‘CSI effect’ impacts justice in Tucson

A.E. Araiza / Arizona Daily Star

Alicia Perkins, *a Department of Public Safety criminologist, tests a cigarette pack for fingerprints at a Tucson laboratory. Some jurors are demanding evidence as clear-cut as that presented on TV shows, and courts across the country must deal with the problem.*

Juries demand the impossible of investigators

By Enric Volante and Kim Smith

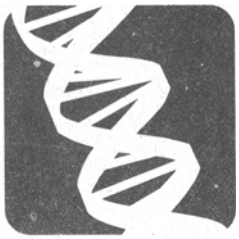
ARIZONA DAILY STAR May 8, 2005

Some Pima County jurors take longer to deliberate because they expect evidence to be as clear-cut and stunning as on hit TV shows like "CSI: Crime Scene Investigation."

Because of the so-called "CSI effect." judges and attorneys are being more selective when they choose jurors and present cases, and some exasperated cops are worrying that such TV shows could lead to criminals avoiding prison.

Courts across the country are scrambling to deal with the phenomenon, according to news reports.

Crime scenes: TV vs. reality



DNA results

- TV: DNA results come back in a few hours.
- REALITY: Nuclear DNA can take several days to a week to process, and the samples are normally tested in batches that take about a month. It can take a month just to get enough of a sample to test in mitochondrial DNA because it can be so difficult to get enough matter from bone, teeth or hair.

In Phoenix, several criminal cases appear to have turned on the lack of such TV-inspired evidence, said Barnett Lotstein, a special assistant Maricopa County attorney. In Peoria, Ill., investigators matched the DNA from saliva on a rape victim's breast to the DNA of a gang member who said he never touched her. But jurors said police also should have tested the soil at the rape scene, and refused to convict the man.

And in San Francisco, homicide investigators will meet this summer for a panel discussion on the CSI effect.

In Pima County, when prosecutor Rick Unklesbay was getting ready to try suspected cop killer John Montenegro Cruz, he knew the jury would likely include fans of "CSI" or one of its spinoffs. And he knew Cruz's DNA wasn't found on the murder weapon.

"I ended up having my DNA expert review cases over a six-month time period to show just how many times they got DNA from a gun so the jury would understand that it's actually very rare," Unklesbay said.

The jury convicted Cruz and sentenced him to death.

Judge Michael J. Cruikshank, who oversees the criminal division of Pima County Superior Court, said he began noticing the CSI effect when he returned from Juvenile Court to hearing adult cases in 2003. At that time, "CSI" was television's top-rated prime-time show, drawing more than 29 million viewers to beat even "Joe Millionaire."

Cruikshank has not seen a Pima County case won or lost over the lack of such TV-inspired forensic evidence. But he and others said jurors sometimes take longer to deliberate. Sometimes they ask more questions. And sometimes when the judge and attorneys chat with them after trial, jurors express disappointment that they didn't have more scientific physical evidence.

Judges now routinely ask potential jurors if they believe cases can be solved as quickly as Gil Grissom routinely does on CBS on Thursday nights.

"We get this kind of laughter, but anecdotally, we sometimes get the idea that they think these shows do somehow

Fingerprints

- **TV:** Fingerprints can be retrieved from nearly any surface in nearly every case.
- REALITY: Fingerprints are a finicky thing. Many surfaces, such as a wooden tabletop or a gun with a no-slip grip, are too bumpy for a print to stick. A fingerprint is easily smudged if a person twists even slightly when lifting off a surface.

Tests for gun residue

- TV: Tests can confirm if a person shot a gun even long after the crime.
- REALITY: Gun residue tests are used in courts. However, the test, which runs about $350 per finger, must be conducted almost immediately after a shooting. And the results can be sabotaged if a person washes his or her hands or rubs them on a piece of clothing.

Facial reconstruction

- TV: Facial reconstruction can be done using a computer.

transfer into real life," Unklesbay said.

Analysts are specialists

Susan Shankles, crime-lab superintendent for the Tucson Police Department, recalled a TV episode in which someone was ' stabbed to death. A medical examiner poured casting material into the wound, let it harden and pulled it out to reveal the type of knife used by the killer.

One problem: There's no proven technology for doing that, said Shankles and Bruce Parks, the Pima County medical examiner.

In real crime labs, analysts specialize in certain tests because it takes a lot of ongoing training to be an expert in just one area.

But on “NCIS,” an action drama based on the Naval Criminal Investigative Service, there's Abby Sciuto, the tattooed analyst dressed in Goth attire who's a one-woman crime lab.

"I really wish I could hire her because she does everything," joked Shankles. "She does DNA, she does tire tracks and she does fingerprints — and then she even does things that nobody does yet."

Pima County sheriff's Sgt. Brad Foust, a supervisor of homicide investigations, said that even when testimony from witnesses and other evidence makes a strong circumstantial case to convict, jurors sometimes seem to be "waiting for that big groundbreaking DNA like they see on TV."

"There are a lot of criminal cases, including murder cases, that were merely circumstantial cases," Foust said. "Our biggest fear is that what these shows will mainly do is that these people will start getting acquitted."

Kate Fisher, a CBS spokeswoman, refused to comment.

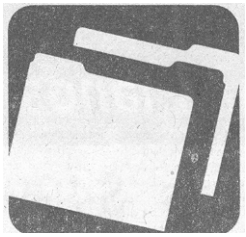
Forensics in the limelight

Ed Heller knows the CSI effect all too well.

