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Jury Preconceptions and Their Effect on Expert Scientific Testimony

When the forensic scientist testifies in court, both he and his testimony are usually evaluated by a group of people that has never seen him before and has little or no scientific background. These people, the jury, are exposed to the forensic scientist for only a relatively short time, during which they are privy to a strictly regulated question-and-answer conversation carried on between the scientist and the attorneys in the case. As a result of this exposure, the jurors must answer several important questions:

- 1. What did the expert say?
- 2. What is the significance of the expert's testimony?
- 3. Is the expert competent?
- 4. Is the expert honest?

Once they have answered these questions, and they always do, either directly or indirectly, they must decide what weight to give his evidence in their total deliberation. Although the forensic scientist has existed for decades, very little scientific data exist indicating how he and his testimony are evaluated by a jury.

Humans are not computers, and researchers have established that many extra-evidential factors affect juries' decisions. Psychological research on jury functions dates from 1924, but the last ten years has seen a marked increase in such research. Studies probing the effect of social status and physical attractiveness of the victim and the defendant show that these factors do influence jurors [1]. Also, the order of evidence presentation, a juror's concept of guilt, and even jury size have been studied and shown to affect jurors' verdicts. Although most of these studies measured the juror's evaluation of the defendant, it seems reasonable to suspect that similar extra-evidential factors also influence the juror's evaluation of the forensic scientist and his testimony. Social psychologists tell us that "we see in a biased fashion because we enter the perceptual situation with preformed expectations" [2]. What preformed expectations do jurors have regarding the forensic scientist in the courtroom?

Molloy $[3,4]^2$ has extensively studied the effects of dress on interpersonal evaluations. His results indicate that, especially in limited interactions (such as court testimony), seemingly innocuous variations in an individual's dress can significantly influence his personal and professional evaluation by others. Molloy further states that while even the best attire will usually not result in significant overevaluation, poor or inappropriate attire can cause a person's stature and abilities to be harshly devalued. Also demonstrated in Molloy's data is the concept that an individual, by wearing the appropriate clothing, can compensate for negative biases resulting from his or her sex, race, age, and even socioeconomic group.

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¹Forensic serologist, Palm Beach Sheriff's Crime Lab, West Palm Beach, Fla.

²J. T. Molloy, personal communication, 1977.

The first objective of this work was to determine, in detail, jurors' "preformed expectations" or preconceptions of the forensic scientist in the courtroom. The second was to determine whether deviations from this preconceived stereotype induced devaluation. Thirdly, an attempt was made to generate a limited amount of data to either confirm or refute Molloy's specific recommendations regarding the expert witness in the courtroom. To accomplish these goals, two surveys were administered to a random population.

Procedure

Survey A

Survey A was a projective study, that is, the subject was asked to imagine himself in a particular situation. The object was to determine the nature of jurors' preconceptions about the forensic scientist in the courtroom. The subjects were picked at random by nine forensic scientist surveyors and screened to insure that they met four basic criteria: (1) they had to be 18 years of age or older; (2) they had to be willing to serve on a jury, if called; (3) they had to be unaware of the surveyor's occupation; and (4) they must never have witnessed a real scientific expert testify in court. Eighty-eight subjects were interviewed. Table 1 provides a statistical profile of this group.

The surveyor first recorded the subject's sex, race, and age, and then made a subjective estimate of his socioeconomic status (lower-middle, middle, or upper-middle class). The subject was then asked to imagine that he was a juror in a very serious trial (a murder trial) and that a scientific expert had been called to testify about a crucial item of evidence. If the subject was able to visualize this expert entering the courtroom, he was asked to describe the person in as much detail as possible. After recording the subject's spontaneous responses, the surveyor questioned further to elicit more information about the imaginary expert's sex, race, age, annual salary, place of employment, socioeconomic group, appearance, and personal characteristics. This information formed the subject's primary profile. The secondary profile was obtained by asking the subject to imagine and describe a scientific expert of the opposite sex. As in the primary profile, the subject was encouraged to provide a spontaneous description of the expert. This done, he was asked the same series of questions presented in the primary phase.

