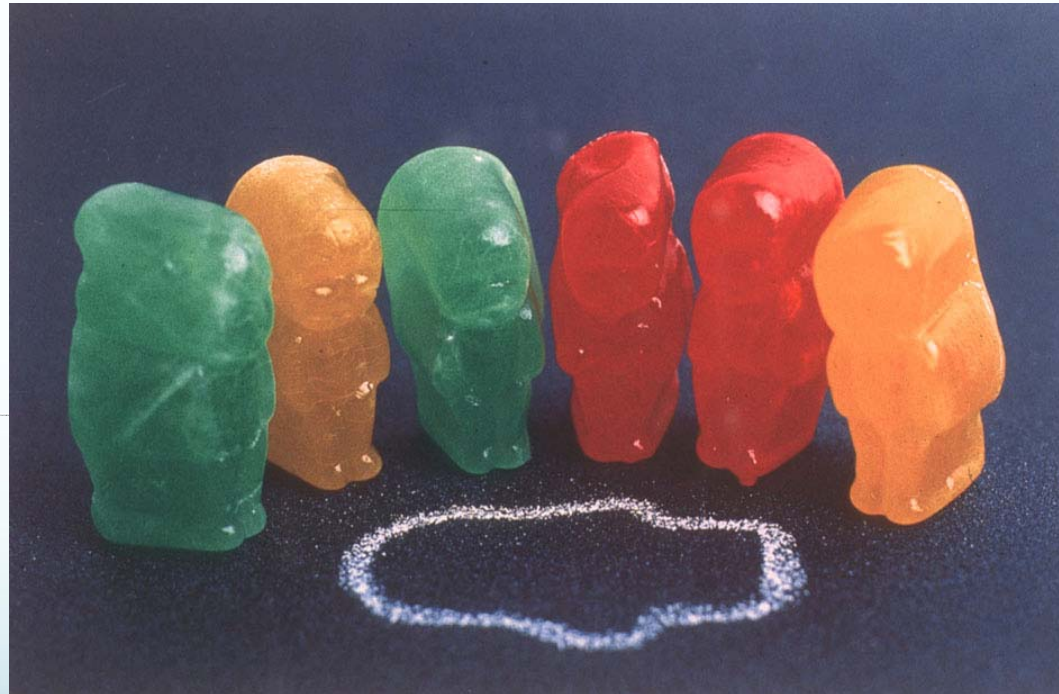


# Forensic pathology and the CSI Effect: A Pathologists Perspective



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# Trials as Entertainment

- Before television and radio
- At home - parlor entertainments
- Outside the home - theatres and courtrooms
- Inquest and Committal of Frederick Deeming in Melbourne,

“The inquest upon the remains of the victim of the Windsor murder was resumed this morning. The public interest seemed to be accentuated by the fact of this being the last day of the enquiry. **Long before the hour for opening, the City Court was thronged, and crowds of people had assembled outside.** The prisoner was brought before the Court on remand, charged under the name of Deeming or Williams with the wilful murder of Emily Mather. On the application of Detective Considine he was further remanded till tomorrow morning.”

The West Australian April 8<sup>th</sup> 1892

# Trials as Entertainment



- Sir Bernard Spilsbury
- An article in the British Medical Journal noted how "the virtuosity" of Spilsbury's performances in the mortuary and the courtroom "threatened to undermine the foundations of forensic pathology as a modern and objective specialism".

Spilsbury is particularly criticised for his insistence on working alone; a refusal to train students; and an unwillingness to engage in academic research or peer review. This, says the article's author, "lent him an aura of infallibility that for many raised concerns that it was his celebrity rather than his science that persuaded juries to credit his evidence over all others."

