

MEDIA AND CRIMINAL JUSTICE

THE CSI EFFECT



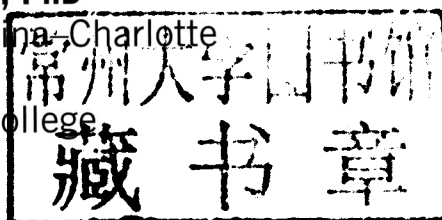
DENNIS J. STEVENS

MEDIA AND CRIMINAL JUSTICE

THE CSI EFFECT

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This book is dedicated to Primo Levi, writer, chemist, and Auschwitz survivor; a person whom this author has never met, yet his presence through his words inspired the conclusion of this book: "Monsters exist, but they are too few in number to be truly dangerous. More dangerous are the common man, the functionaries ready to believe and to act without asking questions."

Foreword



In *Media and Criminal Justice: The CSI Effect*, accomplished author Dennis J. Stevens once again works his magic as a writer and a researcher, and gives us a book that stimulates thought about the justice system. Stevens is the author of almost one hundred scholarly articles and a number of books that are “must reads” for those who truly want to understand the American criminal justice system. In this book, he confronts the gross injustice of wrongful convictions and capital punishment, and squarely identifies overzealous prosecutors as the crux of the recent spate of exonerations on which the American media has fed.

Many excellent prosecutors are relentless in their pursuit of convictions, and justice is often served through their actions. Sometimes, however, charges may be improperly brought and convictions pursued even after those who represent the public in criminal prosecutions learn of significant exculpatory evidence. In 2007, for example, North Carolina prosecutor Michael Nifong was disbarred following an ethics review by the Disciplinary Hearing Commission of the North Carolina State Bar Association. The Commission established that Nifong persisted in a well-publicized rape prosecution of three Duke University lacrosse team members, even after the veracity of the supposed “victim” had been destroyed by elaborate media exposés. Nifong’s reluctance to drop charges against the men—even once their innocence was established—wreaked havoc with their lives and cost each of them a great deal of personal anguish. Their families were forced to bear the huge financial burden of hiring defense teams to refute the prosecutor’s apparently malicious allegations. In reaching the decision to revoke Nifong’s license to practice law, the disciplinary commission cited prosecutorial misconduct and called Nifong’s actions “a politically motivated act that he inexplicably allowed to fester for months after it was clear the defendants were innocent.”

Texas prosecutor Craig Watkins stands in stark contrast to Nifong. In 2008, the *Wall Street Journal* called Watkins “the only prosecutor in America who is making his name getting people out of prison.” Watkins is the district attorney in Dallas County, Texas. He became the first African-American district attorney in Texas history following his election in 2006, and has since been using DNA evidence to examine more than 400 guilty verdicts obtained by his predecessors. Watkins created a Conviction Integrity Unit in his

office in 2007, and within a year the unit was able to win exonerations for six men who had been wrongfully convicted of crimes ranging from rape and murder to robbery.

Not everyone agrees that Watkins is doing a good job. “I think he’s doing a grave disservice in trying to create this image that the criminal justice system is fatally flawed, and that only people like Craig Watkins can save it,” said Joshua Marquis, a member of the board of the National District Attorneys Association.

What makes his story all the more interesting is that Watkins follows a long line of “get tough on crime” prosecutors who occupied the district attorney’s office in Dallas County since the early 1950s. One of them, the legendary Henry Wade, served as district attorney from 1951 to 1986 and successfully prosecuted Jack Ruby for the murder of Lee Harvey Oswald. Wade gained national notoriety for never losing a case that he personally prosecuted and for winning capital convictions almost every time he asked juries to return them.

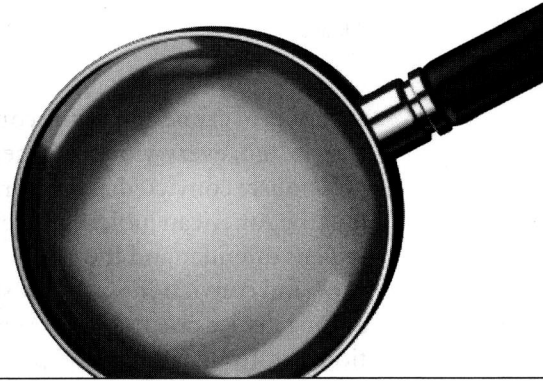
Prosecutors like Henry Wade are, of course, *supposed* to seek convictions. The adversarial system through which justice is achieved in this country depends on vigorous representation by both sides in a criminal case. But we must never forget that the ultimate goal of any criminal proceeding is *justice*—for the accused as well as for victims and the aggrieved.