After the secondary profile was completed, the subject was asked to revert his imagination to his primary scientific expert, who was now in the process of testifying. The subject was queried as to the expert's position (sitting or standing) and his activities (talking or illustrating). Also, he was asked if he understood what the expert was saying and whether he would value the expert more if he could communicate clearly to the jury. This segment dealing with the subject's preconceptions about the manner of the expert's testimony was the third and final phase of Survey A.

Survey B

Survey B was designed to determine whether certain variations in the scientific expert's appearance and manner of testimony can affect a juror's evaluation of his professional ability. The surveyors, the random selection process, and the screening restrictions were all identical to those used in Survey A. One hundred two subjects were surveyed, and Table 1 details their statistical profile.

Survey B consisted of ten pairs of color photographs that depicted both male and female scientific experts in various courtroom attire; also, one pair varied the testifying position of the expert. In most cases, the faces of the experts were blacked out to prevent any influence resulting from individual facial appearance or expressions. The subjects were told that one of the experts in each pair was significantly more knowledgeable in

Category	Survey A, %	Survey B, %	
Male	43	44	
Female	57	56	
Black	- 13	10	
Thirty or younger	32	31	
Florida residents	77	86	
Lower-middle class	17	14	
Middle class	71	69	
Upper-middle class	12	17	

TABLE 1—Profile of interviewed subjects.

his field than the other. They were then asked to choose the more knowledgeable scientific expert.

Pair 1—Figure A was a male wearing a brown sports jacket, beige slacks, a white print shirt, and a lime-colored tie. This arrangement was typical of the author's normal courtroom attire and is acceptable business dress in Florida. Figure B was the same man dressed in a navy blue, three-piece business suit, a white shirt, and a maroon tie. This arrangement is the combination recommended by Molloy for the expert in the courtroom.

Pair 2—Figure A was a male wearing the same dress combination as in 1-B but with the addition of glasses and a briefcase. Figure B was identical to 1-B. The faces in this pair were not blacked out so that the glasses were evident.

Pair 3—Figure A was a male wearing the same suit and tie as in 1-B, but his shirt was yellow. Figure B was identical to 1-B.

Pair 4—Figure A was identical to 1-B. Figure B was wearing the same suit and shirt as in 1-B, but with a "wild" multicolored striped tie.

Pair 5—Figure A was wearing the same suit, shirt, and tie as in 1-B, but without the vest. Figure B was identical to 1-B.

Pair 6—Figure A was a female with long blonde hair wearing a knit dress with a widestriped top and a cream-colored, knee-length skirt. This arrangement was typical of our toxicologist's (Dianne Swafford) normal courtroom attire. Figure B was the same female wearing a gray skirted suit and a light blue blouse with a loose bow. The skirt was kneelength. This arrangement is generally in line with Molloy's recommendations for the female professional in the courtroom.

Pair 7—Figure A was a female wearing the same skirted suit and blouse as in 6-B, but her hair was worn up in a bun. Figure B was identical to 6-B.

Pair 8—Figure A was a male dressed as in 1-B, but he was standing looking at the juror (subject) and pointing to some figures on an easel. Figure B was a male, again dressed as in 1-B, but seated looking at the juror. The faces were not blacked out, but the facial expressions were identical.

Pair 9—Figure A was a male identical to 1-A (sports jacket). Figure B was a female identical to 7-A (skirted suit, hair up).

Pair 10—Figure A was a female identical to 7-A (skirted suit, hair up). Figure B was a male identical to 1-B (navy blue, three-piece suit).

Field Trial

For about the last year the author and two other forensic scientists have been wearing the Molloy-prescribed attire to court and have recorded any unsolicited comments, reactions, or events that relate either directly or indirectly to their dress.

Results

The data from both surveys were classified into four subject groups: (a) male, (b) female, (c) young (30 years of age or younger), and (d) total input. With the exception of the age and salary estimates in Survey A, all the results were calculated as percentages of the total number of subjects responding to a particular question. Also, in Survey A, most of the wide variety of adjectives used to describe the expert's personal characteristics were placed in synonymous groupings for clearer presentation (for example, controlled, poised, precise, orderly, smooth, and concise were all grouped under controlled).

