



D73 The Truth Will Set You Free: Lessons From a Shaken Baby Case

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Attendees will gain an awareness of pitfalls in investigation alleged offences where the evidence is mainly medical. They will also gain an appreciation of ethical issues in such investigations.

The recounting of actual experience of the issues, dilemmas, and difficulties faced in such cases from the attorney's perspective will impact the forensic community and/or humanity by raising awareness and stimulate debate, thus improving the quality of investigation and management by the professionals involved.

This paper presents the story of a trial where the evidence was almost exclusively forensic medical evidence from areas where research is active and "accepted" views are in a state of flux. It will be illustrated with material from the actual trial (some subject to Supreme Court permission).

The story is told from the perspective of the author, who was the defence lawyer in the trial, currently conducting research about juries and forensic evidence. The trial took place simultaneously with a public awareness campaign about "SBS," and starkly highlighted ethical dilemmas and professional and personal issues for lawyers and scientists including:

1. The problems for lawyers in weeding out the prevalent junk science.
2. Whether a judge or jury can hope to evaluate opinions in fields such as paediatric neuropathology, toxicology, radiology, forensic pathology, haematology, and ophthalmology.
3. The difficulty some scientists have in remaining objective in this field.
4. The uneasy co-existence of investigative and treating roles of hospitals.
5. The enormous responsibility for scientists in providing reports in areas where research is active and they may or may not be "up to speed," especially where police may be unable to make an independent judgment as to whether to charge a person with murder due to the highly technical nature of the evidence.
6. What happens when an expert changes his or her mind between arrest and trial?

The paper encourages a consideration of the ethical issues for lawyers, scientists, and police in such cases and proposes approaches, which may help to avoid injustice and increase confidence in verdicts.

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