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Group Decision Making In The Jury Context: A Combined Theoretical Approach

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GROUP DECISION MAKING IN THE JURY CONTEXT:
A COMBINED THEORETICAL APPROACH

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2011

DEDICATION

To my undergraduate mentor, Jennifer Hunt, who helped me find the courage to start, and to my graduate mentor, Harmon Hosch, who helped me find the strength to finish.

I did this for me, but I was able to do it because of you.

GROUP DECISION MAKING IN THE JURY CONTEXT:
A COMBINED THEORETICAL APPROACH

by

LARISSA A. SCHMERSAL, M.A.

DISSERTATION

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ABSTRACT

Much of the extant research on jury decision making has been conducted at the juror level, examining the individual decisions of mock jurors. Although studying mock juror decisions provides initial insight into jury decision making, studying the deliberation process should be a priority for future research. Few theoretical models have been developed to examine the decision process of the jury. The social combination and the social communication approaches provide some insight into this process; however, analysis of these methods is scarce due, in part, to their limited applicability.

The current study examined the jury deliberation using a combined theoretical approach. Participants were 216 undergraduate students from the University of Texas at El Paso, participating in 37 mock juries. Results indicate that the group's final decision most often reflects the preference of the initial majority. The evidence discussed during the deliberation did not vary by the distribution of pre-deliberation individual verdict preferences. Individual jurors' participation in the deliberation differed according to the initial distribution of verdicts. The majority faction as a whole participated more in the deliberation; however, individual jurors in the minority faction actually participated more in the deliberation than individual jurors in the majority faction. Individuals who changed their verdict preference during the deliberation did not differ from non-changers in participation in the jury-level model, but these individuals expressed less confidence in the final group decision.

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CHAPTER 1: LITERATURE REVIEW

The empirical study of jury decision making began with the ground-breaking work of the Chicago Jury Project (James, 1959; Kalven & Zeisel, 1966; Strodtbeck, James, & Hawkins, 1957). In the 50 years following, psycholegal researchers have continued to study the decision making processes of the jury extensively (for reviews, see Devine, Clayton, Dunford, Seying, & Pryce, 2001; Ellsworth & Mauro, 1998; Levett, Danielsen, Kovera, & Cutler, 2005; Vidmar & Hans, 2007). Much of the extant research has been conducted at the juror level; that is, these studies have examined the individual decisions of mock jurors. Fewer studies have been conducted to examine decision making at the jury level (for a review, see Devine et al., 2001). Studying individual mock jurors' decision making processes has provided valuable insight regarding individuals' assessments of trial evidence (e.g., Martire & Kemp, 2009), understanding of judge's instructions (e.g., Martire & Kemp, 2009; Semmler & Brewer, 2002), and perceptions of courtroom players (e.g., Bottoms, Davis, & Epstein, 2004; Hahn & Clayton, 1996; Narby, Cutler, & Moran, 1993). This line of research has contributed greatly to the field and has provided a firm foundation for future studies on jury-level decision making.

However, understanding how individual juror-level decisions are combined into a single group decision is not as simple as viewing jury-level decision making as the sum of its parts (Foss, 1976). Decades of research have suggested that groups can reach fairer, less biased decisions than individuals reach alone (Baron & Kerr, 2003; Kaplan & Miller, 1978; Kerwin & Shaffer, 1994; Lorge, Fox, Davitz, & Brenner, 1958; Michaelsen, Watson, & Black, 1989), especially when the task demands specific goals (Brehm, Kassin, & Fein, 2005; Kerr & Tindale, 2004; Locke & Latham, 2002). An underlying premise of the jury is that individual biases

influence individual verdicts to a much greater extent than group verdicts. The jury deliberation process may lessen the effects of individual jurors' personal biases by shifting attention to the entire body of evidence, which all the jurors have in common (Kaplan & Miller, 1978). Thus, research suggests that, although studying mock-juror decisions provides initial insight into jury decision making, studying the deliberation process should be a priority for future research.

1.1 Research on Jury Decision Making

1.1.1 The American Jury

It is estimated that more than 100,000 jury trials occur each year in the United States (Devine et al., 2001; Mize, Hannaford-Agor, & Waters, 2007; Saks & Marti, 1997; Vidmar & Hans, 2007). The vast majority (approximately 85-90%) of these cases end in conviction (Bureau of Justice Statistics, 2006). Although the petit jury is often criticized (Penrod & Heuer, 1998; Vidmar & Hans, 2007), the jury process is still considered a cornerstone of democracy (Abramson, 1994; Vidmar & Hans, 2007) and is emulated in countries around the world (Vidmar & Hans, 2007).

