). The NIJ conducted a study on whether or not the CSI Effect really does exist (2008). In this study, Shelton, Barak, and Kim (2008)

surveyed 1,000 jurors prior to their participation in trial processes. The researchers recorded how many people in America watched CSI-type shows in 2006, what kind of evidence was presented in those shows, and also what kind of evidence jurors expected to see in every criminal case. The results in this study suggest that while there is an increase in demand for forensic evidence, there is no empirical evidence suggesting that the cause is due to the CSI Effect (Shelton, 2008).

While no one study has pin-pointed an exact cause to changes in juror behavior, different options have been discussed. A common suggestion for the cause of the change, presented by Shelton (2008), is a term known as the “Tech Effect” (Shelton, 2008; Shelton, 2011). This Tech Effect does include many of the same aspects of the CSI Effect in terms of television shows playing a role in the changing dynamic of the courtroom. The difference between the CSI Effect and the Tech Effect however, is the inclusion of various technological advances of the recent years. Medicine, science, and technology have come a long way in recent years. Jurors are relying on scientists to come up with the technology to produce evidence for a case, even if that evidence does not exist (Shelton, 2011).

Another argument made by these studies is the fact that researchers are unable to find a link or direct correlation between television show watching and jurors’ behavior, whether bringing a conviction or acquittal (Brickell, 2008). While it may be the case that researchers are simply not conducting the “right” study, it is more likely that there is no correlation between the two variables, leaving us with distrusted jurors (Brickell, 2008). In one article that supports the CSI Effect, the author included a quote from a former prosecutor, Wendy Murphy, which in fact supports this distrust rather than the CSI Effect.

“You get jurors who don’t have a lot of brain cells asking questions after the case is over about why there weren’t any fingerprints on the pillow case. It makes no sense. I actually think one of the problems is we’re not screening out these jurors who are way too much

under the influence of pop culture programs. They shouldn't be allowed to sit in judgment, frankly" (Heinrick, pg.61).

Lawyers, judges, and other criminal justice personnel are putting the blame on the CSI Effect when the problem may lie within the trust of criminal justice personnel in jurors' ability to evaluate evidence that is presented to them in trial (Brickell, 2008).

Expanding upon the explanation of the Tech Effect, there is another suggestion made in these studies, particularly spelled out by Brickell (2008). The White Coat Syndrome is similar to the Tech Effect because it holds science and scientists in higher regard. If scientists are able to produce scientific evidence and present it in court, jurors may be more likely to accept the evidence as a way to bring a conviction, or on the other hand, as a way to acquit a suspect if it may "prove" the suspect innocent, whether it is good evidence or not (Brickell, 2008).

Now, assuming the CSI Effect does exist, there are conversations as to how to manage the Effect in courtrooms to eliminate, or decrease, any harm it may bring. There are a number of strategies that can be used to try to minimize the effects that CSI-viewing has on a jury. The American Bar Association (ABA) has outlined a number of strategies that can be employed before, during and after trial to attempt to minimize the CSI Effect.

First, the pretrial phase is a critical time because setting the stage early on can make an impact on the remaining phases of the trial, and ultimately the verdict. The first strategy that can be employed during the pretrial phase is screening for potential CSI Effect issues. When an attorney is living and breathing a case, it can become easy to lose perspective on a case. After becoming immersed in a trial it can help to have a colleague review the case in an attempt to flesh out any CSI Effect issues that can be caught early on (Dysart, 2012). This can and should even be done throughout the case to protect against any new issues that may arise.

A mock jury can be a very useful technique to use to filter out any CSI issues. This allows for the prosecution to understand how a real jury might react to the evidence, or lack of evidence, presented during the trial (Dysart, 2012). From here, the prosecution can prepare for potential issues throughout the case, preparing strategies around these issues in order to strengthen their case with the evidence they have and counteract the CSI Effect.

The Voir Dire/jury selection phase is the meat of the pre-trial phase. The jury selection process is where questioning of “occupation, spare-time activities, and personality type can provide insight into their thought processes in general and, more specifically, their problem solving inclinations” (Dysart, 2012). Here, questions regarding jurors’ use and reliance on technology, as well as their television viewing habits should also be asked. This allows the prosecution to pick those who might be least affected by the CSI Effect. On the other hand, picking those jurors who may be affected by the CSI Effect may be to the defense’s advantage. Once a jury is selected, this process also helps to understand the personalities and thought processes of those on the jury so that both sides can be more prepared for the trial ahead.

Now that the jury has been selected, trial begins. One of the most important ways to manage the CSI Effect is through the presentation of the case by the prosecutor. The ABA has noted four ways this can be done. Opening and closing statements are an important part of any trial. In some cases, they can make or break a jury’s decision. Opening statements are important because they give the jury a first impression of the case. Depending on how each side presents themselves and the case during these statements this impression can be lasting. Prosecutors can use opening statements to inform the jury of the production or lack of scientific evidence in a given case, and give implications and reasons for such evidence or lack thereof (Dysart, 2012). This explanation may be an essential step to clear the air of any CSI issues brewing in jurors. Another important

part of opening and closing statements is reminding the jury of the appropriate burden of proof and the availability of evidence and technology for particular cases (Dysart, 2012). All of these tactics are important for opening and closing statements because they educate a jury with no legal knowledge and attempt to remove or diminish any preconceived beliefs learned from CSI television.

Opening and closing statements are important bookends of a trial, but what is presented between the bookends also plays a vital role in a jury's final decision. For those who agree that the CSI Effect exists and views it as a problem for courtrooms, managing the CSI Effect (or Tech Effect) is a continued uphill battle throughout the trial. The ABA notes that the use of expert witnesses is one way to strengthen evidence in a case, if chosen carefully. Expert witnesses are an important part of evidence presentation, especially if there is a lack of scientific evidence. This is known as "negative-evidence witnesses" (Dysart, 2012). Negative-evidence witnesses are used to inform juries that it is not rare for investigators to not find any physical evidence at a crime scene. Prosecutors can utilize these witnesses to further educate jurors that an absence of proof is not a proof of absence (Dysart, 2012).

If it is known that there are CSI Effect issues present, or there is potential for issues, taking the offensive strategy is often a useful tactic in presentation of evidence. This is an interesting strategy suggested by the American Bar Association and also Judge Shelton (2008). Here, high-tech exhibits are used to "demonstrate or simplify complex issues in criminal and/or civil cases" (Dysart, 2012). Although this may be a more expensive strategy, it may be beneficial with a younger jury that is more comfortable and even reliant with technology since this type of jury is more likely to be susceptible to the CSI Effect or Tech Effect (Dysart, 2012).