Survey A

Of the 88 subjects contacted, 6 (7%) could form no visual concept of a scientific expert in a courtroom. The primary concept of the remaining 82 was overwhelmingly male (97%). The data composing the profile of the male scientific expert are detailed in Table 2.

When the subjects were asked to describe a scientific expert of the opposite sex, 9 (11%) of those whose primary expert was male were unable to visualize a female scientific expert. The remainder provided the data given in Table 3. The subjects then provided data regarding their primary expert's manner of testimony (Table 4).

Survey B

The 102 subjects were shown the pairs of "experts" in numerical order. Their choices of the more knowledgeable experts are shown in Table 5.

Field Trial

Most of the comments and reactions received by the three test subjects (two male and one female) were from prior acquaintances. All three test subjects were surprised by the strong positive reaction to their change in attire. Interesting, also, was the nature of the comments received. Very few were directed at specific items of clothing (such as suit or tie), but the majority of comments associated the subjects with certain personal and professional characteristics (for example, "You look like you really know what you're talking about!" or "You look like a real chemist!").

Discussion

The design of the surveys was not highly sophisticated, but in the opinion of the psychologists who reviewed the procedures they were adequate to accomplish the outlined objectives. However, several weak points were observed. First, all the surveyors were forensic scientists and, hence, not neutral observers. Second, in psychological testing when subjects are asked the same question repeatedly, as in Survey B, complex learning factors tend to distort the later results. To compensate for this effect, a subsequent survey containing only Pairs 8 and 9 was given to a small group of subjects to insure the validity of the original results. Lastly, a real jury is chosen only after intensive examination and screening by both the prosecutor and defense attorney. It is not necessarily certain that the random sampling used in this survey accurately reflects the expectations and preferences of a typical jury population. Despite these experimental weaknesses, however, it is thought that conservative interpretation of this data will yield valid results.

Survey A

An important thing to clarify about a projective survey is that it indicates a person's

TABLE 2-Male scientific expert profile.

Category	Responses from Males $(n = 34)$	Responses from Females $(n = 48)$	Responses from Young $(n = 26)$	Total Responses $(n = 82)$
Race, %				
White	94	98	96	96
Black	6	2	4	4
Oriental				
Average age, years	43.7	43.6	43.0	43.6
Socioeconomic group, %				
Lower-middle class	2		• • •	1
Middle class	24	24	29	24
Upper-middle class	74	76	71	75
Average annual salary,	20.6	22.0		
(× \$1000/year)	28.6	30.8	27.1	29.9
Employer, %	20	26		
Law enforcement agency	38	26 55	32 53	30
Independent laboratory	47 15	55	53	52
Civil service agency	15	19	15	18
Type of clothing, %	01	02	0.6	6.1
Suits	91	92	96	91
Sports jacket	3	4	4	4
Other	6	4	• • •	5
Style of clothing, %	15	17	45	
Conservative	15	17	15 22	16
Three-piece suit	15	15	23	15
Business	6	10	4	9
Other	3	17	4	11
Color of clothing, %	52	40	44	F-1
Dark blue	53 25	49	44	51
Gray	25	29 12	32	27
Brown	6	12	4	10
Beige Black	6	2	4	4
	4	2	8	2
Other Accessories, %	6	6	8	6
	4.4	42	25	40
Glasses	44	42	35 50	43
Briefcase Other	68	63	58	65
Other Personalitu ^a	6	10	• • •	9
Personality ^a Neat	32	25	22	20
Intelligent	32 22	25 29	23	28
Controlled	41	29 17	31 27	26 26
Confident	28	23	23	26 24
Calm	31	23 8	25 15	24 17
Professional	19	15	15 4	17 16
Well-dressed	19	10	8	13
Pleasant	9	10 17	8	13
Serious	16	10	12	13
Distinguished	9	13	8	11
Conservative	6	4		5
Others	9	10	 14	10
Hair ^a	,	10	17	10
Short	12	19	19	16
Gray	12	17	15	15
Bald(ing)	9	10	15	10
Neat	6	8	8	7
Face clean shaven	12	2	19	6
Beard	9		8	4
Medium length	9		12	4
Mustache	•••	2	12	1
Other	6	8	12	7

 $[^]a$ Figures opposite adjectives reflect the percentage of subjects that mentioned that adjective or its synonym.