The American jury is made up of a group of individuals who have no prior connection, no formal training, and no expertise in the area of the case. Yet these individuals are faced with the awesome responsibility of deciphering the "truth." This search may involve complex case files, competing stories, and incomplete facts. Despite all the challenges facing the jury, these individuals are able to work through their differences to reach a group verdict that matches that of an expert (i.e., the judge) over 75% of the time (Eisenberg, Hannaford-Agor, Hans, Waters, Munsterman, Schwab, & Wells, 2005; Kalven & Zeisel, 1966; Vidmar & Hans, 2007).

1.1.2 Juror Decision Making

To date, more research has been conducted on theoretical models to assess the individual-level decision making of jurors than to understand the group-level decision making of juries. Starting in the middle of the 20th century, models such as the sequential weighting model (Weld & Danzig, 1940; Weld & Roff, 1938) were developed to predict individual jurors' decisions. Since that time, information integration models (Kaplan & Kemmerick, 1974), Bayesian models (Marshall & Wise, 1975), Poisson models (Davis, 1973; Kerr, 1978), and the story model (Hastie, Penrod, & Pennington, 1983a; Pennington & Hastie, 1986, 1988, 1992, 1993) have all been developed to examine juror-level decision making. Each of these models has clear benefits and limitations. These models have provided useful insight into individual mock jurors' approaches to decision making; however, these models cannot be fully extrapolated to understand the group verdict.

1.1.3 Jury Decision Making

Challenges to studying the jury decision making process have long been recognized. Since the time of Kalven and Zeisel's study (1966), researchers have been forced to work around the limitations of studying the deliberation. Because gathering a group of 12 individuals with no prior connection is a primary challenge, many researchers have begun to study deliberations in smaller groups. Although the jury traditionally includes 12 members, some states have allowed the use of smaller groups of jurors. In fact, this practice has gained increased acceptance in the legal system (e.g., *Birkett v. Dockery*, 2009). In *Williams v. Florida* (1970), the U.S. Supreme Court ruled that using juries with fewer than 12 members did not violate defendants' rights. The Court noted, that "no discernible evidence" suggested that juries of six members differed

significantly from juries of 12 members. Subsequent empirical studies, summarized in a meta-analysis by Saks and Marti (1997), found few differences in outcomes due to group size. This analysis of 17 empirical studies that compared six-person and 12-person deliberating juries found that the 12-person juries took longer to deliberate and recalled more trial testimony. Six-person juries tended to include greater participation by group members. However, most importantly, the groups did not differ in their likelihood to reach the “correct” verdict, as determined by the majority of individuals in the population. Because there is no strong empirical evidence to suggest that groups of six or 12 mock jurors reach significantly different verdicts (Davis, Kerr, Atkin, Holt, & Meek, 1975; Devine et al., 2001; Saks & Marti, 1997), researchers have continued to study groups of fewer than 12 mock jurors. Although the utility of using six-person juries in mock jury research is widely recognized, most researchers strongly recommend that the tradition of 12 jurors continue to be upheld in the courts (Miller & Kazmar, 2007; Smith & Saks, 2008; Zeisel & Diamond, 1974).

In addition to the practical challenges inherent in organizing and analyzing a group deliberation, limited theoretical work has been conducted at the jury level. In fact, in amassing a comprehensive review of jury-level empirical work, Devine et al. (2001) indicated that this overview of the empirical work on deliberating juries emerged due to the absence of an “overarching theoretical model” to organize the body of work (p. 625). In that review, Devine et al. (2001) identified 206 empirical studies published between 1955 and 1999 that examined deliberating groups. In the majority of these studies (66%), mock jurors deliberated on simulated trial material. This method provides the researcher with more control over extraneous variables and the opportunity to monitor the deliberations; however, this method is limited in its external validity (Diamond, 1997; Saks, 1997).

Four major categories of study emerged from the Devine et al. (2001) review: procedural characteristics, participant characteristics, case characteristics, and deliberation characteristics. *Procedural characteristics*, such as jury size and jury instructions, are “institutional parameters related to jury functioning” (Devine et al., 2001, p. 625). *Participant characteristics* relate to individual difference variables. These factors include demographic variables, personality traits, attitudes, and the characteristics of trial participants. *Case characteristics* include factors specific to trials. One of the most studied characteristics, strength of evidence against the defendant, has been shown to be one of the strongest predictors of final verdict, typically explaining the majority of the variation in verdict preferences (Devine et al., 2001; Taylor & Hosch, 2004; Saks, 1976; Visser, 1987).