Cross-examination of witnesses and experts is another potential tool that can be used during trial (Dysart, 2012). This allows an attorney, on either side of the argument, to emphasize the presence or lack of evidence. From a prosecutor's standpoint, cross-examination can be utilized to counteract any CSI issues brought by the opposition. The key technique for cross-examination is the questioning of reliability. This is a great opportunity to point out junk science. Attorneys may want to present high-tech evidence before the jury in order to show them some kind of evidence they are looking for. Defense attorneys know what juries want and they might just try to give them whatever fancy technology they can swing, just as discussed earlier. The prosecutor may do the same. Cross-examination is where attacks on this science can be beneficial for breaking down these technologies in an attempt to break down the CSI Effect.

An example of the use of cross-examination for this type of evidence is the odor mortis test in the Casey Anthony trial. The argument made by the prosecution was that Caylee Anthony died from chloroform and duct tape that was placed over her nose and mouth (Hopper, 2011). The prosecution presented an expert witness who testified that he found a sign of human decomposition in the trunk of Anthony's car (Hopper, 2011). "I essentially jumped back a foot or two...I was shocked that that little itty bitty can could have that much odor associated with it...I would recognize it as human decomposition," expert witness Dr. Arpad Vass told jurors when he testified (Hopper, 2011). However, defense witness Michael Sigman, a chemist at the National Center for Forensic Science, cast doubt on the findings of the prosecution. Sigman offered that when he tested the air samples, he found the chemicals to be gasoline, chloroform, and two other chemicals. He also presented that he used different methodologies. This is an example of the use of cross-examination to counter the CSI Effect, casting doubt and difficulties that are associated with new high-tech evidence presented by either side of a case.

Once the case has been presented, last minute efforts to lessen the effect on jurors are still possible. Jury instructions are an important last minute strategy to simply and clearly provide the laws of which jurors should apply during deliberations (Dysart, 2012). Referring back to the law numerous times is an attempt at ensuring jurors are focused on the law and issue at hand, bringing them back to the realities of the courtroom and pushing CSI from their deliberation process.

Opinions over the CSI Effect debate can be seen as murky. There is less of a debate over whether the courtroom is experiencing a change in jury behavior however. The debate is more over what is causing this change. Suggestions have been given as to how the Effect can be managed for those who do support it as a real phenomenon, and many possible explanations have been given as to why these changes are occurring. A common finding in all research however, supporting and opposing, is the need for more research on this topic.

Present Study

Given that the CSI Effect is a fairly new phenomenon, the debate over the Effect poses a number of questions. First, does the Effect in fact exist at all? If so, how do we measure it? Some, such as Judge Shelton from Michigan, wonder if CSI television is even the real source of the problem. He suggests that the effect seen in courtrooms is actually caused by an age of increasing technological abilities, as discussed previously (2008). If we find that the Effect does exist, is there any way to manage any negative effects it has on the courtroom dynamic? These are important questions that this study attempts to answer.

In order to be able to measure the CSI Effect this study will rely on the experiences of judges, prosecutors, and public defenders. To date, there has not been an established way of measuring for the Effect. This is why it is not scientific to say that the CSI Effect in fact is a factor

influencing jury behavior. The way in which this study will attempt to measure the CSI Effect is through a survey (See Appendices A, B, and C) conducted on judges, prosecutors, and public defenders practicing in Monroe County, New York to see if the CSI Effect is present in Monroe County courtrooms, what the possible causes are, and how we can prevent the Effect from happening. The information acquired through these surveys will help to give a better understanding of the prevalence of the Effect in Monroe County courtrooms, and if there truly is a change in the criminal courtroom dynamic.

The significance of this study is that these CSI-type shows may be creating an image and perception in the minds of these juries about the need and reliance on scientific physical evidence as the only, and best way, to reach a guilty verdict. The problem with this however, is that many cases are actually solved based on circumstantial evidence, rather than direct physical evidence. Because the CSI Effect is so difficult to measure, researchers are left with an unclear explanation for the phenomenon. As can be seen, there is much debate over the existence of the CSI Effect and whether the Effect has any real consequences in the courtroom, based on the different findings of several studies (Mancini, 2013; Heinrick, 2006; Baskin and Sommers, 2010). The general consensus on the CSI Effect is split. This study will seek to clarify the consensus of criminal justice practitioners in Monroe County, New York, to attempt a new way to measure the CSI Effect, and if it is shown to exist, also provide some ways in which we can prevent the Effect from continuing to be a problem if it is in fact a negative influence in courtrooms.

Methodology

Monroe County is located in New York State and includes the city of Rochester (See Figure 1). As of 2014, the county is home to 749,847 citizens within 29 towns/villages (U.S. Census Bureau).

Every year, approximately 55,000 people are summoned for jury duty by the Monroe County Jury Office. As discussed earlier, according to Shelton (2008), a considerable amount of people (about 70 million) have watched CSI shows. Many of those who watch these show are eligible jurors who may be among the 55,000 citizens summoned for duty, leaving an opportunity for the CSI Effect to creep into the jury box of Monroe County courtrooms.

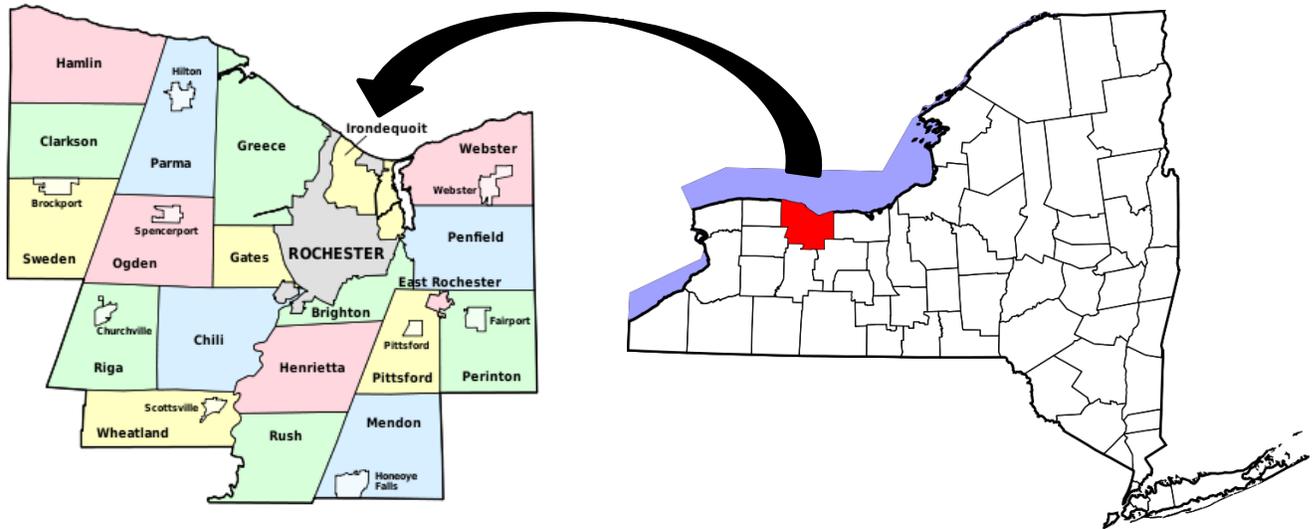


Figure 1: Map of Monroe County (https://en.wikipedia.org/wiki/Monroe_County,_New_York)

The population targeted for this study came from three categories: judges, prosecutors, and public defenders. The reason for focusing on these three categories was for the purpose of measuring the possible CSI Effect from the perspective of those in the legal field whose job might be affected by CSI type television. The sampling procedure consisted of selecting every town judge, felony judge, prosecutor, and public defender in Monroe County. The reason for choosing every person in these positions was for the purpose of having the largest sample size possible, and the most valid and reliable results.

