



Engaging the CSI effect: The influences of experience-taking, type of evidence, and viewing frequency on juror decision-making



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ABSTRACT

Crime dramas have become a popular part of media culture, but research examining their influence on juror decision-making is in its infancy. This research examined the influences of crime drama viewing frequency, individuals' degree of engagement (engaged or non-engaged) with a crime drama, and type of evidence (forensic, eyewitness, or both) on mock jurors' verdicts. Results indicated that, among engaged participants who were presented with forensic or eyewitness only evidence, frequent crime drama viewers offered more confident *not* guilty verdicts compared to infrequent viewers. However, this evidentiary skepticism between frequent and infrequent viewers vanished when participants engaged with the show and were presented with both types of evidence. Among participants not induced to engage with the crime drama, these patterns were very different—non-engaged participants who were presented with eyewitness only or both types of evidence offered more confident *not* guilty verdicts the more frequently they watched crime dramas. Yet, non-engaged viewers presented with forensic only evidence rendered similar levels of guilt verdicts regardless of their crime drama viewing frequency. Implications for juror decision-making research and applied implications for the legal system are discussed.

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1. Introduction

An article titled “CSI Has Ruined The American Justice System” (Boniello, 2015) described a case in which police officers witnessed a drug deal between two individuals. The suspect resisted arrest when police went to handcuff him and, during the struggle, a bag of crack cocaine fell off the suspect. Although many would think of this case as a “homerun” for the prosecution, the defendant was only found guilty on a resisting arrest charge. When attorneys spoke with jurors after the trial they said there should have been DNA evidence recovered with the crack cocaine and gave that as their reason for the decision to acquit the suspect of the drug charges.

People's affinity with the activities of the legal system has a rich history (Dowler, 2003) ranging from the extensive captivity with the Lindbergh baby abduction, through the intense following of the OJ Simpson trial to the extraordinary interest in the Netflix documentary series *Making A Murderer*. The interest in legal system issues has spawned many shows that have become ingrained in American culture such as the crime drama franchises *Law and Order* and *Crime Scene Investigation (CSI)*. Often, these shows focus on the forensic evidence that is collected and subsequently presented during criminal trials.

Indeed, the crime dramas that have emphasized the forensic evidence aspect have become the most popular (Tyler, 2006). The most notable example is *CSI: Las Vegas* which has aired for 15 years during which time multiple spinoffs have been successfully produced.

This intense following and consumption of legal crime media has prompted questions concerning their effect on viewers—questions about the influence of frequency of consumption, the influence of different types of evidence, the influence of how much viewers engage and identify with the show, among others. Answers to these questions are especially important because they could establish that viewing such shows prejudices some triers-of-fact (e.g., jurors) for particular types of evidence. Although, there is some support for the idea that crime dramas influence potential jurors' decision-making (e.g., Hayes-Smith & Levett, 2011; Maeder & Corbett, 2015) and may bias people in a similar fashion as other forms of pre-trial publicity to favor the prosecution or defense (Schweitzer & Saks, 2007), no research has empirically examined the combined influences of viewing frequency, viewer engagement, and evidence type on individuals' verdict decision-making processes. Accordingly, the present study examined whether differences between frequent and infrequent crime drama viewers' verdict decision-making were affected by the type of evidence they were presented with and how much they engaged with crime dramas. We begin by discussing pertinent literatures on juror decision-making, the influence of viewing crime dramas (i.e., CSI effect), and strongly

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identifying with these shows (i.e., experience-taking) after which we provide an overview of the current research.

1.1. Juror decision-making and the CSI effect

A robust literature has examined various influences on juror decision-making including race (Bradbury & Williams, 2012; Kimmelmeier, 2005; Kleider, Knuycky, & Cavrak, 2012; Maeder & Burdett, 2013; Sargent & Bradfield, 2004; Sommers & Ellsworth, 2000; Sommers & Ellsworth, 2001), gender (McKimmie, Masters, Masser, Schuller, & Terry, 2013; Pozzulo, Dempsey, Maeder, & Allen, 2010), juror experience (Kassin & Juhnke, 1983; Durand, Bearden, & Gustafson, 1978), negative emotion during trial (Nuñez, Schweitzer, Chai, & Myers, 2015), among others. The type of evidence presented to jurors is another factor that reliably influences their decision-making. For example, jurors tend to regard eyewitness evidence as reliable and perceive it to be a strong form of evidence (Lieberman, Carrell, Miethe, & Krauss, 2008; Brewer & Burke, 2002). The influence of eyewitness identification has been found to be especially powerful when supporting the prosecution (e.g., Maeder, Ewanation, & Monnink, 2016) and especially reliable when the identifications were positive (e.g., Pozzulo, Lemieux, Wilson, Crescini, & Girardi, 2009).

Forensic evidence also has a powerful influence on juror decision-making. Some research has demonstrated that scientific forensic evidence has such a profound impact on juror decision-making that its presentation can overpower the influence of eyewitness evidence (e.g., Pozzulo et al., 2009; Skolnick & Shaw, 2001). Hence, some forensic evidence, presumably because it is viewed as the gold standard of evidence, often has the biggest influence on juror decision-making (Lieberman et al., 2008). Because eyewitness and forensic evidence represent two powerful and often presented types of evidence, we thought it was prudent to examine their unique and combined influence on juror decision-making.