# Trials as Entertainment

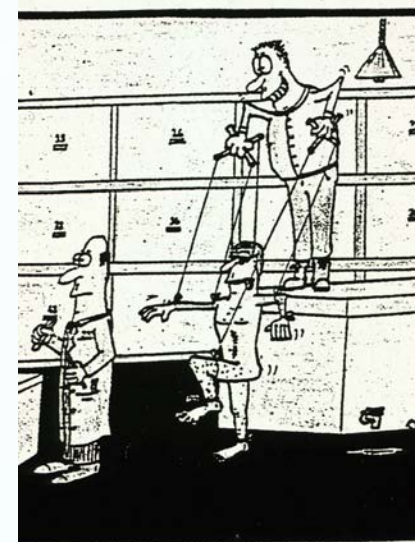


- “What disturbs me most are the comments from the audience members who are clearly enjoying this trial. They are "excited", they seem to view this trial as entertainment as if it were a movie played by actors. They are fed descriptions of the witnesses and the criminal justice "players". Facial expressions, color of clothing, what they may be doing with their hands or their mouths, where they are looking. Many in this audience "can't wait" for this witness or that to happen. Very exciting stuff... “
- “A person, Sarah Widmer, is dead and a very real living person. Ryan Widmer, is on trial for his wife's death knowing every move he makes will be interpreted by the jury (and the blogging audience) in some manner which may or may not benefit a fair verdict.”

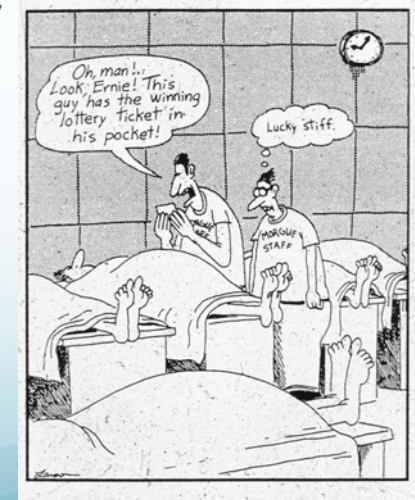
# Forensic Pathology Myths

- **The People**

- Pathologists are not Doctors
- Coroners perform autopsies
- Coroners are Doctors
- Detectives look over the pathologists shoulder
- Pathologists don't see living patients
- Pathologists don't like live patients
- Pathologists talk to the corpse during the autopsy
- Pathologists crack black jokes and “sassy” quips over the body
- Pathologists say and show things just to disgust mortuary visitors
- Pathologists are interested in outcome of trials
- Pathologists don't like being cross examined
  - *Most of us love it BUT danger of egotism – Sir Bernard Spilsbury again?!*

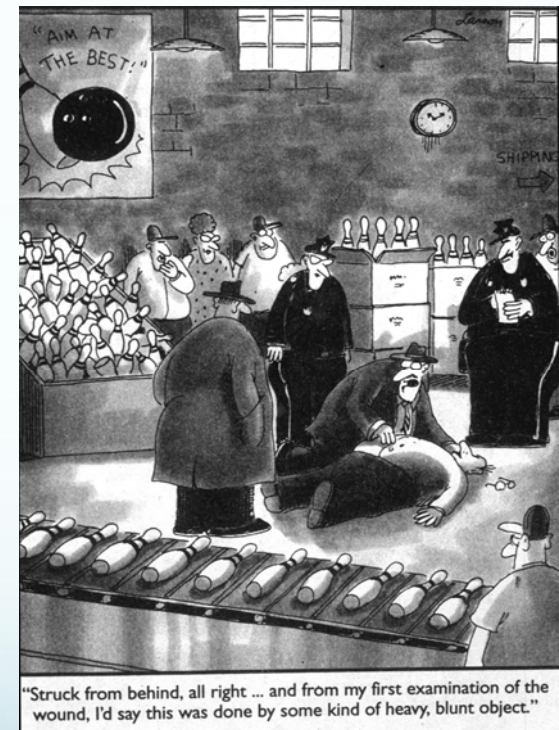


A BORING day at the city morgue.