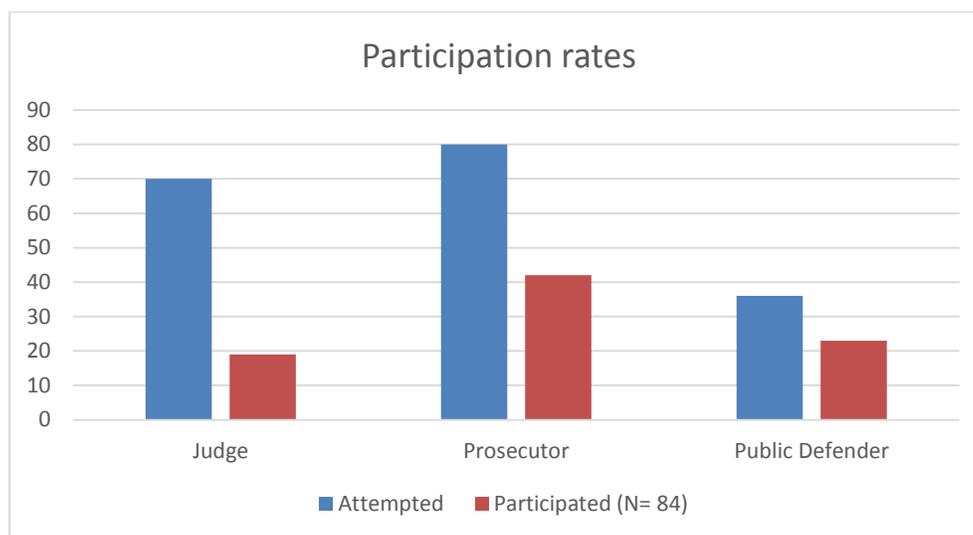
The method used in this study to measure the CSI Effect was a survey (see Appendices A-c). The survey was distributed to all town court judges of Monroe County, New York in paper

format through the mail. The total number of town judges that were contacted was 45. Surveys from town judges were returned completed to the researcher through the mail. In addition to the 45 town judges, thirteen New York State Supreme Court (appeals court) and County Court judges, as well as ten Rochester City Court and two Family Court judges (who hear criminal cases) were contacted to complete the survey. Completed surveys by this group were picked up by the researcher. A total number of 70 judges were asked to participate in this study, and 19 surveys (27%) were completed and returned to researcher (See Table 1).

The survey was also distributed to the District Attorney of Monroe County who helped to distribute the survey to 80 prosecutors. These surveys were picked up by the researcher from the DA's office once completed. A total number of 80 prosecutors were requested to participate in this study, and 42 surveys (52%) were completed and returned to researcher (See Table 1).

The Public Defender of Monroe County helped to distribute the survey to 36 public defenders. These surveys were also picked up by the researcher from the Public Defender's office once completed. A total number of 36 public defenders were contacted to participate in this study, and 23 surveys (64%) were completed and returned to researcher (See Table 1). A total sample (n) of 84 was recruited for this study.

Table 1: Percentages of Categories Who Chose to Participate



The survey administered to participants consisted of three parts: a recruitment statement, an informed consent document, and a survey. If individuals wished to participate after reading the informed consent, the survey would be completed. This survey was completely anonymous as to ensure the identity of the participant and allow for the most valid and reliable survey answers. This survey included 10 multiple choice questions and an option for additional qualitative comments (Refer to Appendix A-C).

Once data collection was completed, analysis began. First, each category was analyzed individually. Some questions are more important for the overall measurement of the CSI Effect so more attention was put towards those answers and any patterns associated with those questions (examples: numbers 2, 4, 6, 9). In addition to the answers for the multiple choice questions, comments left in the “Additional Comments” section at the end of the survey is a way for participants to explain some of their answers or expand on their opinions on the topic. This is helpful for further analysis because it allows for more information than originally received from the survey questions.

To look for similarities and differences, answer choices from each question were analyzed. While the more critical questions will give an overview of CSI Effect, other questions that seem of less importance help to break down critical questions, and also help to provide some explanations for the overall measurement. These comparisons are the key measurements for looking at the CSI Effect in Monroe County.

Results and Analysis

When deciding on a sample for this survey, it was assumed that prosecutors, public defenders and judges all fall into one category called the “legal field.” These were the eyes through which the CSI Effect was to be measured. As data started to be revealed, it became apparent that this construct was more complex than anticipated, as shown in previous studies. To assume there was one category with one general opinion about the CSI Effect at the end was a false assumption. It appears that there are three distinct groups with different opinions and perspectives on the CSI Effect, which makes these survey results all the more interesting. As will be seen, the main distinction in views is between the prosecution and defense. Thinking about the roles each play in a trial, this seems like an obvious observation. Given the nature of the roles of defense attorneys (both public and private) and the prosecution, there is a natural rivalry in the courtroom. Trial is a competition and neither side wants to lose. This competition is why a difference in opinions regarding the CSI Effect will be seen.

First, the most critical question on the survey (question #2) will be addressed, since it deals directly with the main purpose of this study; i.e. whether the participants agree that the CSI Effect exists in their courtrooms. Overall, 46% of participants agree that the CSI Effect exists in Monroe County Courtrooms, and another 30% *strongly* agree with its presence, while only 7% disagree

and 1% *strongly* disagree. From these results, it appears that a majority of participants agree, to some degree, that the Effect exists. What these results do not show however, are the differences within participant groups. These differences within groups will be essential to consider during analysis of results.

Even with this basic question, there is a significant difference in the opinions of public defenders and prosecutors. When asked whether they agree that the CSI Effect exists in Monroe County courtrooms, public defenders showed results of mixed feelings (See Figure 2). Contrary to the public defenders' opinions, the prosecution feels much more strongly towards the existence of the CSI Effect in its courtrooms with 50% agreeing with its existence and the other 50% *strongly* agreeing with its existence (See Figure 2). This was a rather shocking result, even though it supports the guiding hypothesis that the CSI Effect is present in Monroe County courtrooms, since it was expected that at least some would disagree with the hypothesis. This piece of data, being the most critical question on the survey, is the first to demonstrate the differences between the legal groups. Figure 2 below shows the major difference in answers between these groups. Not only does this appear to be a significant result, but statistically these results are in fact significant. In a chi-square calculation the chi-square statistic for this question is 112.3596, the p -value is < 0.00001 , and the result is significant at $p < 0.05$. Therefore, the results of the question are statistically significant.

