



Jurisprudence Section - 2015

F51 Forensic Sciences as a Contributor to Miscarriages of Justice in Western Europe

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After attending this presentation, attendees will understand how inquisitorial and adversarial criminal justice systems operate with regard to forensic science evidence. Attendees will also understand how the specificities of each system affect the use of scientific evidence in criminal prosecutions, both positively and negatively.

This presentation will impact the forensic science community by helping build a context in which the role of scientific evidence in miscarriages of justice in the United States and in Europe can be better understood. This will be accomplished by highlighting structural and operational differences between inquisitorial and adversarial criminal justice systems and linking them to the use of scientific evidence in those jurisdictions.

After being hailed as a miracle tool in the fight against crime, the forensic sciences have slowly come under scrutiny as a possible contributor to miscarriages of justice in the United States. Between honest mistakes, voluntary manipulations, and a general lack of experimental validation, many cases can now attest to the role played by the various forensic sciences in the prosecution and conviction of the innocent; however, the phenomenon has so far curiously remained practically unknown in Western Europe. Only a handful of cases have come to light in which flawed scientific evidence contributed to a miscarriage of justice. How can one explain such a stark contrast?

Two main hypotheses will be considered: (1) it could simply be that forensic science has never been identified as a contributor to miscarriages of justice in Western Europe, but plays an important part nonetheless; the reasons possibly preventing the detection of errors will be discussed, such as varying policies in the preservation of evidence, lengths of sentences, attitudes of defense attorneys, etc.; (2) forensic science does not contribute to miscarriages of justice in Europe in the same proportions as in the United States. Different variables could be at play in this context, such as the structure of the adversarial and inquisitorial criminal justice systems, the possibilities of appeal and review of convictions, the funding of laboratories, the education of scientists, and the ways in which forensic science is used by law enforcement to solve crimes.

The goal of this presentation will be to discuss these various propositions and present the (minimal) data available in Western Europe on this topic. The relevance of various research options will be debated, as well as the potential impact of such a line of research on the field.

Miscarriage of Justice, Adversarialism, Inquisitorialism