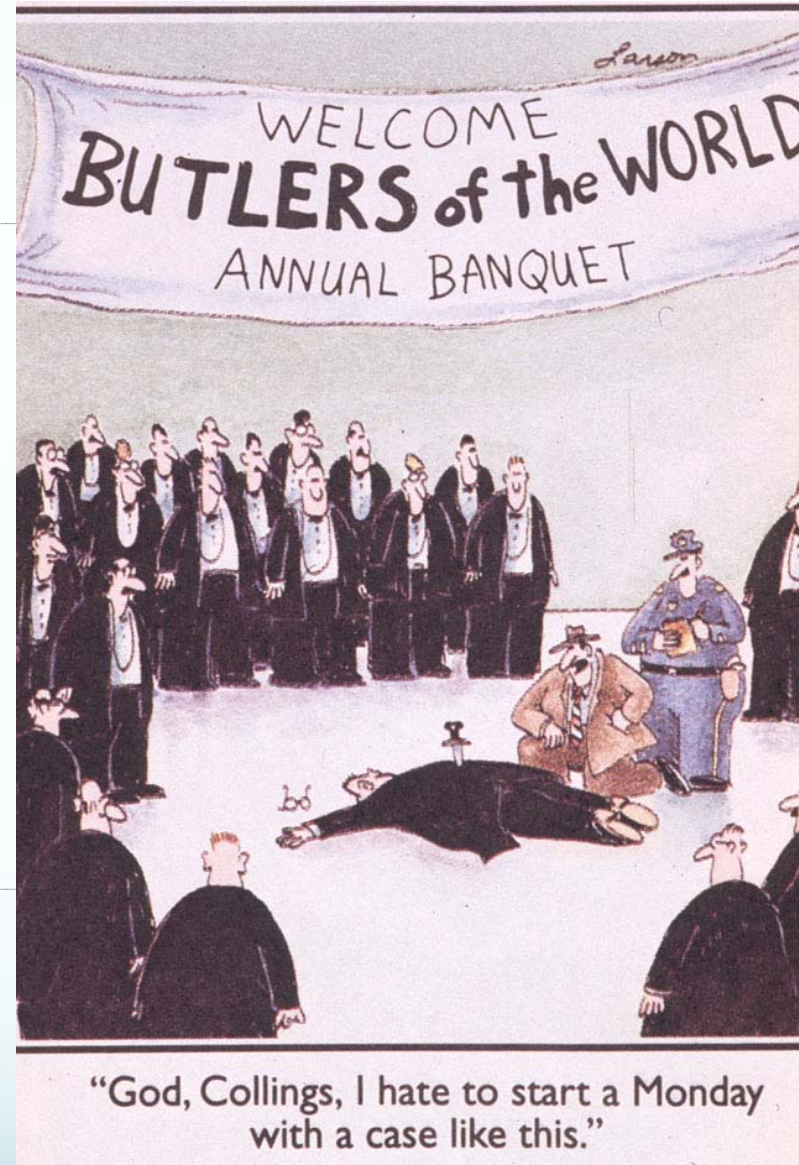
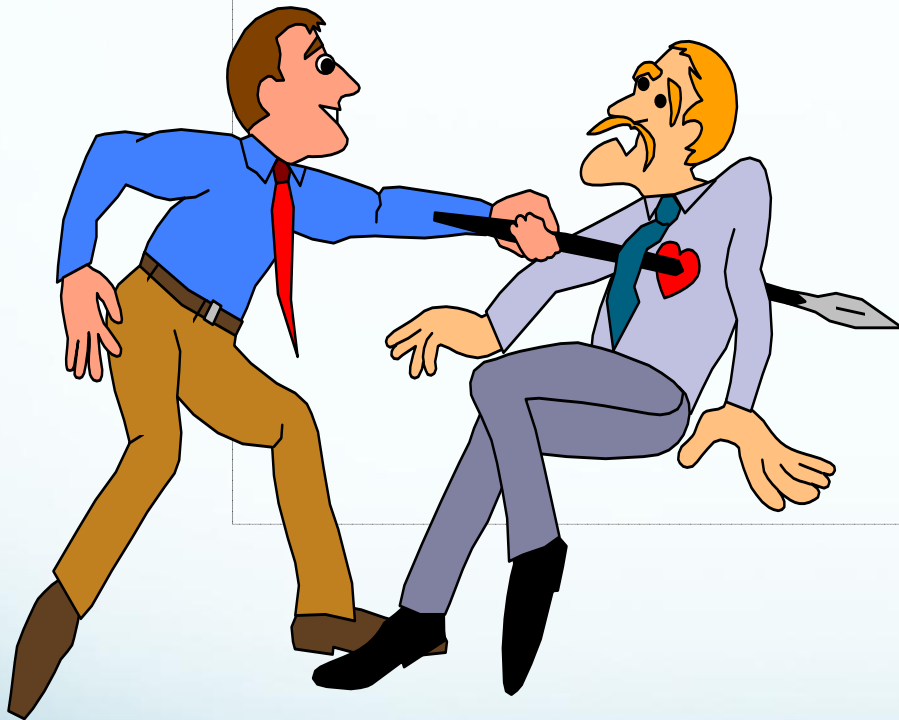