TABLE 3—Female scientific expert profile.

	Responses from Males	Responses from Females	Responses from Young	Total Responses
Category	(n = 30)	(n = 43)	(n=23)	(n=73)
Race, %				
White	87	93	96	90
Black	13	5	4	8
Oriental	26.6	2 37.2	24.0	2 37.0
Average age, years Socioeconomic group, %	36.6	37.2	34.9	37.0
Lower middle class	8	3	5	5
Middle class	27	44	21	36
Upper middle class	65	53	74	59
Average annual salary				
$(\times $1000/year)$	23.1	25.1	25.0	24.3
Employer, %				
Law enforcement agency	24	23	15	24
Independent laboratory	43	36	31	38
Civil service agency Fype of clothing, %	33	41	56	38
Dress	40	27	43	32
Skirted suit	37	56	43	48
Pants suit	17	16	14	16
Skirt and blouse	6	2		4
Style of clothing, %				
Knee-length hem	7	14	17	11_
Three-piece suit	10	5	13	7
Tailored	3	5	4	4
Expensive		5	4	3
Smart Others	• • • •	5 16		3 9
Color of clothing, %	***	10	• • •	9
Dark blue	29	30	20	29
Gray	24	8	20	14
Brown	18	16	30	17
Beige		19	5	11
Green	24		10	9
Light blue	5	8		7
Black		5	:: •	4
Other		14	15	9
Accessories, %	17	0	12	12
Glasses Briefcase	17 37	9 53	13 39	12 46
Pocketbook	37 40	33	39 26	46 35
Personality	7∨	55	20	30
Neat	10	21	4	16
Intelligent	20	7	17	12
Calm	10	14	4	12
Serious	17	9	13	12
Confident	13	9	26	11
Pleasant	10	12	13	11
Nervous Professional	17	7 9	4	11
Professional Well-dressed	7 17	5	9	8 7
Conservative	10	5		7
Controlled	7	5		5
Distinguished (attractive)	7	5	22	4
Honest		7	9	4
Other	17	9	13	12
Hair				
Short	20	23	26	22
Neat Blonde	17 10	19 12	13	18
Medium length	10 10	12 7	13 13	11 8
Gray	3	2	4	3
Long	3	2	4	3
Other	10	7		8

Category	Responses from Males $(n = 30)$	Responses from Females $(n = 43)$	Responses from Young $(n = 23)$	Total Responses $(n = 73)$
Position, %				
Sitting	65	57	65	60
Standing	35	43	35	40
Activity, %				
Talking	62	62	81	62
Illustrating	38	38	19	38
Expert is understandable, %				
Ŷes	78	59	77	67
No	22	41	23	33
The better expert com- municates well, %				
True	97	100	100	99
False	3	0	0	1

TABLE 4—Expert's manner of testimony.

or a group's expectations and not necessarily their preferences. For example, a projective survey about politicians might indicate that most of the subjects expect their stereotypical politician to default on many of his campaign promises; however, it is highly unlikely that they would prefer him to do so. Statistically, there was remarkably little variation between each of the four data groups (male, female, young, and total). Apparently neither the sex nor the age of the juror has a drastic effect on his stereotypical scientific expert. The personal characteristics used to describe the scientific expert were remarkably free of negative adjectives. The vast majority of subjects appeared to view the forensic scientist as a respectable and highly competent member of the professional community.

A detailed profile can be developed by combining the largest responses in each category. They indicated that the scientific expert in the courtroom is a 44-year-old, upper-middle class, white male employed by an independent laboratory. The high "independent lab" scores may indicate that the subjects expect the forensic scientist to occupy an impartial position in the case. He is a neat, intelligent man whose responses are controlled and confident. He is distinguished and well-dressed, wearing a dark blue (or possibly gray), three-piece, conservative suit and carrying a briefcase, and possibly wearing glasses. His demeanor on the witness stand is calm, professional, and serious. His hair is short (possibly gray or balding) and neat. The results that relate to appearance conform very closely to Molloy's and Kogan's [5] recommendations for the expert in the courtroom.