The final results for this question come from the judges who participated. These results seem to show that all judges agree with the existence of the CSI Effect, since 47% agree with its existence, 21% *strongly* agree, 31% are unsure, and 0% disagree or *strongly* disagree with its existence.

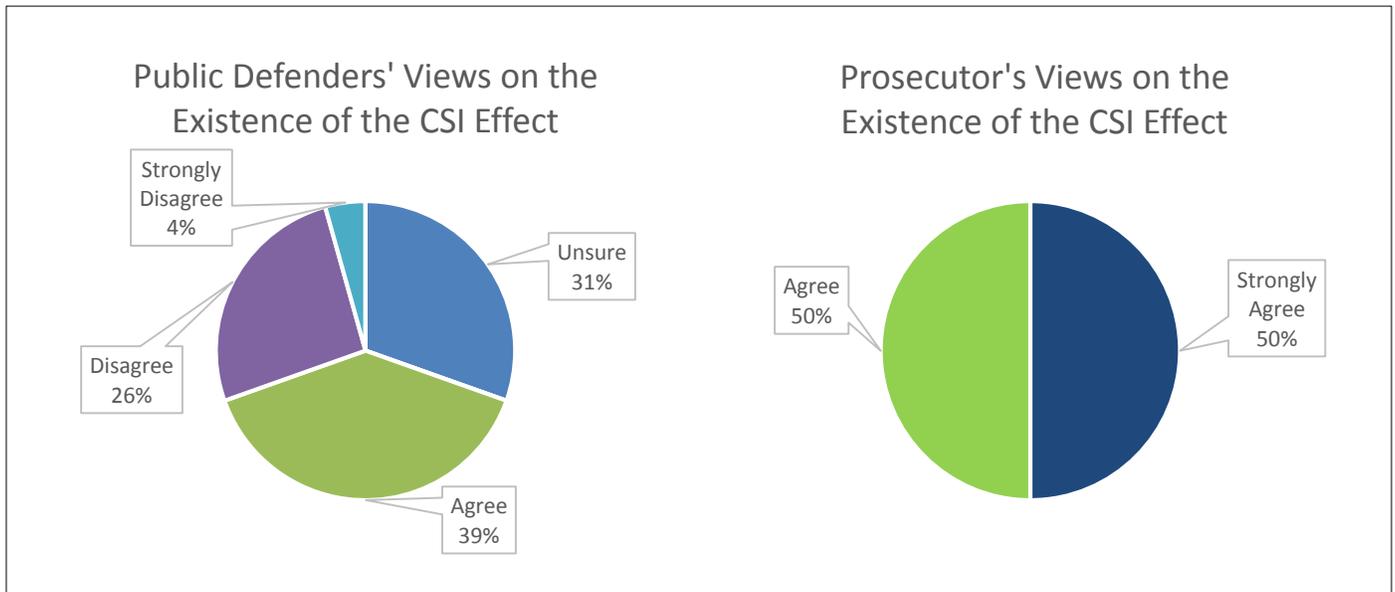


Figure 2: Public Defender and Prosecutor Answers to Question 2 Regarding Views on the CSI Effect

The first question (question #2) is an important question because it helps to give a broader opinion about the existence of the CSI Effect in Monroe County. However, this is not the only place where we will see an important difference in opinions regarding the Effect. The first theme of this study involves the recognition of a change in the courtroom. This theme is covered in questions 4, 5a, and 8 on the survey (See Appendix C).

In order to be able to measure the CSI Effect, it is important to first establish that there is a change in the courtroom, particularly in the way jurors view evidence presented to them. Fifty-seven percent of all participants report that in their experience jurors are expecting more physical evidence in order to reach a verdict, and another 24% say that in at least some cases this expectation is apparent. While there are higher numbers supporting the increased demand, only 7% report that they have not experienced this increase, and another 12% are unsure. Participants were also asked whether or not they have ever been involved in a case where the CSI Effect was present. Sixty-nine percent say that they are been involved in a case where they have noticed the presence of the CSI Effect, while 20% report never being involved in this type of case, and another 8% unsure

whether or not they have been. When these statistics are looked at from each participant group perspective however, clear differences between the participant groups are shown.

Public Defenders:

While there are mixed feelings among public defenders about the existence of the CSI Effect in Monroe County, 43% say that in their experience jurors are expecting, in at least some cases, more physical evidence in order to reach a verdict (question #4). An additional three participants reported that they experience an increased expectation for physical evidence, bringing the total to 57% who agree that in at least some cases there is an increase in demand for physical evidence. Forty-eight percent say that they have been involved in a case where they noticed the presence of the CSI Effect (question #8). At first this seemed to be an odd statistic given the earlier statistic showing that only 39% agreed that the Effect even existed and 26% disagreed. What seems to be the problem in this situation is a lack of understanding as *to what exactly is being seen in court*. Is what we are seeing in this situation in fact the CSI Effect, or some other “disease” with similar “symptoms”? (A more in-depth analysis will follow in the Interpretation section).

Prosecutors:

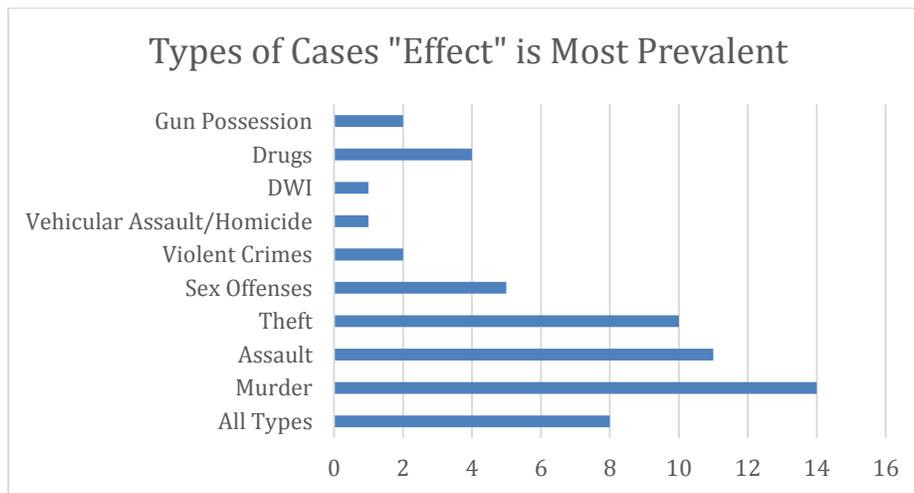
As expected, given earlier results from this study, there are a greater number of prosecutors that notice the CSI Effect in courtrooms. A vast majority (81%) of prosecutors surveyed said that in their experience, jurors are expecting more physical evidence in order to convict. Another 19% say that in at least some cases jurors are expecting more evidence to convict (question #4). Of those surveyed, 88% of prosecutors note that they have been involved in a case where they noticed the presence of the CSI Effect (question #8). These are overwhelming numbers of prosecutors in

favor of the CSI Effect’s existence, which are drastically different than those numbers from the public defenders.