Limited work has been devoted to understanding the last category discussed by Devine et al. (2001) – *deliberation characteristics*. Deliberation characteristics include patterns of initial verdict preferences, juror interaction, discussion content, and deliberation structure. Devine et al. (2001) suggested that the limited interest in conducting research on the deliberation process may stem from Kalven and Zeisel’s “majority rules” finding – the verdict preferred by the majority of individuals at the start of the deliberation is the preferred final verdict approximately nine out of ten times. Subsequent studies have found support for this assertion (Baron & Kerr, 2003; Stasser, Kerr, & Bray, 1982; Tindale & Davis, 1983). Devine et al. (2001) indicated that, in approximately one out of ten trials, minority factions overcome the initial group preference and offered factors that may explain the 10% of trials in which the minority prevails. Deliberation style (evidence-driven vs. verdict-driven), polling mechanics, strength of evidence, and interpretation of jury instructions were all seen as potential areas in which the minority could

influence the majority. More insight on the impact of the minority faction can be gleaned by examining literature on small group decision making.

1.1.4 Minority Influence Research

Classic social psychological research examining minority factions offers theoretical insight into this 10% of cases. Moscovici and colleagues (Kozakai, Moscovici, & Personnaz, 1994; Moscovici, 1980; Moscovici & Faucheux, 1972; Moscovici & Lage, 1976) recognized that minority factions must have some influence on the greater majority or change would never happen (Moscovici, 1980). The minority faction may not possess the power or the greater number of members that the majority faction enjoys by definition, but small factions often possess courage, ingenuity, and, most necessarily, a willingness to disagree with the majority. These are the qualities that allow the minority to express their divergent views (Moscovici, 1980).

A meta-analysis of 97 minority-influence studies (Wood, Lundgren, Ouellette, Busceme, & Blackstone, 1994) found that, consistent with Moscovici's hypotheses, majority factions are generally more effective than minority factions in convincing opposing group members to change their opinion. Similarly, Trost, Maass, and Kenrick (1992) found that majority factions were more persuasive than minority factions when the target group initially opposed the viewpoint offered by the other group. Specifically, Trost and colleagues indicated that individuals who oppose the opinion of the minority faction may feel more confident in rejecting the point of view brought forward by the smaller and less powerful minority faction than the larger and more powerful majority faction.

Clark and Maass (1990) found that the potential for the minority to influence the decision of the majority decreases as the size of the majority increases. Baron and Kerr (2003) concluded that minority influence is most effective when the minority faction includes more than one individual and holds its position consistently over time. Put in the context of the jury, a minority faction can overcome its initial disadvantage and shift the group verdict. Like Henry Fonda's character in the classic film *Twelve Angry Men*, a minority faction that consistently and firmly holds its position throughout the deliberation can persuade other group members to alter their initial outlooks (Fonda, Rose, Justin, & Lumet, 1957).

1.1.5 Verdict Change

What, then, are the factors that can lead individual jurors to change from their initial verdict preferences? Little research has been conducted to examine verdict change in the deliberation. A handful of studies (e.g., Foley & Pigott, 1997; Rotenberg, Hewlett, & Siegwart, 1998; Strodbeck et al., 1957) have examined which jurors appear to be more influential during the deliberation, but no research has specifically examined which jurors are more likely to yield to the group. The findings of the persuasion literature can be applied to the jury context to facilitate the examination of hypotheses about why jurors may change their verdicts and which jurors may be more susceptible to persuasion. Based on this literature, the characteristics of the communicator, the verdict changer, and the context could be considered when studying verdict change during the deliberation.

First, the characteristics of the communicator (i.e., jurors representing a viewpoint opposing that of the changer) could be examined. In the jury context, studies have shown that male jurors (Cornwell & Hans, 2011; Marcus, Lyons, & Guyton, 2000; Strodbeck et al., 1957),

educated jurors (Cornwell & Hans, 2011; Hastie et al., 1983a; Hastie, Penrod, & Pennington, 1983b), tall jurors (Marcus et al., 2000), and individuals high in need for cognition (Shestowsky & Horowitz, 2004) are perceived as more influential and knowledgeable during the deliberation. The perceived credibility of the communicator can influence attitude change and behavioral compliance. Individuals perceived as having high credibility are more persuasive in changing attitudes or gaining behavioral compliance than individuals perceived as having low credibility (Pornpitakpan, 2004).