# Forensic Pathology Myths

- **The Job**
  - Pathologists interrogate/shoot/catch suspects
  - Pathologists lead the investigation of crimes
  - Police lead the investigations of deaths
  - Pathologists can determine the cause of death
    - Immediately on arrival at the scene
    - By sniffing the body
    - By using laser enhanced 3D virtual construct models floating in the air
  - Pathologists can tell police the time of death-
    - With an accuracy of a few minutes
    - With an accuracy of a few tens of minutes
    - With an accuracy of a few hours
  - Pathologists do autopsies in a white coat and wearing a bow tie.



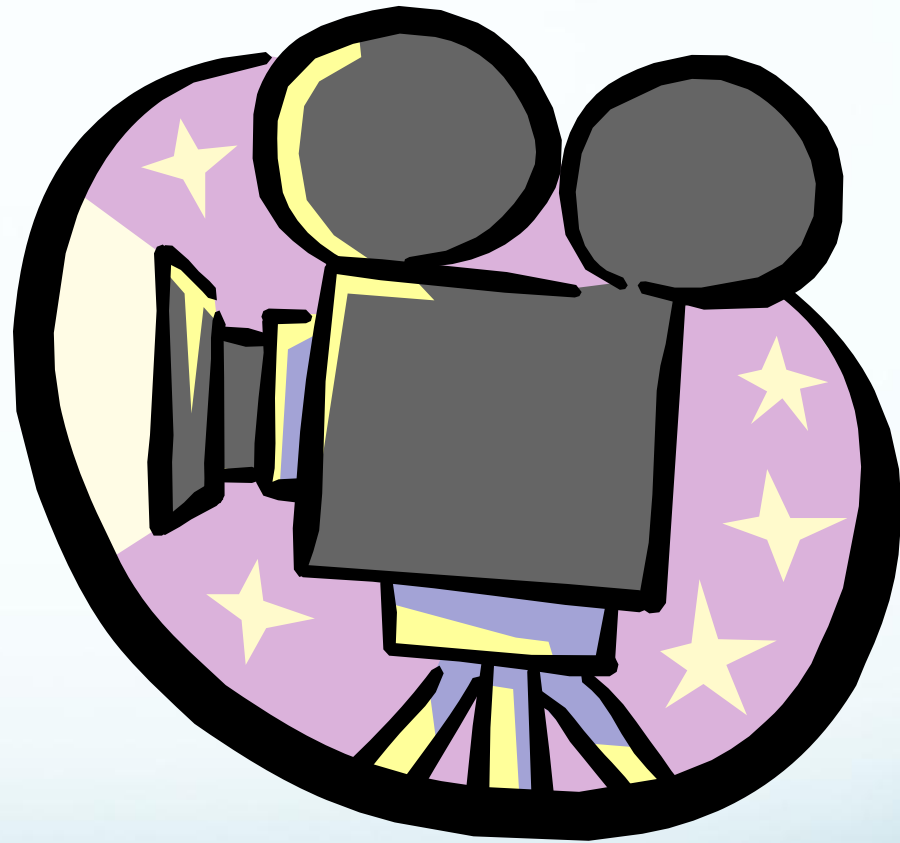
# Traditional view often portrayed in the media



Usually forensic pathologists but more recently forensic physicians, forensic odontologists and forensic anthropologists have appeared.