The stereotypical female expert in the courtroom is 37 years old, upper-middle class, and employed by either an independent lab or civil service agency. Like her male counterpart, she is neat and intelligent, responding to questions calmly and confidently (although she may possibly be nervous). She is attractive and well-dressed, wearing an expensively tailored dark blue (also possibly brown or gray) skirted suit with a vest and a knee-length skirt. She carries a briefcase and pocketbook. Her demeanor on the witness stand is serious and professional although pleasant, controlled, and honest. She has a conservative appearance, with her hair either short or put up and neat. Again, this generally conforms to Molloy's prescription [4].

Both male and female profiles developed from Survey A vary greatly from the typical stereotype of the distracted, unkempt scientist. This result may be due in part to the use of the term "scientific expert." Most courts use the term "expert" to classify the forensic scientist and his testimony. Although forensic scientists are loath to accept the title, the term "expert" with its superlative connotations must inevitably amplify juror expectations.

TABLE 5—The "more knowledgeable" scientific expert.

Description of Pairs	Responses from Males $(n = 45)$	Responses from Females $(n = 57)$	Responses from Young $(n = 32)$	Total Responses $(n = 102)$
	-			
A. Male with dark				
brown sports jacket	11	25	25	10
B. Male with dark				
blue suit	89	75	75	81
Pair 2				
A. Male with glasses				
and briefcase	89	84	88	86
B. Male without glasses				
and briefcase	11	16	12	14
Pair 3				
A. Male with yellow	20	22	22	22
shirt	20	23	22	22
B. Male with white	90	77	78	78
shirt	80	7 7	/0	/0
Pair 4				
A. Male with conserva- tive tie	87	96	97	92
B. Male with loud tie	13	4	3	8
Pair 5	13	7	3	O
A. Male with two-piece				
suit	42	39	31	41
B. Male with three-	12	U)	VI	
piece suit	58	61	69	59
Pair 6				
A. Female with skirt				
and sweater	22	26	31	23
B. Female with skirted				
suit	78	74	69	77
Pair 7				
A. Female with hair up	69	72	75	70
B. Female with hair				
down	31	28	25	30
Pair 8				
A. Male standing and			•	0.4
illustrating	89	81	91	84
B. Male sitting and		10	9	16
talking	11	19	9	10
Pair 9				
A. Male with dark	36	23	25	30
brown sports jacket	30	23	23	30
B. Female with gray skirted suit	64	77	75	70
Pair 10	U -1	, ,	15	70
A. Female with gray				
skirted suit	27	33	44	31
B. Male with dark	<i>2</i> /	30	• • •	
blue suit	73	67	56	69

Another possible explanation may derive from jurors' preconceptions about the forensic scientist's function. Whereas a research scientist is allowed many unsuccessful attempts before accomplishing his goal, the forensic scientist performs only well-established techniques. He is evaluated on how accurately he performs these techniques and how knowledgeably he interprets his results. Perhaps the juror instinctively appreciates this distinction,

and hence there is the neat, controlled, well-dressed stereotype as opposed to the unkempt daydreamer with the mismatched attire.

This attention to details of appearance may seem frivolous and irrelevant, but several researchers have shown that physical appearance definitely affects jurors' evaluations [1,3,4]. Further, there are several strong indications in Survey A that the female forensic scientist inherits a negative juror bias in the courtroom. The primary concept being heavily male, the lower annual salary, and the inability of some subjects to visualize a female scientific expert all point to a negative bias expressed by both male and female subjects. Survey A also indicates both racial and age biases for this occupation.

In the manner-of-testimony section of Survey A, the majority of subjects expected the expert to be sitting and talking. An alarming one third of the subjects anticipated that they would not understand what the scientific expert was saying. However, all but one said that the "better" expert would be able to communicate to them. Clearly, they thought that it was the forensic scientist's responsibility to communicate well. This point is further emphasized by the specific instructions given to jurors by the court regarding expert testimony. The state of Florida [6] tells the juror:

You should consider each expert opinion received in evidence and give it the weight you think it deserves and you may reject it entirely if you find that the alleged facts upon which it is based have not been proved or that the reasons given in support of the opinion are not sound.