The characteristics of the changer could also be explored. Attitude-behavior consistency has been found to be related to an individual's confidence in their preexisting attitude (Kraus, 1995; Petty, Wegener, & Fabrigar, 1997). An individual confident in a preexisting belief (e.g., an individual verdict of not guilty) is more likely to behave in a manner consistent with that attitude (e.g., support a group verdict of not guilty) and less likely to give in to contextual cues (e.g., give in to group pressure to alter the verdict). Some attitudes are especially resistant to change. Past experience with particular attitude objects creates an individual's tendency to respond to particular attitude objects either positively or negatively (Eagly & Chaiken, 2007). Attitudes resulting from direct experience are much more resistant to counter-attitudinal messages than attitudes formed by indirect experience (Pornpitakpan, 2004; Wu & Shaffer, 1987).

The personality characteristics of the individuals serving on the jury could be expected to serve as potential moderating variables in the attitude-behavior relationship (Petty et al., 1997). Past research has shown that high self monitors, people who rely on situational cues to guide behavior, have lower attitude-behavior consistency than low self monitors, individuals who rely on internal cues such as attitudes to guide behavior (Kraus, 1995; Petty et al., 1997). Thus, it would be expected that jurors who rely on situational cues to guide behavior, such as low self

monitors, may be more likely to change from their initial verdict preferences in response to the context of the group deliberation.

Therefore, the characteristics of the context should be considered. As researchers have begun to recognize attitudes as “integrated cognitive structures” more so than as “isolated cognitive elements” (Lavine, 1997, p. 735), the importance of the contextual factors surrounding attitude-behavioral consistency has become more apparent. Context effects, which may result from cues from the audience or surrounding group, influence an individual’s attitudes and behavior in any given situation. That is, the stated evaluative judgment in any given situation is influenced both by the preexisting attitude and by the particular context in which the evaluative judgment is elicited (Eagly & Chaiken, 2007).

In a group context, group norms can have a strong impact on the attitude-behavior relationship, especially when those norms are closely tied to “contextually salient group memberships in the immediate social context” (Smith & Terry, 2003, p. 592). If group membership were particularly salient to the individual in the given context, social norms may promote an increased willingness to behave in a manner consistent with the group. In an ambiguous situation, behaving in a manner consistent with the group provides the individual with an indication of context-specific attitudes and behaviors that would be viewed as appropriate (Smith & Terry, 2003).

In studying behavioral change, recognizing that evaluative responses, which result from past experiences with the attitude object, differ from current evaluative responding, which is influenced by the situation in addition to the attitude, can help provide insight into attitude-behavior inconsistency and behavioral change (Eagly & Chaiken, 2007). For example, if a

person is surrounded by a group of other individuals with known views on a particular issue, such as the trial case at hand, the person may exhibit behavior and evaluative judgments that may appear inconsistent with prior attitudes in order to please the surrounding group (Prislin & Wood, 2005). In this situation, the demands of the current situation may have a greater influence on the person's behavior than the preexisting evaluative judgment (Eagly & Chaiken, 2007).

1.1.6 Summary of Jury Research

In summary, despite the growing body of empirical literature on jury decision making, few theoretical models have been developed to examine the decision process of the jury. The “majority rules” hypothesis promoted by Kalven and Zeisel (1966) may partially explain the dearth of research examining the actual deliberation process. The minority influence literature provides some information about cases in which the “majority rules” hypothesis is not supported, but little is known about the individual jurors who change their verdicts during the course of the deliberation. The limited theoretical models of jury decision making, such as the Social Decision Scheme Model (Davis, 1973, 1980; Stasser et al., 1982), have expanded upon this insight to predict the final jury verdict based on the initial distribution of individual jurors' verdicts.

1.2 Theoretical Approaches

Researchers who have contributed to the group decision making literature have long theorized about how groups reach their decisions. To work effectively, groups must reach some level of consensus among group members to select a group choice (Baron & Kerr, 2003). As noted previously, Kalven and Zeisel (1966) were among the first authors to posit a “majority rules” decision making rule for jury decision making. The “majority rules” criterion is applicable to the jury context where, in most cases, a unanimous vote is required (Vidmar & Hans, 2007).

Davis (1969) enumerated three types of questions pertinent to group decision making performance: How does being in a group affect individual performance? How does group performance compare to individual performance? And, how are individual resources combined to yield the group product? In the mock jury literature, Davis' third question is especially relevant. Specifically, how do individual jurors' interpretations of trial evidence and initial verdict preferences combine to create the group verdict?