The line that separates prosecutors like Watkins and Nifong is not due to a lack of vigor, education, or preparation, but to a difference in fundamental vision about the nature of justice itself. The goal of justice is furthered by many institutionalized practices, including discovery (by which important items of evidence are shared by the prosecution and defense), *habeas corpus* (the fundamental right to appeal unfair convictions), and by common and statutory laws, which allow for defenses to criminal liability based on justifications and necessity. But it is brought down to the personal level and made relevant by the individual actions of justice system representatives.

Media and Criminal Justice: The CSI Effect will help all of us to think more clearly about the nature of justice, the costs it exacts, and our personal roles in achieving it. To paraphrase Martin Luther King, “The arc of the moral universe is long, but it tends to swing toward justice.” I believe that *Media and Criminal Justice: The CSI Effect* will enhance the moral universe in which we live and move us closer to the ever elusive goal of justice.

Frank Schmalleger, PhD
Distinguished Professor Emeritus
The University of North Carolina at Pembroke

Preface



Is America caught up in events that are as ambiguous as they are deadly? Americans in 15 states were so outraged by their chances of becoming victims of violent crime that they prompted legislators to sanction the use of deadly force when confronted by a gangster or a neighbor. Advocates call these “stand your ground laws” and opponents call them “shoot first laws.” In Clearwater, Florida, a man was gunned down by his neighbor after a shouting match over the trash, and a Port Richey, Florida prostitute fired a weapon point-blank at her 72-year-old client who wouldn’t return her favors.

The law forbids arrest, detention, prosecution, and civil suit of persons covered by the law. The greatest injustice a democratic legal system can perpetrate against its population is to punish an individual for a crime he or she has never committed. The *ne plus ultra* (highest point) of injustice in a democratic nation is the wrongful conviction and execution of its constituents.

Media and Criminal Justice: The CSI Effect examines the relationship between the popular media—motion pictures, popular television dramas, and news reports—and the weakening of fundamental rights, leading to high points of injustice. The popular media has made incredible contributions to the criminal justice community, the American people, and democracy, but it also provides its own version of the world of crime, which heightens the fear of victimization. This phenomenon will be referred to as the *CSI Effect*, which changes real-world expectations of crime and crime control by affecting the decisions of witnesses, victims, jurors, and justice professionals. One central idea is that criminal justice practices among its ranks of professionals (police, corrections officers, prosecutors, and judges) have changed to keep pace with the social images defined, glorified, and justified by the popular media through the *CSI Effect*.

The *CSI Effect* is a product of the popular media’s ability to encourage aggressive “reactive” justice initiatives, glorify vigilantism, and provide fictitious accounts of crime and control of crime. It will be argued that the *CSI Effect* sets the criminal justice apparatus toward unlawful intrusion into the private lives of the American population in the name of justice. For example, the popular media depicts a “good” police strategy as an aggressive response, as opposed to preventive initiatives and quality-of-life arrests, regardless of the guilt of the person or seriousness of the violation. Finally, it alters

accounts of crime and crime control, which include the fictitious notion that every crime is reported, every violator is detected, apprehended, and arrested, and every suspect is judiciously convicted and imprisoned. The implication arising from this perspective is that the American judicial process is flawless. The popular media's portrait of a criminally violent offender and the criminal justice practices associated with detection, apprehension, and conviction share few similarities with official statistics, policy, and experiences among justice practitioners. As a result, official misconduct is tolerated, wrongful convictions continue, and capital punishment allegedly serves a higher purpose.

Media and Criminal Justice: The CSI Effect helps identify the primary strategies and players within the justice system. It argues that at the core of the wrongful conviction phenomenon and the death penalty are prosecutors, because they alone possess the authority to initially charge (or indict) a suspect or to release a suspect regardless of guilt. *Media and Criminal Justice: The CSI Effect* goes beyond the standard paradigm of transferring knowledge, as it depicts the realities of the media, wrongful convictions, and the death penalty. It links justice practices and scholarly research to real-world experiences, issues, careers, systems, and procedures, helping readers become informed about these issues.

To better understand the attitudes of prosecutors, 444 prosecutors from across the country were surveyed about their jobs and their ideas about justice. Some will disagree with the recommendations provided, which include community prosecution and prevention, changes in law school admission policies and curriculum, limiting prosecutor discretion, and ending capital punishment as a sanction.