Judges:

Judges, like prosecutors, also have a large majority (57%) who claim that in their experience jurors are demanding more physical evidence in order to reach a verdict, and 53% say that they have been involved in a case where they noticed the presence of the CSI Effect. Another 37% however have not been in case with these circumstances. Of those who responded that they have noticed an increase in demand, participants were asked which types of cases they found the demand more prevalent (Question 5a). The answers to this question are shown in Table 3. Natural differences in the roles and burdens of each category in court will bring out the differences seen here. It appears that role and perspective are important differences in a situation such as the CSI Effect.

Table 1: Types of Cases that All Participants Found Effect Most Prevalent



The next theme is based on job performance. If the CSI Effect is a real phenomenon it will affect at least one actor in the courtroom. Question number five attempts to look at the CSI Effect from this perspective, asking the participant if the demand for more evidence is changing the way

in which he/she performs their job. Overall, results for this question are rather mixed with 36% reporting that their jobs are changed by this demand, 38% reporting no change in their job performance, 19% saying that in some case their job is changed, and 6% unsure of a change. Question number six then asks who is affected the most by the CSI Effect. Just as will be seen among the individual groups, a vast majority of all participants place the Effect disproportionately in the hands of the prosecution. Eighty-two percent of participants view the prosecution as the most affected by the CSI Effect, while only 7% view it as affecting the defense the most, and 1% say that judges are most affected.

A majority of prosecutors (64.3%) say that the demand has indeed changed the way they perform their job. Another 26.1% say that in at least some cases their job performance is altered. Public defenders however, have a different view of the demand in regards to its Effect on their job performance. Fifty-two point two percent of public defenders say that their job performance is not changed due to the demand. Judges are an interesting category for this question however. One hundred percent of judges who participated say that this demand has not changed the way in which they perform their job. So, who is most affected by this phenomenon?

There is little that public defenders and prosecutors have agreed on in the first 4 questions. Number 6 however, shows a unique agreement between the two sides (See Figure 3). After asking participants who is affected the most, it appears that one side of the trial competition is significantly more affected by the CSI Effect than any other; the prosecution. All three categories seem to point in this direction. The figure below is shown to reinforce the differences between the prosecution and public defenders. Judges have an overwhelming majority (95%) of participants who view the prosecution as the category most affected by the CSI Effect. As will be discussed in further detail

later, the role of the prosecution, and the burden proof in the hands of the prosecution will contribute greatly to the results of this question.

Not only do these results appear to be significant, but statistically these results are in fact significant. In a chi-square calculation the chi-square statistic for this question is 78.001, the p-value is < 0.00001 , and the result is significant at $p < 0.05$. Therefore, the results of the question are statistically significant.

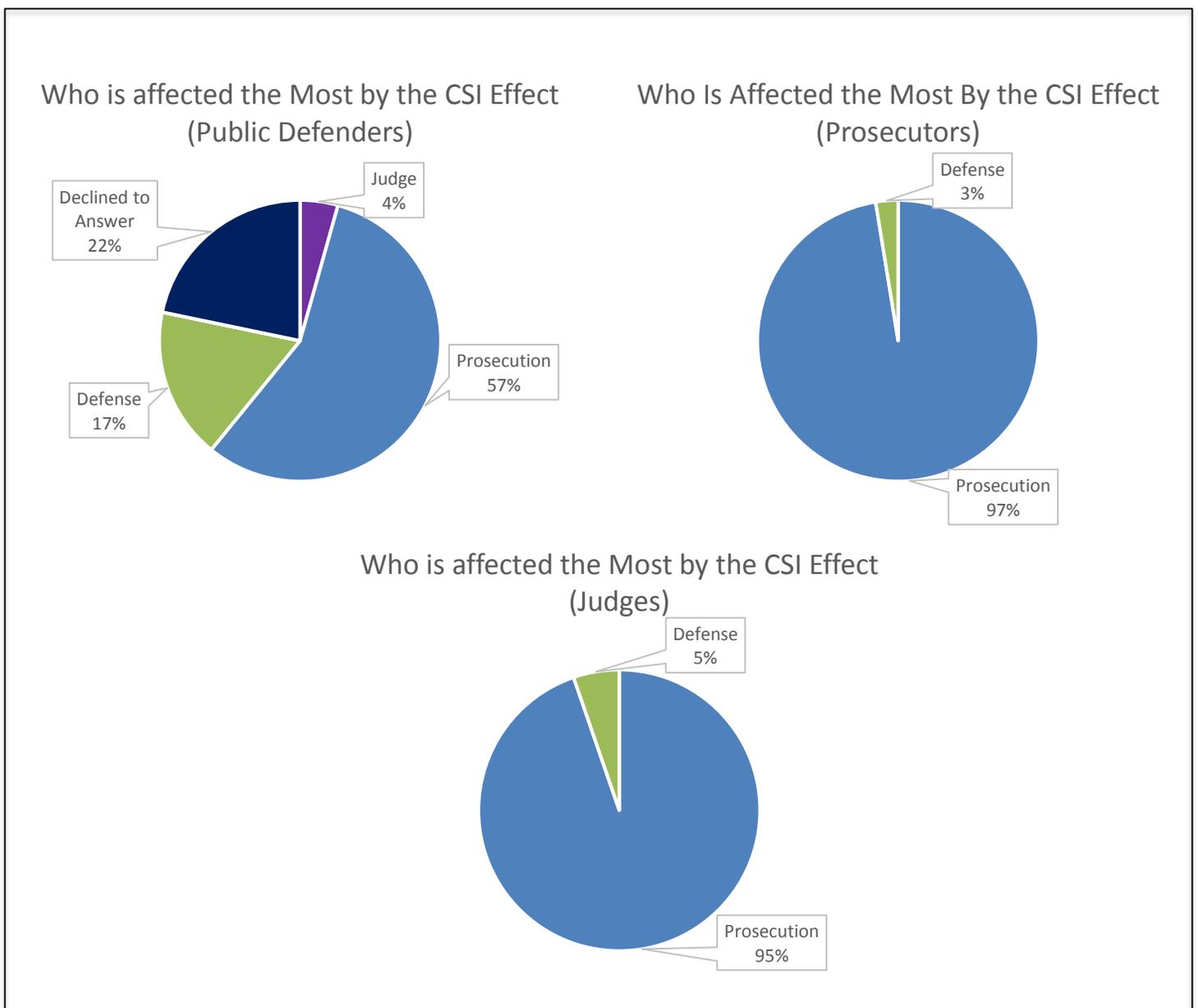


Figure 3: Who is affected the Most by the CSI Effect from the Perspective of Public Defenders and Prosecutors

The third theme in this study revolves around a question that is commonly asked when discussing the CSI Effect. If the CSI Effect exists, is it beneficial to a trial? This is where differences in the debate regarding the CSI Effect become more apparent. Question number four on the survey asks participants if they view the CSI Effect as beneficial to Monroe County courtrooms. A majority of participants (56%) view the CSI Effect as a phenomenon that is not beneficial to a trial. Still, a large number of participants see the Effect as a possible benefit with 29% saying that in some cases it can benefit a trial, and another 8% saying that it definitely is beneficial. Another 8% are unsure as to whether it is beneficial or not. Major differences will be seen within the individual groups.