1.2.1 Social Combination Models

The social combination approach focuses on how these initial, individual preferences are combined into the unanimous group decision while largely ignoring the discussion process that leads to the group decision (Baron & Kerr, 2003; Parks & Nelson, 1999). This approach allows the researcher to predict the final group decision based on the pattern of individual group members' decision preferences before the group discussion.

Davis' Social Decision Scheme (SDS) model (1973) is one example of the social combination approach frequently applied to the mock jury decision making paradigm. In the 1970's and 1980's, mathematical models, such as the Social Decision Scheme model, were viewed as a breakthrough for examining the theoretical processes contributing to jury decision making. The Social Decision Scheme (SDS) model examines how disparate initial preferences of individual group members translate into the final group decision (Davis, 1973; Foss, 1976; Kerr, Stasser, & Davis, 1979; Stasser, 1999; Stasser et al., 1982). Four basic elements compose the SDS model (for a comprehensive review of the model, see Stasser, 1999): individual preferences, group composition, collective responses, and group influence process. As defined by Stasser (1999): (a) individual preferences describe an individual's selection of one particular option from

a set of response alternatives, (b) group composition is represented as the distribution of individual preferences among group members, (c) collective response refers to the finite set of response options for the group, and (d) consensus processes summarize the associations among the initial group composition and the possible group responses.

The SDS model and similar mathematical models can be used to predict a group verdict based on the distribution of individual group members pre-deliberation preferences. However, these models cannot account for specific individual differences that may result in deviations from the model predictions. Further, the probabilistic process underlying the SDS model does not shed much light on the actual group decision making procedure.

1.2.2 Social Communication Models

Social communication models offer some insight into how juries shift from an initial state of disagreement to a state of agreement. This approach assumes that the group decision can best be understood by listening to what group members say to one another through an analysis of discussion content (Baron, Kerr, & Miller, 1992; Baron & Kerr, 2003; Parks & Nelson, 1999). This approach offers the advantage of understanding the process of opinion change in the group, tracking how the group discussion alters individuals' impressions of evidence, and analyzing discussion styles of majority and minority factions within the group. However, this approach does not provide information on how initial individual preferences are combined into the single, group decision (Parks & Nelson, 1999).

1.2.3 A Combined Approach

A primary criticism of the social combination approach has been that models using this framework provide little to no information about the interpersonal interactions that resulted in

the group decision. That is, we receive no information on how these decisions are reached; we can only predict the final selection based on the initial preferences. The social communication approach is similarly limited in that the individual group member's initial preferences are largely overlooked. Neither approach alone holds the key to understanding the group decision making process (Baron & Kerr, 2003). Thus, integrating the social combination and the social communication approaches may be ideal for examining how the initial distribution of jurors' verdicts is integrated into the final group decision.

Both the social combination and the social communication approaches have contributed to a greater understanding of the jury decision making process; however, few researchers have combined these two approaches. Davis (1980) offered early hypotheses incorporating the two theoretical approaches, suggesting that the initial pattern of individual decision preferences could influence rates of participation in discussions. Hawkins (1960) found support for differences in group communication based on the initial pattern of individual verdict preferences. Specifically, the number of statements directed toward mock jurors supporting the opposite viewpoint steadily increased throughout the duration of the deliberation until the group's decision became obvious and inter-faction discussion again ceased. Parks and Nelson (1999) studied the early hypotheses suggested by Hawkins (1960) and Davis (1980) and found connections between initial preference distributions and the content of the group deliberation. These researchers proposed that additional work be done to integrate the social communication and social combination approaches. Despite these early attempts and revived interest in a combined methodology, little research on the jury deliberation has been conducted under a combined social combination and social communication approach.

1.3 Current Study

As described previously, limited work has been conducted to establish a theoretical framework useful for assessing jury decision making. The social combination and the social communication approaches provide some insight into this process; however analysis of these methods is scarce due, in part, to their limited applicability. The purpose of the current study is to examine the jury deliberation process using a combined theoretical approach. A combined approach – designed to assess the probabilistic patterns of combining individual decisions into group decisions, the communication patterns of the discussion content, and the inter-relations among these patterns – is a logical next step for advancing the field. Drawing from the extensive small-group communication literature, this combined approach could yield necessary advancement to the theoretical work on jury decision making. In addition, a combined approach allows for an in-depth examination of factors related to minority group influence and verdict change.