A criminalist for 27 years, he's spent the last three as the lab manager for the Arizona Department of Public Safety's crime lab in Tucson.

He tells of jurors who want to know why a DNA test wasn't performed in a

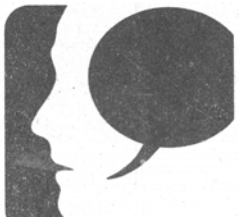
- REALITY: 3-D imaging on computers is still a developing technology. For now, facial reconstruction is mostly done using modeling clay over forms.



Collecting evidence

- TV: Crime-scene investigators collect evidence, analyze results and interview suspects.

- REALITY: The lab workers collect evidence and conduct tests. But most aren't trained to interview suspects; if they did, it would likely taint their findings as not being impartial



Lab results

- TV: Lab results are immediately shared with police.

- REALITY: Even after the initial testing is completed, it can take a while to get out of the lab. All cases are reviewed two more times, once by another scientist and again by a supervisor, before the results are sent to the police.

drunken driving case and why it wasn't done in eases where even the defendant acknowledges he was at the crime scene.

Crime-scene investigators and lab analysts say the shows have done more than confuse jurors and exasperate justice officials. The shows have increased awareness of and funding for forensic science. The pool of job applicants has grown as students have come to see forensics as cool.

"These shows have put forensic science in the limelight, and people understand what we do now," Heller said. "But, I think the biggest problem I have with them is that all of the analysis is done in a couple of minutes when in reality it could take weeks or even months."

Judges and police said real labs are terribly backed up, and even when tests are finally completed they don't always produce results.

"There are times when it's tough to get an autopsy report, never mind all the super science-fiction stuff you see on TV," said Lina Rodriguez, a retired Pima County Superior Court judge.

That's not to say that forensics hasn't come a long way.

"We're able now to find trace DNA off of cigarette butts, beer cans and pieces of pizza, so all of those things are now expected to be tested," Heller said.

Last year, his 13 criminalists analyzed evidence from 9,000 cases.

Judge Cruikshank said Pima County hears about 5,000 felony cases a year. But if expensive forensics tests were ordered as often as some jurors might like, they'd be shocked when they opened their tax bills. Most of the money would be wasted since all but about 400 of those cases are pleaded out instead of proceeding to trial, he said.

Supplies for a single DNA test, for example, cost about $4,000 — and analysts normally do several tests at a time to ensure accuracy in any criminal case.

Defense lawyer's view

While defense attorney Joe St. Louis of Tucson doesn't watch crime-related TV shows, he loves them.

"From my perspective, they're a good thing. The jurors take a good, long look at whether crime labs did everything they could," St. Louis said.

Last August, St. Louis defended Anthony Gay, suspected of raping and stabbing a woman to death.

St. Louis unsuccessfully argued that Gay had sexual relations with the victim and then later found her dead. The jury convicted Gay and he was sentenced to life in prison, but St. Louis did make some points.

"This one juror had a look of outrage when she learned they (criminalists) hadn't tested the victim's fingernail scrapings," St. Louis said.

His client didn't have any scratches, St, Louis said. Perhaps the scrapings could've identified her real killer, he said.

"The downside is that jurors have a lot of faith in DNA because of these shows, but a lot of the testing is automated," St. Louis said. "There are always issues with operator error and machine error."

The shows could be more realistic, too, St. Louis said.

"I've probably only seen the show eight times, but twice I've seen them use equipment that looked at a piece of paper and determined what was written on it six pages before, and that's laughable," St. Louis said. "I thought, 'Good God, if that's what people think can be done, they're in for a rude awakening."

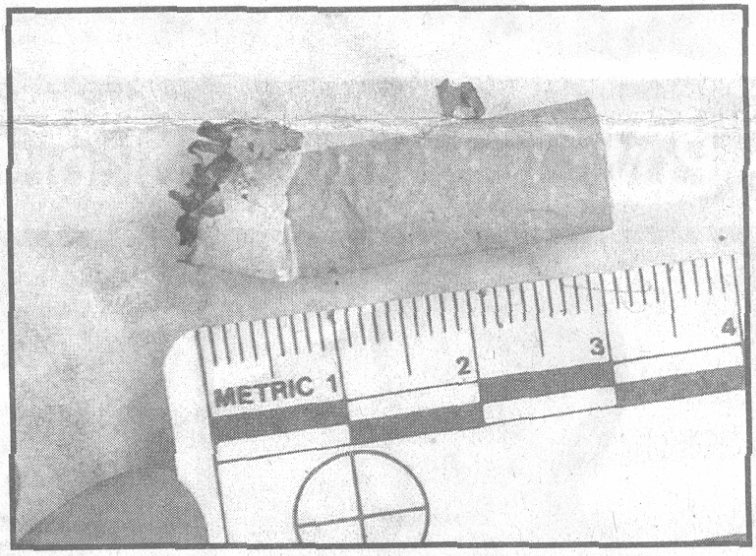
Dan Cooper, another defense attorney in Tucson, believes most jurors are sensible enough not to confuse reality with TV.

While people may have once believed that people confessed from the witness stand all of the time, a la "Perry Mason," those days are long gone, Cooper said.

"I think most people are intelligent enough to understand that those shows are not an accurate portrayal of real court experiences," Cooper said.

Photos by A.E. Araiza / Arizona Daily Star

April Stonehouse, *a DPS criminologist, tests a cigarette butt found at a homicide scene. Saliva and DNA might be recovered for evidence.*



The butt *is measured carefully. Juries are demanding far more from crime-scene evidence lately because of TV shows like "CSI."*