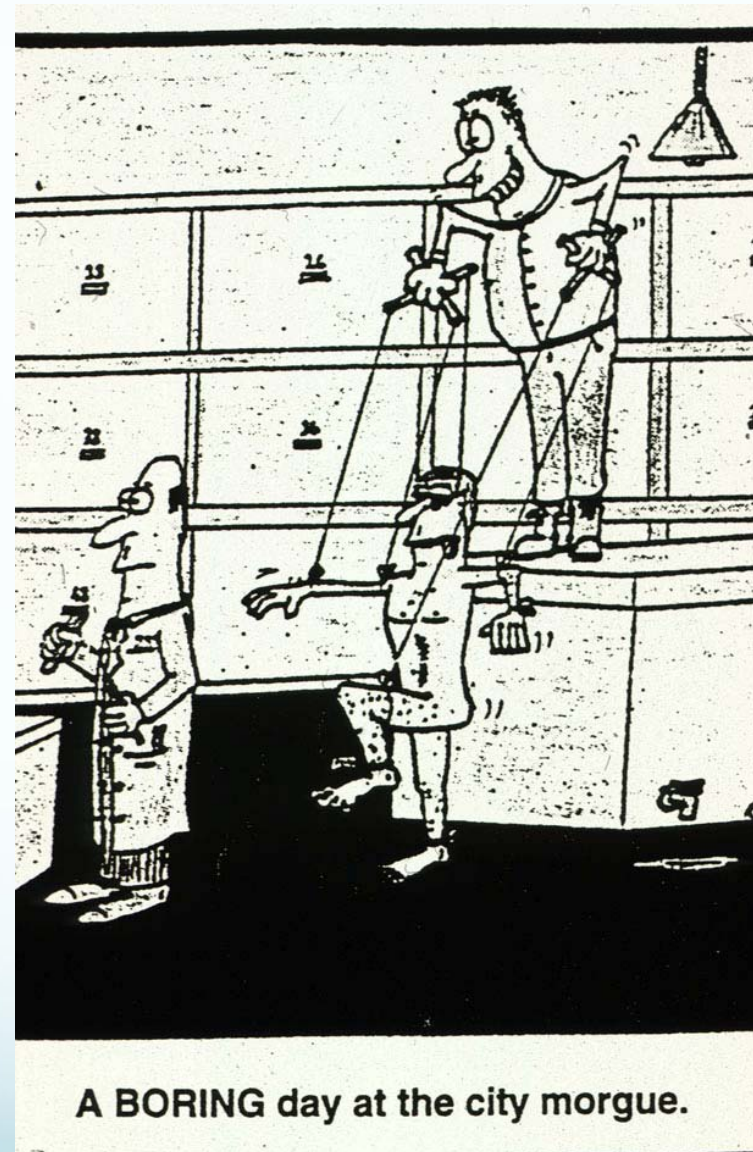
# The Curse of the MEDIA?

Crossing Jordon  
Midsomer Murders  
Kay Scarpetta  
Janus  
Morse  
Bones  
NCIS  
City Homicide  
CSI  
Phoenix  
Dexter  
Silent Witness  
Quincy  
Halifax FP  
Blue Heelers  
McCallum  
Underbelly 'et al'  
(Inspector Rex)



## Why the public fascination with forensic pathology either as a main theme or as part of:

- Police dramas
- Crime dramas
- Medical dramas
  
- We will all die
- It is secret doctors business
- It is secret police business
- It is “really gross”



The Suspicion

# What do TV Shows do



- Sell advertising
- Sell more advertising
- If people like forensic shows then the ratings go up and the advertising slots are more expensive
- Strategically place adverts in the story line to allow for time to pass (minutes, hours..)
- Never put dog food commercials in an ad break in a mortuary scene
- Always give an audience what they imagine happens rather than what actually happens-don't let them think too much or they will lose the "suspension of disbelief"
- Blood and guts attracts people but not around tea time.

# What do TV writers do

- Condense
  - Character sets
    - A TV audience will only be able to follow 3 or 4 main characters. So the different tasks carried out by 20 people in the real world has to be done by 3 or 4 in the TV episode.
  - Time scale
    - Pathology tests that take 3 weeks to get a result come back after the ad break.
  - Physical space
    - All analyses and autopsies take place in one large office floor with glass partitions. Instead of in multiple buildings and centres all over a city. In addition people can all go into each others lab areas without security or cross contamination being an issue.

# What do juries think?

- Interpretation of medical and scientific facts



Jury's interpretation

Pathologist's interpretation

You can test why a pathology witness holds a particular view but you won't know for sure what view a jury holds until it is too late and you may never know why the jury came to hold that particular view.

# Perception of the role of court persons

- Witness perception
  - Of counsel
  - Of jury
  - Of Judge etc.
- Jury perception
  - Of counsel
  - Of witness
  - Of Judge
- Questions from Counsel (Hmmmmm)
- Questions from the Jury
  - Informative of jury perceptions
  - Feedback for witness of their communication performance
  - Informative of erroneous assumptions inc “CSI effect” assumptions



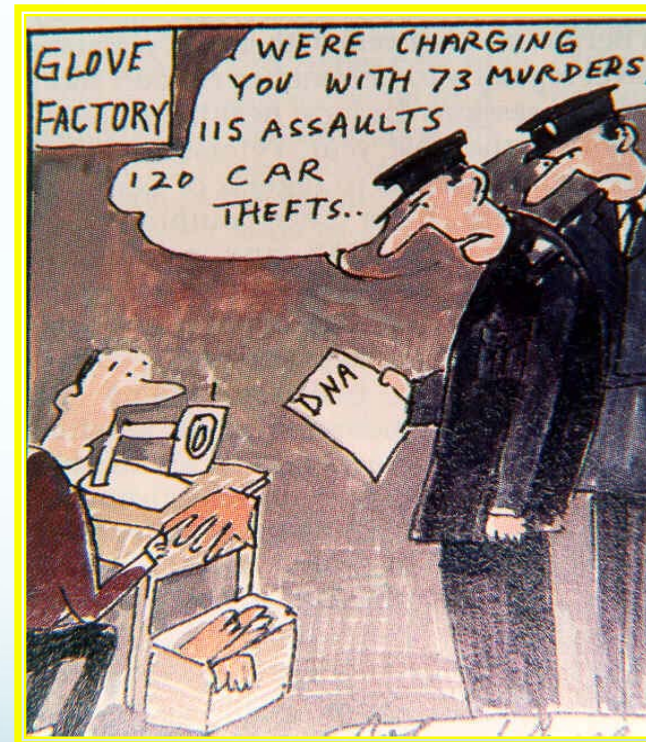
# Control and interpretation of the factual basis

- Neither the jury nor the witness controls the scope of the facts placed before the court. Missing facts may distort the interpretation reached by either.
- However, the distortion caused by the medical witness may be less of a problem because they see the fact depleted issue as incomplete and this may prevent them giving a considered expert opinion.
- In contrast a jury may be seduced by their experience of 'action packed' but 'fact poor' stories in TV shows where the forensic hero comes up with incredibly clever interpretations on the basis of very limited facts. The jury's media experience may cause them to infer that the real forensic witness is being evasive or is a poor scientist because they cannot come to such clever conclusions.



# The Fallacy of simplicity

- Scientific interpretation often involves multiple complex and interrelating factors yet most TV forensic science involves clear cut black and white matches etc.
- If the expert interpretation given by a witness is complex might a Jury infer that it is there is something wrong? (Surely it should be black and white like on TV)



# The seductiveness and over reliance on technology

- CSI was sold to the US networks on the basis of the graphic smarts with flashbacks of what was happening microscopically in video “fly throughs”
- We are more accepting of and delight in using technology. CSI like TV shows use this fascination and viewers are seduced into thinking that fancy technology will give the answers and should be used.
- Forensic pathologists are still using some techniques and tools that are centuries old and they still work well.

(Post mortem CT scans are an exception- but presentation of such evidence in court is problematic)



# Entrenched beliefs

- Do juries have entrenched beliefs in medical and scientific matters or agencies and professionals.
- Are these beliefs influenced by Forensic TV shows
- Religious
  - Scientology
  - JW
- Bias against Doctors
- Unbelievable beliefs (Alien Autopsy, Conspiracy Theories)
- Remember Ronald Reagan used astrological readings to determine US policy and US actions.



# What can the forensic expert do?

- Bother with education
- Bother with Training
- Bother with the news media
- Bother with writers
- Bother with film makers
- Bother with the community
- Bother with public relations
- Produce their own TV show!!!!!!

# Why I bother with the media

- Encourage political and community debate
- To improve community knowledge of what the Pathologists really do
- Promote new ideas
- Raise awareness of Pathology in the legal and medical professions
- Attract funding for - research and services
- Improve forensic medical knowledge in medical and legal professions
- Improve forensic medical knowledge in the general community
- Improve forensic medical knowledge in the public media
- **Help combat the “so called” CSI effect**

# VIFM Communications media

- Press releases
- VIFM Review (Private Journal)
- INFOMED (newsletter)
- VIFM Newsletters (NCIS – CLS – WRLS – Aged Care)
- VIFM Annual Report and Strategic Plan
- Dept of Justice publications
- Monash magazine and Memo
- Pathway (RCPA)
- Global emails
- Marketing/teaching materials
- News Media liaison, writer liaison, production liaison
- Youtube channels

# VIFM's Communications activities

## PROACTIVE

- Compile and maintain database of VIFM 'experts'.
- Compile and maintain database of VIFM 'client / partners'.
- Search for stories within VIFM
- Forge and maintain relationships with journalists
- Issue press releases
- Insert VIFM experts into current news media stories
- Facebook, Twitter, Blogs ,Web site.
- Youtube videos

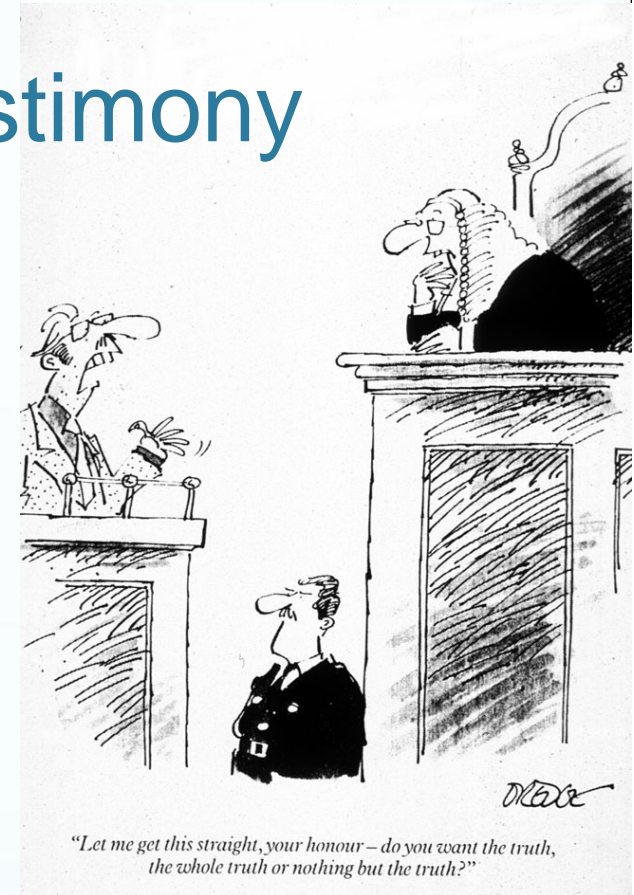
## REACTIVE

- Issues / Crisis management
- Source and provide forensic experts at request of media
  - Script researchers, writers etc.
- Field calls from journalists on topics of interest
- Field calls from Writers / Producers on topics of interest

# The media and oral testimony

## Media Training Advise

- Be concise, don't waffle
- Be interesting
- Be simple, but don't sacrifice accuracy
- Don't use jargon
- Don't assume knowledge
- Be relevant
- Know what you want to say – rehearse and practise it
- Understand the context
- Speak with authority, not arrogance
- **JUST LIKE IN COURT !**



# Laugh/Cry about CSI

- Ensure the jury are flattered by noting that they are far too intelligent to think that what happens on CSI was real!
- “All I really need is a scalpel and a thick pair of rubber gloves”
- The witnesses meta answer (Never explicitly stated)
  - “You can believe me because.....”
- The worse question I have been asked
  - The Fox FM interview question from my secretary