CHAPTER 2: RESEARCH QUESTIONS

A series of inter-related, but distinct, research questions are proposed. Under each research question, specific hypotheses are offered based on the literature. Research question 1 follows the social combination approach. Research question 2 follows the social communication approach. Research questions 3 and 4 are analyzed under a combined theoretical approach.

2.1 Research Question 1: Can verdict be predicted based on initial verdict composition?

2.1.1 Hypothesis 1

Based on prior work conducted on the social combination approach (e.g., Davis, 1973; Foss, 1976; Kerr et al., 1979; Stasser, 1999; Stasser et al., 1982), it is hypothesized that final verdict can be predicted based on the initial composition of individual mock jurors' verdicts. Previous research has suggested that the group verdict corresponds with the initial majority 90% of the time (Baron & Kerr, 2003; Kalven & Zeisel, 1966; Stasser et al., 1982; Tindale & Davis, 1983). Therefore, it is expected that the group verdict will be consistent with the majority of individual verdict choices in 90% of the groups.

2.2 Research Question 2: Will initial preference distributions affect the nature of subsequent discussions?

2.2.1 Hypothesis 2

It is expected that the initial pattern of verdict composition will affect the content of the discussion such that the discussion focuses on evidence consistent with the initial majority's verdict preference. The human tendency is to seek out, recall, and accept information that is consistent with previous beliefs about the world (Jonas, Schultz-Hardt, Frey, & Thelen, 2001;

Kunda, 1987; Lord, Ross, & Lepper, 1979; Nickerson, 1998; Wason & Johnson-Laird, 1972, for an application to jury research, see Bornstein & Greene, 2011). Individuals entering the deliberation with a verdict preference would be expected to focus more on discussing information in line with their own interpretation of the trial evidence and give more weight to information provided by other jurors with similar viewpoints. Therefore, it would be expected that the majority faction will dominate the discussion with case facts in line with their own interpretation of the evidence. Thus, it is hypothesized that the information discussed during the deliberation will be largely consistent with the viewpoint of the majority faction.

2.3 Research Question 3: Do individuals in the majority and the minority differ in their participation in the deliberation?

2.3.1 Hypothesis 3

It is hypothesized that the initial distribution of pre-deliberation individual verdict preferences will affect the process of the discussion such that individuals in the majority faction (either pro-conviction or pro-acquittal) will participate more than individuals in the minority faction. Majorities, on the basis of their greater numbers, can dominate discussions and offer more information in favor of their viewpoint (Stasser, Stella, Hanna, & Colella, 1984). Because most juries will ultimately select a final verdict consistent with the viewpoint of the majority (Baron & Kerr, 2003; Kalven & Zeisel, 1966; Stasser et al., 1982; Tindale & Davis, 1983), in most cases, a strong minority faction will not be apparent and the viewpoint of the majority is expected to dominate the discussion (research question 2). Past research would suggest that individuals in the majority faction, in recognizing that their individual verdict preference is shared by the majority of mock jurors, may discuss their viewpoints more extensively because

these attitudes are in line with group norm. In contrast, individuals who realize that their verdict preference is in the minority may feel less inclined to emphasize this divergence of opinions (Smith & Terry, 2003; Wellen, Hogg, & Terry, 1998; Wood, 2000).

2.4 Research Question 4: What factors are associated with verdict change?

2.4.1 Hypothesis 4a

It is hypothesized that individuals who change their verdict will participate in the deliberation to a lesser extent than individuals who do not change their verdict. Because it is expected that the majority will prevail in most group decisions (Baron & Kerr, 2003; Kalven & Zeisel, 1966; Stasser et al., 1982; Tindale & Davis, 1983), individuals who change their decision are likely to originally be in the minority faction.

2.4.2 Hypothesis 4b

It is hypothesized that individuals who change their verdict will initially express less confidence in their individual verdicts than non-changers. Previous research in jury decision making (Diamond & Casper, 1992) has found that jurors who changed their verdict preference following deliberation expressed less confidence in their pre-deliberation verdicts than non-changers. In group decision making studies, individuals who initially express more confidence in their judgments, regardless of their accuracy, have been found to behave in a manner consistent with that original attitude, to be less likely to give into contextual cues (e.g., group pressure), and to be more influential during the group decision, which may lead to an outcome consistent with their initial outlook (Eagly & Chaiken, 2007; Wood, 2000; Zarnoth & Snizek, 1997).