Seventy-three point eight percent of prosecutors say no, the CSI Effect is not beneficial. Fifty-six point five percent of public defenders say yes in some cases the Effect is beneficial for trial. According to survey results, judges seem to agree with the prosecutors with 63% saying that the Effect is not beneficial to the courtroom, and a smaller percentage of 10% saying that it is beneficial. Another 21% of judges are unsure if the Effect is beneficial.

So, why do we have this differing of opinions in the legal field? Again, it is important to understand the roles that both the public defenders (and private defense attorneys) and prosecutors play in a trial. The burden of proof lies in the hands of the prosecutor and defense attorneys want that burden to be upheld. It is beneficial for the defense to have a jury who is less likely to convict based on a lack of evidence, even if that means that the CSI Effect is causing that verdict. If it makes the prosecution's job more difficult, the defense will benefit.

Since an overwhelming majority (70%) of judges and prosecutors view that CSI Effect as not beneficial for the courtroom the next question posed is how can the Effect be managed? Question #9 discusses how to manage the CSI Effect in Monroe County courtrooms. For this

question, participants were given the option to circle all answers that may apply, and also write-in answers (answer choice D) that they wish to add to the discussion. Participants were given the answer choices of “voir dire,” “jury selection,” “opening and closing statements,” and “other” (write-in answers). Among all participants, 69% chose voir dire as one option for managing the Effect, 58% chose jury selection as one option for management, and 45% chose opening statements. 24% of participants chose to add to the discussion through write-in answers in choice D. “Jury instructions” was a common answer among participants who answered with written comments. One participant noted that in jury instructions, the “modification of wording” is one way that jury instructions can be a way in which judges help to manage the Effect. Wording can assist jurors in understanding their job correctly. This was often paired with “judge’s statements.” Not only after trial, through instructions, but also at the beginning of trial, judges can help by “indicating there are many different types of evidence and you don’t get the same evidence in every case.” Judges’ statements also help to clarify the difference between reality and television, and what is not reality and therefore not evidence. Another common answer among participants is the use of expert witnesses. Witnesses can be useful because they can explain the “lack of CSI in particular cases and why it’s not necessary to get to a particular conclusion/opinion.” Also, “asking police/technicians or other experts on witness stand whether various forensic tests exist and/or why certain types of evidence may or may not exist in a particular case” is a tactic that can be used to diminish the CSI perception in jurors’ minds. There were a couple additional interesting answers provided for this question that are worth noting. These answers include the need for truth in television, and the use of a video made by CSI stars discussing unrealistic science in the show to be shown to potential jurors. The efforts of these two actions are intended to “increase public knowledge of the real world of forensics.”

The last theme to be discussed looks into the future. If the CSI Effect is a real phenomenon in the court system, will it continue to be a problem in the future? This question is addressed on the survey in question number seven. Results from this question are as expected within the overall group, and individual groups; mixed (See Figure 4). Overall, 46% of participants are unsure. While this is a larger number, there are still 15% who *strongly* agree that the Effect will be a problem in the future, 27% who agree, 7% who disagree, and 1% who *strongly* disagree it will become a problem in the future.

The only majority answer within the individual groups is that of unsure, which has come from both judges (63%) and public defenders (52%). The Prosecution is the only side that has stronger feelings toward the existence of the CSI Effect in the future, with 33% agreeing and 26% *strongly* agreeing. This should not be a surprise though given their strong opinions on every other questions regarding the CSI Effect. One participant commented on their survey that this question “depends on real world advancements in forensic science and technology vs. budgetary restrictions to actually implement.” Although this answer seems basic, this question really is centered on the way technology and science progress in the future. The only way to truly understand the role of the CSI Effect in future courtrooms is through continued research and studies.

Again, these results appear, from the figure below, to be significant, but statistically these results are in fact significant. In a chi-square calculation the chi-square statistic for this question is 109.7492, the p- value is < 0.00001 , and the result is significant at $p < 0.05$. Therefore, as seen from this calculation, the results of the question are statistically significant.

