

Who Should Judge Science?

In 1989 I served on a jury regarding the ambush killing of a Sheriff's Deputy. The defense was "not guilty by reason of insanity." Over the years, I have reflected on my personal observations during the adjudication of this case, every time I read about a jury having to decide between competing "interpretations" of scientific fact. I have been a devoted listener to your program since accidentally discovering you early on in your series. I believe that this is something that the scientific community needs to speak out about forcefully.

Everyone is familiar with the travesty of the OJ trial, when the science of DNA was manipulated to confuse non-scientists into believing that the absolute certainty of the DNA evidence was, in fact, exculpatory weakness; what most people don't realize is that this type of obfuscation happens in courts all over the country every day. Well-intentioned jurors, most with little or no science background, are asked to evaluate the contradictory claims of "specialists." Like later-day oracles, they come into court with a bevy of diplomas and certifications, trumpeted by their attorney as a "pre-eminent expert in their field."

In my particular case, it was the decision of sanity vs. insanity. Dueling psychiatrists presented compelling cases for diametrically opposed conclusions. On what basis did "we, the jury" decide? Most of the discussion among the jurors centered on which doctor appeared to be "more believable." Having been raised by a physician and schooled in the scientific method, I forced a rational discussion of the issues presented by the psychiatrists, relative to the pertinent law regarding New York State's definition of insanity. I had a couple allies on the jury in this pursuit, so in the end, I believe the correct verdict was obtained, but that was just an accident of chance.

Is it good for science, let alone for the law, to have non-scientists rule on scientific matters? With the prevalence of pseudo-science and the public's demonstrated willingness to accept their claims uncritically, the chances of bad science leading to bad law has increased exponentially. I believe that the scientific community (and especially the skeptical wing, on the front-line in the battle with pseudo-science) needs to take the lead in demanding a solution to this problem. Whether that solution takes the form of specially trained judges, a pre-selected "science-literate" jury pool, or some other solution, the scientific community needs to lead the charge, or we will continue to be saddled with decisions based on "bad science."