2.4.3 Hypothesis 4c.

Finally, it is hypothesized that individuals who change their verdict during the deliberation will express less confidence in the group verdict than non-changers. Petty, Tormala, Briñol, and Jarvis (2006) showed that individuals who changed their attitudes exhibited decreased levels of confidence in that attitude compared to non-changers. Changers may also acquiesce to the group decision without truly changing their underlying attitude, which would decrease confidence in the final group decision (Davis, 1973).

CHAPTER 3: METHODOLOGY

3.1 Participants

Participants were 216 undergraduate students from the University of Texas at El Paso. A power analysis was conducted for each proposed analysis to determine the minimum number of participants needed in this study to detect a small to medium-sized effect (Cohen, 1992). The 216 mock jurors participated in 37, five- and six-person mock juries. The demographics of the sample reflected that of the university: 82.2% Hispanic, 59.5% women. The average age of participants was 22.87 years. Table 1 displays the juror-level descriptive statistics.

Sixteen mock juries (93 participants) were recruited from the undergraduate research pool that included students in lower-level psychology courses who received compensation in the form of experimetric credit or extra credit for their course. Twenty-one mock juries (123 participants) completed the experiment as a class activity in their Law and Psychology course. Descriptive analyses showed no significant differences between the two groups of students.

3.2 Procedure

Participants completed the experiment in two sessions. Descriptions of the materials used in the current study appear following a brief explanation of the procedure. Detailed descriptions of all project materials, including the materials not used in the data analysis for the current study, are available in Appendix A.

3.2.1 Session 1

The first session was completed online. Participants received a link to the online study via the experimetric program or directly from the researcher. After providing their consent,

participants were granted access to the study materials. Session 1 included a *voir dire* questionnaire, a trial transcript, a request for an individual verdict decision, and a post individual verdict questionnaire, completed in that order. Participants in the general experiment pool who completed Session 1 were asked to provide contact information (e.g., email address) and consent for the experimenter to contact them about future sessions. Participants were reminded that participation in Session 2 was completely voluntary and would not influence their credit for Session 1. Participants who completed the study as part of their Law and Psychology course completed Session 1 on their own time as a class homework assignment and completed Session 2 during a class period. These participants were given the option to complete an alternative research assignment for course credit.

3.2.2 Session 2

Six-person mock juries were constructed to manipulate the ratio of participants favoring conviction to participants favoring acquittals. Four possible group combinations were constructed based on individual verdicts: five for conviction, one for acquittal (strong majority conviction); four for conviction, two for acquittal (weak majority conviction); five for acquittal, one for conviction (strong majority acquittal); four for acquittal, two for conviction (weak majority acquittal).

In certain sessions, fewer than six students attended Session 2 ($n = 26$). If three or more participants attended the session, the researcher conducted the experiment, but only mock juries including five or six participants were included in the current study. In rare cases where fewer than three students arrived for the experiment session, participants were given the option of signing up for a different session, but were still credited for attending the experiment session as

scheduled. In addition, 11 group sessions were conducted but ultimately excluded from the final sample due to technical difficulties with the recording equipment.

After signing the consent forms and rereading the judge's instructions, each mock jury was asked to deliberate on the trial transcript each mock juror read during Session 1. If no verdict was reached after one hour of deliberation, the group was considered a hung jury. After reaching a group decision, the mock jury completed a *post-deliberation group questionnaire* together as a group. Finally, each individual mock juror completed a *post-deliberation individual questionnaire* separately. Participants were fully debriefed and thanked for their participation.

All deliberation sessions were audio and video recorded. Participants were informed that each session would be recorded in the informed consent document. The researcher informed the participants that the recording would be transcribed and that no personal or identifying information would be included. Participants were given the option to request that their session not be recorded; no participants made this request.

3.3 Materials

3.3.1 Voir Dire Questionnaire

The voir dire questionnaire (see Appendix B) collected basic demographic information (e.g., age, gender, jury eligibility, and ethnicity) about each participant.

3.3.2 Trial Transcript

Participants read a trial transcript (see Appendix C) that described a burglary of a habitation trial. This transcript previously has been shown to produce nearly equal frequencies of convictions and acquittals. In the transcript, a woman arrives home to find that her residence has been burglarized and a specified amount of money and a gold watch are missing. When

questioned by the police, the woman provides a detailed description of a vehicle she saw leaving her driveway. The defendant is found in his vehicle, which matches the description, nearby the woman's residence. When his vehicle is searched, several watches and a large sum of money are found in addition to a toolbox containing tools similar to those used in the burglary. The testimony and cross-examination of the victim, a police officer, and the defendant were presented in the transcript.