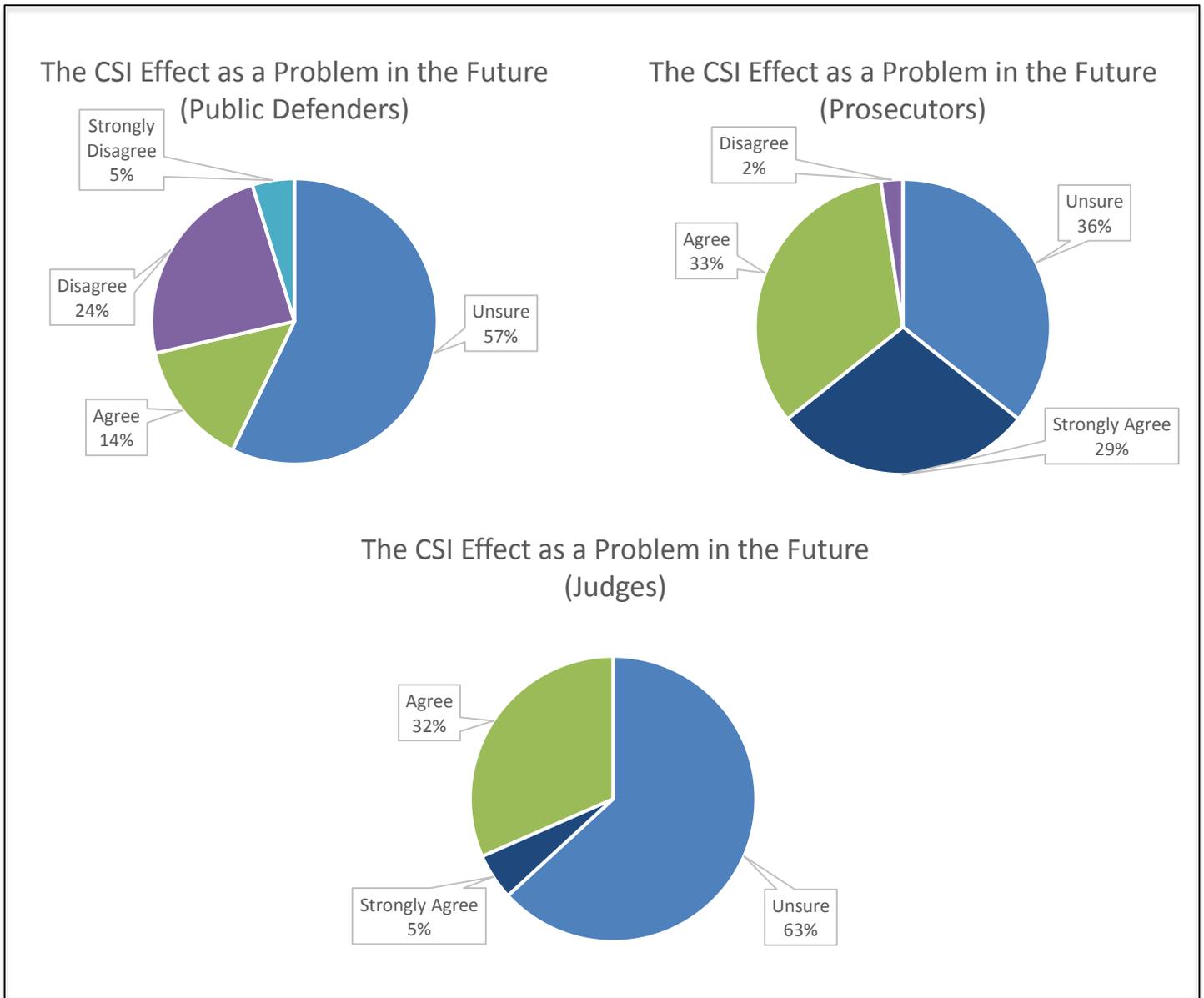


Figure 4: Will the CSI Effect Become a Bigger Problem in the Future?

Interpretation

The role of the prosecutor, public defender, and judge in the trial process is a key factor in the CSI Effect. When examining the Effect from the perspective of the legal field, the roles of each player must be considered. Roles help to explain answers to survey questions that ask whether the participant thinks the Effect exists at all, whether it is beneficial, if the participant's job is altered

in any way, and who the CSI Effect affects the most. Burden of proof is a major factor that branches off of the concept of roles, and affects the way in which prosecutors view the existence of the Effect. Since the burden of proof is in the hands of the prosecution, they would appear to be most affected by the CSI Effect, as has been seen through the survey results, because they are forced to cope with the changes that are associated with the Effect. This would alter their views on the CSI Effect from those of the defense who are not required to prove anything and only have to cast doubt on the prosecution's case. This would also help to explain why a great amount of prosecutors reported that their job was changed in some way due to the increase in demand. The increase in demand forces them to use all the resources they have to play up the evidence their case does have and also to explain to the jury the reason for the lack of evidence.

The role of the defense appears to present a different a result than that of the prosecution. Since the defense does not have the burden of proof, the CSI Effect may not be as clear or apparent for a defense attorney as it is for the prosecution. The defense does not have to worry about presenting evidence in the same way the prosecution does. In fact, the CSI Effect may be an advantage for the defense if there is little physical evidence on the prosecution's side. As discussed earlier, the argument of "an absence of proof is a proof of absence" is a great way for the defense to cast enough doubt on the prosecution's case, ultimately benefiting the defense. In addition, it could also have little-to-no effect on the way in which a defense attorney performs his or her job.

From the judges' data however, results should not come as a surprise, given their role. The more neutral, mediator role of judges probably accounts for the fact that their job is not in any way affected, as 100% of judges reported no change in their job due to the increase in demand. Judges are not required to present evidence or argue for-or-against the evidence. The role of the judge may also account for the apparent "mixed feelings" towards the existence of the CSI Effect.

Because a judge's job is not affected in any way due to the increase in evidence, they may not recognize the Effect right away, or look for it the way prosecutors and defense attorneys do when preparing and delivering their case in court.

In the "Recognition" theme of the survey, results showed that public defenders had mixed feelings toward the existence of the CSI Effect, but did acknowledge an increase in demand for physical evidence among jurors. Earlier studies have been discussed that presented alternatives to the CSI Effect as promoters of this increase in demand. The Tech Effect and other effects such as the White Coat Syndrome presented by Judge Shelton (2008) should not be excluded in research on the CSI Effect. Although prosecutors strongly believe in the CSI Effect's presence it is possible that the CSI Effect is not the only phenomenon playing a role in this increase in demand for physical evidence. It is possible for two cases to have similar "symptoms" that may lead a researcher to believe that the CSI Effect is at play, but the causes of these symptoms could be something different than CSI. While the CSI Effect should not be excluded, since the Effect does seem to be present according to prosecutors and some public defenders and judges, it should not be looked at as being the only cause for this increase. Today, technology is reaching new heights, and people are acknowledging this general advancement in technology, which could be leading jurors to expect more physical evidence produced by this technology in the courtroom. Future studies should attempt to further differentiate the "Effects" from one another.

Summary

What has been learned?

In some form, the CSI Effect exists. Not all participants may be in agreement as to the degree of its existence, but it appears to be present in at least some cases. Whether the Effect is a lone actor or a co-star in the changing courtroom dynamic, criminal justice personnel are seeing an increase

in the demand for physical evidence in a trial in order for jurors to reach a verdict, and this is changing the way in which many of the participants are performing their jobs.

Compared to Other Studies

The results from this study are similar to previous studies in that it acknowledges an increase in demand for physical evidence in a courtroom in order to reach a verdict, and the existence of the CSI Effect in some form. This study also agrees in-part with studies done by Judge Shelton (2008), presenting the idea that the CSI Effect may not be the only possible cause for the increase in demand for physical evidence. These other possible causes include the Tech Effect and the White Coat Syndrome. This study however, does not have the questions necessary to sort out these alternatives from the CSI Effect. While the questions from this study may not attempt to differentiate the “Effects” from one another, results help to reach the goal of finding a presence of the CSI Effect, and other possible causes. This study expands on earlier studies and should be further expanded by further researcher which should attempt to sort these “Effects” to see how each influences a courtroom.

Where this study presents its greatest difference from other studies however is in its explanation for the results shown. Other studies focus on why the CSI Effect exists, if it does in fact exist, but from a different perspective than this study. They look at the Effect from the perspective of jurors, such as in Mancini’s study (2013), or try to understand the minds of jurors. This study however, looks at its existence from the perspective of criminal justice personnel to see if the Effect exists, and why each group views the Effect in the way it does. The roles of each group studied here is an important factor that this study strives to highlight as a way to explain the difficulties, in not only measuring the Effect, but also understanding the Effect as a phenomenon

changing the courtroom dynamic, and also explaining the difficulties in determining the existence of the CSI Effect.

