

## BOOK REVIEW

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### Review of: *Justice and Science: Trials and Triumphs of DNA Evidence*

**REFERENCE:** Clarke GW. *Justice and science: trials and triumphs of DNA evidence*. Piscataway, NJ: Rutgers University Press, 2008, 256 pp.

This is a well-written and detailed review of the history surrounding the implementation of forensic DNA science into the criminal justice system in the U.S. Judge Clarke gives his readers an inside perspective; as an active participant he describes many of the early hard-fought slugfest legal battles. He shares many personal insights into the controversial and compelling inclusion statistics which were strenuously argued against by defense attorneys representing clients facing this new science. Judge Clarke describes how the power of DNA to discriminate one individual from another took conventional serology from a time of "...the suspect is included as a possible donor..." to something far more statistically compelling, such as "the chance that someone else could have left that bloodstain is approximately 1 in a quintillion." Forensic DNA science has revolutionized our ability to define a unique human source of any biological evidence.

Judge Clarke relays fascinating accounts of the legal issues surrounding the admissibility of this new science into the criminal courts. His personal involvement as a deputy district attorney in San Diego (1982–2003) kept him well submerged in the judicial trenches trying to utilize this new tool in the prosecution of serious and violent felonies, like murders and rapes.

His accounts of the cases he personally worked on are fascinating examples of how difficult a task it is to bring to court the fresh fruits of emerging new scientific technologies. The courts insist upon such high standards as "the general acceptance of the relevant scientific community" before allowing the results of a brand new testing procedure to come before a jury. Prosecutor Clarke successfully fought many legal battles to insure that this new science would have its day in court and be heard by juries. He understood that this remarkable tool deserved the attention of judges and juries; he understood most of all if a jury trial is to be a search for the

truth, then DNA has no true equal when human identity is the issue.

What Judge Clarke understands and effectively communicates, is the fact that unlike human witnesses, DNA as a witness will never forget and can not change its mind. He understood from the beginning that forensic DNA science is objective; it has no possible bias and it has no legal axe to grind. He was well aware that the power of forensic DNA science to discriminate sources will cut both ways. His clear and detailed recollections of suspects who have been exonerated or eliminated, and tragically, some even after being convicted and incarcerated and years later found to be factually innocent by post-conviction DNA testing, is a compelling and undeniable proof that DNA as a witness has no bias.

I particularly was intrigued with his reflections of the O.J. Simpson matter. Although he thankfully did not attempt to retry the "trial of the century" Judge Clarke did revisit the major issues of the case. I believe he is correct that many factors, both in and out of the courtroom, affected the outcome. The miscarriage of justice in that case was not the result of new science, or sloppy science, or junk science, or anything of the sort. In that case justice had its blindfold removed and the process consequently degenerated into a circus where regrettably the truth became the ultimate victim.

I highly commend this book to anyone interested in the recent history of forensic DNA and its impact upon criminal justice. The author conveys his devotion and dedication to the law and his appreciation for the contributions of forensic DNA science. Judge Clarke has written a book that should be read by lawyers, scientists, and students interested in how DNA evidence has become the profound and nearly universal ingredient of modern criminal trials in the U.S. This little book is neither a legal brief nor a scientific textbook; rather it's an account of one man's commitment to understand and make use of the most advanced scientific tool yet devised to establish human identity for legal purposes.

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