Another particularly germane factor that influences juror decision-making is pre-trial publicity. Pre-trial publicity (PTP) can originate from a variety of sources (e.g., news media, crime dramas, etc.) and serves to potentially bias jurors' judgments about key players (e.g. defendants, victims, witnesses, and attorneys) and aspects of a trial (e.g., evidence; Kramer, Kerr, & Carroll, 1990). Mock-jurors exposed to either pro-prosecution or pro-defense PTP made decisions consistent with the type of PTP they were exposed to—an effect that became stronger with increased exposures to the PTP (Daftary-Kapur, Penrod, O'Connor, & Wallace, 2014). Other research has shown that PTP can affect jurors' impressions of defendants. Mock jurors who were shown pro-prosecution PTP one week before a criminal trial were more likely to render a guilty verdict and had a more negative impression of the defendant than those who did not receive any PTP (Ruva & Guenther, 2015).

The content and information presented during crime dramas, such as CSI, could act as a form of PTP. For instance, viewers may develop an unreasonable expectation of evidence collection, evaluation, and presentation during a criminal trial based on the sensationalized crime drama depictions that could serve to bias juror attitudes and influence their subsequent trial judgments and decision-making—a process sometimes referred to as the CSI effect (Tyler, 2006). Although minimal empirical support has been offered for the occurrence of the CSI effect, lawyers and judges have, nonetheless, been observed making adjustments based on the idea that jurors might be influenced by the CSI effect (Stevens, 2008). These adjustments are problematic because they are based on intuitions and speculation of an effect for which research has yielded mixed results (e.g., Podlas, 2006; Shelton, Kim, & Barak, 2006) and has yet to establish underlying and moderating factors associated with the process (Tyler, 2006).

One factor speculated to strongly impact the influence that crime dramas have on juror decision-making is the frequency that an individual watches such shows. One theory that helps to appreciate the influence of crime drama viewing frequency on juror decision-making is cultivation

theory (Bilandzic, Busselle, Spitzner, Kalch, & Reich, 2009). Cultivation theory posits that people's beliefs and attitudes will align more strongly with the media they are viewing the more frequently the media is consumed (Gerbner, Gross, Morgan, & Signorielli, 1986; Cohen & Weimann, 2000). Although cultivation research has heavily focused on television violence (Gerbner, Gross, Morgan, & Signorielli, 1980), the underlying theory is generalizable to the effect other types of media have on viewers, media such as crime dramas. In this way, as individuals become more frequent viewers of crime dramas, their attitudes and beliefs may begin to more closely mirror the ideas presented in crime dramas—ideas, in this case, related to the collection, availability, presentation, and interpretation of forensic evidence.

The relationships suggested by cultivation theory between viewing frequency and juror decision-making have received some support. The likelihood of selecting a guilty verdict *decreased* by 64% for low levels of forensic evidence conditions and by 70% for high levels of forensic evidence conditions as the amount of one's daily crime drama viewing *increased* (Hayes-Smith & Levett, 2011). Moreover, research comparing viewers of CSI to non-viewers of CSI has shown that viewers are more critical of forensic evidence, rendered less guilty verdicts (18% guilty verdicts compared to 29% guilty verdicts offered by non-viewers), and are more confident in their verdict decisions than non-viewers (Schweitzer & Saks, 2007). This body of research suggests that viewing crime dramas influences people's verdict decisions by making them less likely to render a guilty verdict. However, other research has demonstrated that more hours spent viewing crime dramas and programs such as Justice TV are associated with attitudes that scientific types of evidence are more reliable (Baskin & Sommers, 2010)—a finding that seems to contradict the aforementioned research. Hence, it is important to further examine the influence of crime drama viewing frequency and the role of evidence type on juror decision-making.

More recent work has begun to examine the role of other individual difference factors in relation to the CSI effect. One such factor is viewers' perceived realism of the media they are viewing (Maeder & Corbett, 2015). Perceived realism focuses on individuals' perceptions that television shows are accurate and realistic depictions of reality. The idea is that perceived realism might interact with the frequency of one's crime drama viewing to impact their evaluations of evidence and subsequent verdicts. Results indicated that viewers high in perceived realism related to crime drama television were also more skeptical of forensic evidence (Maeder & Corbett, 2015), a finding consistent with Schweitzer and Saks (2007). This research suggests that individuals' experiences during viewing crime dramas can influence their subsequent judgments and decisions. With this idea in mind, the present research integrated individuals' engagement with the crime drama in an attempt to provide a more nuanced and comprehensive picture of any influence that the CSI effect may have on juror's decision-making processes.

1.2. Experience-taking

Individuals differ in the degree to which they engage with the media they are viewing. The concept of experience-taking refers to the degree in which people can assume the identities and relate to characters of a show rather than relying on their own ideologies and traits as they otherwise would. Essentially, individuals implicitly adopt the views of the characters of the show and spontaneously integrate those characters' personality into their own thoughts, feelings and behaviors (Kaufman & Libby, 2012). Based on research demonstrating that perceived realism influences individuals' judgments of evidence, it seems likely that experience-taking while viewing crime dramas could have meaningful implications and moderate any CSI effect on jurors' decision-making. Specifically, experience-taking could cause individuals to evaluate forensic evidence differently compared to individuals who are not identifying with the crime drama.

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