■ The Flow of This Book

Chapter 1 explains the *CSI Effect* and describes the popular media and its contributions to American society. Chapter 2 characterizes the motion picture industry, popular television dramas, news reports, and comic books. Chapters 3, 4, and 5 focus on the wars fueled through the *CSI Effect* which include: the wars on crime, junkies, sex offenders, poverty, terrorists, and immigrants. Chapter 6 describes crime scene investigations, forensic science, and junk science. Chapter 7 explains prosecutorial activities at the federal, state, and local levels. Chapter 8 examines wrongful convictions and its primary causes. Chapter 9 addresses the death penalty, and Chapter 10 explains the research design used to test the perimeters of the theory of this work, outlines the characteristics of the 444 prosecutors tested, and provides the results from participants in this study. Finally, Chapter 11 offers recommendations that will reduce wrongful convictions and end capital punishment as a sanction. Should readers have any questions, comments, or contributions to share, feel free to contact the author at dennisj.stevens@hotmail.com.

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As with most publications, numerous contributors supported this project, although the opinions offered belong to the author. This author wishes to acknowledge the efforts of the graduate assistants who made his job easier through their research and survey contributions: Kimberly E. Cox (PhD candidate, University of Vienna); Lacey Cochran Stewart (Makenzy's mom); Linda Moss; Jennifer Taylor and Bessey Hutchinson (both PhD candidates, University of Southern Mississippi); Sergeant Luke Thompson (Gulfport Police Department, Mississippi); and Sergeant Dan Steel (Biloxi Police Department, Mississippi, on leave at law school). Also, assistant researchers at Sacred Heart University, Fairfield, Connecticut, should be acknowledged, including Sara Dastoli, Sarah M. Olschan, and Theresa M. Raytar.

Frank Schmallegger, my colleague, mentor, and friend, wrote an amazing foreword, in addition to his other contributions, including the inspiration to continue this work. Also, appreciation goes to my colleagues, readers of early chapters, and attendees of presentations on the early theoretical concepts at Sacred Heart University: Professor Matt Semel (a former New York City public defender); Dr. Patrick Morris (a former police sergeant in Norwalk, Connecticut); and Dr. Jim McCabe (a former New York City police detective and commander). I also thank Mark A. Stevens, my son, who provided some theoretical perspectives in several chapters because of his extraordinary analytical capacity and experiences in the criminal justice community. My loving daughter Alyssa P. Stevens unselfishly lent an ear and provided encouragement and inspiration to complete this work.

Additionally, there are 444 prosecutors across the United States to thank for their contributions and many letters that accompanied their completed surveys, which were included where appropriate throughout this work.

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About the Author



Dennis J. Stevens received a PhD from Loyola University of Chicago in 1991. Currently, he teaches as an adjunct professor in the Department of Sociology at the University of North Carolina, Charlotte, and Belmont Abbey College. He worked for the University of Southern Mississippi as director of its criminal justice PhD program, and also taught at the University of Massachusetts, Boston, and Salem State College. As a criminal justice–sociology department director in North Carolina, he created and implemented a criminal justice lock-step curriculum, enrolling hundreds of students at five locations. In addition to teaching traditional students, he has taught and counseled law enforcement and correctional personnel at law academies such as the North Carolina Justice Academy, and felons at maximum-security penitentiaries.

Dr. Stevens has published several books and almost 100 scholarly and popular literature articles on policing, corrections, and criminally violent sexual predators. He has also been retained by private agencies to develop use of force protocols; by state legislators to examine recidivism rates and the flow of drugs into prisons; by federal agencies to study corruption among narcotics officers; and by the US military and foreign governments to aid in related research.

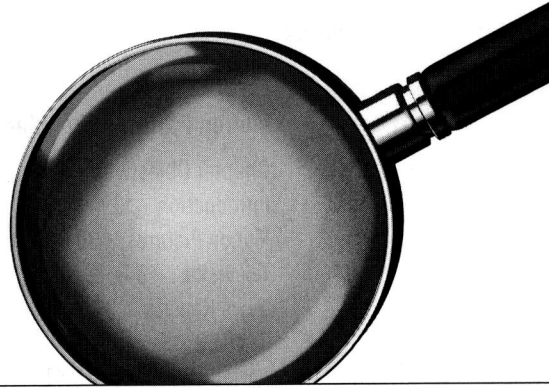
As a volunteer, Dr. Stevens has guided many sexually abused children and their families through church-affiliated programs in New York, North Carolina, and South Carolina, and has led group crisis sessions among various police and correctional agencies, such as for officers of the New Orleans Police Department after Hurricane Katrina.

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