What's Next?

The current study is not error-proof and has limitations. First, the sample size for judges is smaller than desired which may not allow for a complete representative sample. Future studies should attempt to obtain a larger sample to ensure more reliable results. Another limitation comes from a couple questions on the survey that indicate that the CSI Effect was a negative influence. If this survey was to be conducted again, researchers should change the wording in question seven to ask if the CSI Effect will continue to be a *phenomenon* in the future, rather than a problem. The wording should also be changed in question nine to ask what ways the CSI Effect can be managed *IF* it poses any threats to the courtroom, rather than assuming it is a problem.

Another suggestion for further study is an expansion of targeted samples. The current study looks at the CSI Effect from the perspective of the legal field but not from the jurors. Since jurors are a key player in the trial process, and the group raising the question of the Effect's existence, it may be helpful to have a sample category of jurors in collaboration with the three groups presented in this study in order to have a full analysis of all courtroom actors. Questions posed to jurors, or potential jurors, before and after trial could attempt to sort out the "Effects." There is no way to fully understand jurors, but questions after trial may help researchers and criminal justice personnel try to understand the decision making process, and to see what, if anything, influenced their decision making process, and ultimately their decision. In addition to the added jurors' category, future researchers should attempt to have participants from a private defense attorney standpoint in addition to the public defense. This again allows for a more complete group of courtroom actors, and may also present different outcomes to the survey results.

The CSI Effect has been shown to present problems for researchers, and this study is no exception. Researchers on the CSI Effect may never find one definite way to measure the CSI Effect. The reason is due to the fact that the CSI Effect is viewed so widely among those who are affected by it. Prosecutors are affected much differently than are defense attorneys. Although the Effect can have similar effects for both sides, it generally presents different outcomes. As has been discussed, the roles of each group is a major influence on the CSI Effect. Future research should be conducted far into the future to track trends in crime-television viewing, jurors' perceptions on these shows, and opinions of criminal justice personnel, such as those surveyed in this study, and should also attempt to further differentiate the "Effects" from one another in order to better understand this new phenomenon and its future implications.

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Appendix "A"

Recruitment Statement

My name is Paige Monachino and I am an Honors student at The College at Brockport. I am conducting a research study to examine the prevalence of the CSI Effect in Monroe County courtrooms. This study looks at the CSI Effect from the perspective of Judges, prosecutors, public defenders, and private defense attorneys. This research project is also being conducted as part of my Honors thesis for the Honors Program at the College at Brockport, SUNY. If you wish to participate in this study, please read the informed consent form and proceed to the survey. Thank you.

Appendix “B”

STATEMENT OF INFORMED CONSENT

My name is Paige Monachino and I am an Honors student at The College at Brockport. I am conducting a research study to examine the prevalence of the CSI Effect in Monroe County courtrooms. This study looks at the CSI Effect from the perspective of Judges, prosecutors, public Defenders, and private defense attorneys. This research project is also being conducted as part of my Honors thesis for the Honors Program at the College at Brockport, SUNY.

In order to participate in this study, your informed consent is required. You must be a judge, prosecutor, public defender, or private defense attorney practicing in Monroe County, New York in order to participate in this study. You are being asked to make a decision whether or not to participate in the project. Your participation in this study is completely voluntary. You are free to change your mind or withdraw from the study at any time. You may skip any question you wish not to answer.

Again, you may change your mind at any time and leave the study without penalty, even after the study has begun.

I understand that:

1. My participation is voluntary, and I have the right to refuse to answer any questions.
2. My confidentiality will be protected. My name will not be written on the survey. There will be no way to connect me to my written survey. If any publication results from this research, I will not be identified by name.
3. There will be no anticipated personal risks or benefits because of my participation in this project. There is minimal risk participating in this study due to the time it takes for completion.
4. My participation involves reading a written survey of 10 questions and answering those questions by circling the answer. It is estimated that it will take 15 minutes to complete the survey.
5. A maximum of 350 participants will take part in this study. The results will be used for the completion of an Honors thesis by the primary researcher.
6. Data will be kept in a locked filing cabinet by the investigator. Data and consent forms will be destroyed by shredding when the research has been accepted and approved.

I have read and understand the above statements. All my questions about my participation in this study have been answered to my satisfaction. I agree to participate in the study realizing I may withdraw without penalty at any time during the survey process. I understand that by completing and submitting this survey, I am giving my consent.

If you should have any questions regarding this study and/or your participation in this study, please contact the primary researcher, Paige Monachino at pmonal@brockport.edu or (585)690-6029, or the researcher’s advisor, Ann W. Bunch at abunch@brockport.edu or (585)395-5501

Appendix “C”

CSI Effect Survey

Directions: Please choose the best answer(s) by circling your answer. You may skip any questions you do not wish to answer.

CSI Effect- the phenomenon whereby high-tech, forensic science dramatized in television crime dramas such as CSI, Law & Order, and Forensic Files theoretically promotes unrealistic expectations among jurors of how apparently clearly and definitely forensic evidence can determine innocence or guilt. (Definition provided by the American Bar Association)

1. Occupation
 - a. Judge
 - b. Prosecutor
 - c. Private Defense
 - d. Public Defender
 2. I agree that the CSI Effect exists in Monroe County Courtrooms.
 - a. Unsure
 - b. Strongly agree
 - c. Agree
 - d. Disagree
 - e. Strongly disagree
 3. Do you see the CSI Effect as beneficial to Monroe County courtrooms?
 - a. Yes
 - b. No
 - c. In some cases
 - d. Unsure
 4. In your experience, are jurors expecting more physical evidence in order to reach a verdict?
 - a. Yes
 - b. No
 - c. In some cases
 - d. Unsure
 5. Is the demand for more evidence changing the way in which you perform your job?
 - a. Yes
 - b. No
 - c. In some cases
 - d. Unsure
- ↓
- If yes, are there certain types of cases where you see the demand more prevalent?
- a. Murder/homicide
 - b. Assault
 - c. Theft
 - d. Other _____
6. Based on your experience, who is affected the most by the CSI Effect?
 - a. Judge
 - b. Prosecutor
 - c. Defense
 7. The CSI Effect will become a bigger problem in the future.
 - a. Unsure

- b. Strongly agree
 - c. Agree
 - d. Disagree
 - e. Strongly disagree
8. Have you ever been involved a case in where you noticed the CSI Effect?
- a. Yes
 - b. No
 - c. Unsure
9. In what ways can we help to decrease the likelihood of the CSI Effect having an effect on Monroe County Courtrooms? (Circle all that may apply)
- a. Voir dire
 - b. Jury selection
 - c. Opening/closing arguments
 - d. Other_____

Additional Comments:
