

1. Compare and contrast the approaches of psychology and law. Which system is more open to change?
2. Discuss why it might be difficult for a psychologist to maintain her impartiality as a scientist while trying to successfully fulfill her role as an expert testifying in court.
3. How did trial judges become the gatekeepers for expert testimony? Are there any problems with their gatekeeping role? How can the system be improved?

Answer Key

1. Main points:
 - Psychology and law represent two different cultures.
 - They differ in goals (truth vs. justice), methods (data vs. rulings), and styles of inquiry (objectivity vs. advocacy).
 - Psychology as a science is based on relativism (of knowledge and theories, or interpretations of facts).
 - Law as a system is rooted in the past (rulings, precedents).
 - Psychology is more egalitarian, law is a more hierarchical system.
 - Psychology is more open to change since science implies skepticism and new discoveries, while law abides by past decisions (precedents).
2. Main points:
 - The U.S. legal system is adversarial.
 - Often, experts are hired by either defense or prosecution, with the expectation of helping one side of the trial.
 - Lawyers tend to “shop around” for an expert who would testify the way the lawyer needs.
 - The expert herself may have ideals or convictions she wants to advocate for.
 - Being effective as an expert in court requires presenting a clear-cut, easy-to-understand picture.
 - At the same time, science is rarely clear-cut or simple, it requires objectivity and skepticism about your own and others' findings.
 - Conflicting explanations for the same facts are not uncommon in science but must be presented as clear, one-sided, and convincing in court.
3. Main points:
 - Under the *Daubert* standard (trilogy of Supreme Court decisions), trial judges are the sole decision-makers on whether to allow expert testimony.
 - Judges are expected to be “amateur scientists” to figure out if the proposed expert testimony has enough merit.
 - Judges generally do not have any training in social science research methods and thus may not be able to discern between good and not-so-good science.
 - To improve the system, judges need to undergo mandatory training in research methods and be kept abreast of new scientific knowledge in the field of forensic psychology and other social sciences through continuing education.