In other words, if the expert's testimony does not make any sense to the juror, he need not accept it.

Survey B

Survey B shows clearly that people do make judgments about a person's professional ability based on his (or her) appearance. Although only a very small number of variables were tested, clear trends were obvious. With all other factors equal, both male and female scientific experts who give a casual, middle or lower-middle class appearance in court will be seen as less knowledgeable than their more conservative upper-middle class colleagues. For a male expert, a briefcase and glasses had a positive effect, while brightly colored shirts and loud ties were distinctly negative. For the women, short or put-up hair gave positive results. While a majority of Survey A subjects expected the scientific expert to be sitting and talking, Survey B subjects preferred the standing and illustrating expert by a ratio of better than 5 to 1. With all other factors equal, it is probably safe to assume that the forensic scientist who stands and illustrates parts of his testimony will appear more knowledgeable than the one who stays glued to the witness stand.

Possibly the most significant results from Survey B related to Pairs 9 and 10. In Pair 9, the conservative upper-middle class female expert was chosen as more knowledgeable than the casual, middle class male by a ratio of more than 2 to 1. This indicates that the negative sex bias can be at least partially neutralized by wearing appropriate attire. In Pair 10, when both male and female experts were dressed appropriately, the male preference returned; but here the subjects generally took longer to decide, and more often than with any other pair they could not decide between the two. Apparently there is a definite bias in favor of the male scientific expert, but a female wearing the appropriate attire can reduce, if not eliminate, the effects of that bias. Molloy indicates that similar results can be obtained for racial and ethnic minorities.

Field Test

It must be kept in mind that the results of the field test are highly subjective. Further-

more, it is unlikely that those persons having strong negative reactions to the attire would rush forth to express themselves. Regardless, all three test subjects, in the light of no significant negative reactions and many positive ones, have adopted this attire as their standard courtroom dress.

The recommended procedure for initiating a similar field test is as follows:

- 1. Obtain and read thoroughly the appropriate Molloy reference [3 or 4]. (Note: More detailed information is available in the form of a personalized computer printout costing \$23.00. If interested, write to John T. Molloy, P. O. Box 189, Narrowsburg, N. Y. 12764.)
 - 2. Review the survey data from this article.
- 3. Purchase a suit and accessories consistent with the recommendations. (Note: Do not economize at the expense of quality.)
- 4. Wear the suit to court and depositions and record all comments and reactions, both direct and indirect.

Further Studies

Additional studies in the area of jurors' preconceptions would certainly help prevent irrational devaluation of the forensic scientist in the courtroom. However, there are other equally, if not more, important factors regarding the forensic scientist in court that could benefit from further research. Not least among these is the concept of forensic science communications, the process whereby the forensic scientist communicates his results and opinions to the jury. George Foster, Ph.D., one of the psychologists who reviewed the survey results, thought that more attention should be given to the matter of data presentation. He thought it should be "clear, concise, logical and compelling in its own right in spite of the influence of stereotyped thinking on the part of the jury." Mock jury testing could be used to determine the most effective techniques of courtroom data presentation. Accomplishing this may, as Foster suggests, make scientific testimony "compelling in its own right," thus minimizing the effect of a juror's stereotypic biases. Research in this area could give us valuable information about what jurors understand from our testimony and what part scientific evidence plays in their decision-making process.

Summary

It is evident that most jurors have a remarkly precise, albeit often inaccurate, visual preconception of the forensic scientist in the courtroom. Furthermore, deviations from this stereotype appear to result in lower assessments by the juror of the forensic scientist's professional competence. To what extent these factors affect the juror's total evaluation of the expert's testimony is not known. In the relatively few areas tested, the data conformed extremely well with Molloy's concept of the expert in court. Also, a limited amount of data was obtained supporting Molloy's thesis that appropriate dress can compensate for negative biases based on sex, race, age, and socioeconomic background. For these reasons, Molloy's texts [3,4] are recommended to the forensic scientist wishing to minimize irrational devaluation of himself and his testimony. Further, research should be undertaken to determine what jurors understand from our testimony and what methods of evidence presentation lead to more precise communication of the forensic scientists' data and opinions.

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