3.3.3 Individual Verdict Form

The verdict form (see Appendix D) asked participants to render an individual verdict of either Guilty or Not-Guilty. Participants rated their confidence in their personal verdict decision on a scale from 1 = "Very Unsure" to 5 = "Very Confident."

3.3.4 Post Individual Verdict Questionnaire

The post individual verdict questionnaire (see Appendix E) was used to assess individual participants' interpretations of the evidence, perceptions of the strength of evidence against the defendant, and opinions about trial participants.

3.3.5 Post-Deliberation Group Questionnaire

The post-deliberation group questionnaire (see Appendix F) asked the participants in each mock jury to reach a unanimous group verdict to find the defendant either Guilty or Not-Guilty. This form also asked about the group's use of the evidence during the deliberation. All members of the group completed this form together following the group decision. The group was provided with a checklist of the facts in evidence and was asked to check all facts discussed

during the deliberation. In addition, the group rated each fact discussed as supporting the prosecution, the defense, or neither (i.e., neutral).

3.3.6 Post-Deliberation Individual Questionnaire

Each individual mock juror completed a post-deliberation individual questionnaire separately after the group deliberation (see Appendix G). Participants were asked to indicate their group's decision and their confidence in the group's decision. Participants rated their confidence in the group verdict decision on a scale from 1 = "Very Unsure" to 5 = "Very Confident." Participants indicated their personal verdict decision and whether they changed from their initial individual decision. Participants who changed from their initial verdict selection were asked about their reasons for changing their position. Finally, participants answered a series of questions about the group decision process that included self-ratings (e.g., "How motivated were you to persuade group members to see things from your point of view?") and ratings of each other group members (e.g., "How similar is this person to you?").

CHAPTER 4: RESULTS

4.1 Deliberation Coding

All group deliberations were audio and video recorded and transcribed professionally. Transcriptions were coded by trained research assistants to assess participation patterns among mock jurors and deliberation content.

4.1.1 Participation

Participation in the deliberation was coded by total speaking time (i.e., count in minutes of speech), number of turns taken during the deliberation, and units meaningful speech as measured by a modified word-count procedure devised by Dickinson and Poole (2000). This coding procedure removes hedges, hesitations, conjunctions, and articles and has been used previously in eyewitness research (e.g., Dickinson & Poole, 2000). A single coder completed all coding for participation (see Appendix H).

4.1.2 Deliberation Content

Deliberation content was assessed by coding for the type of evidence discussed by each group. The content of the trial transcript used in the current study has previously been coded to determine baseline counts of facts in evidence: 43 general facts (e.g., time of arrest), nine pro-prosecution facts (e.g., the defendant drove a car similar to the one described leaving the scene), and nine pro-defense facts (e.g., the witness could not identify the stolen watch).

Each deliberation transcript was coded to examine the group's discussion of the primary facts in evidence. The content of each deliberation was compared to the previously established baseline rates to determine the number of pro-prosecution, pro-defense, and general facts in evidence discussed by each group. Further, the deliberations were coded for additional content

including trial-related discussion not related to the evidence (e.g., judge's instructions, reasonable doubt), personal experiences related to the case or the trial (e.g., experience serving on a jury previously), discussion related to procedures (e.g., selection of the fore-person), and non trial-related discussion (e.g., small talk). Inter-rater reliability was found to be $k = .40$, $p < .001$, 95% CI [.33, .47], which is indicative of moderate agreement (Landis & Koch, 1977).

4.2 Preliminary Analyses

4.2.1 Data Source and Group Size

Data were collected from Introductory courses ($n = 16$ juries¹) and from upper-level Law and Psychology courses ($n = 21$). Initial analyses were conducted to ensure that there were no significant differences due to course type. At the jury level, mean deliberation length, jury composition, deliberation style, and group verdict outcome did not differ by class. Juries composed of five ($n = 6$ juries) or six ($n = 31$ juries) participants were included in the study. Again, mean deliberation length, jury composition, deliberation style, and group verdict outcome did not differ by group size.

4.2.2 Deliberation Style

In the current study, 32.4% of groups were categorized as evidence-driven deliberations (i.e., began with a discussion of the evidence), and 67.6% of groups were categorized as verdict-driven deliberations (i.e., began with a vote). At the jury level, there was no difference in the frequency of polling according to jury style, $F(1, 35) = 0.09$, $p = .77$, or in deliberation length, $F(1, 35) = 2.31$, $p = .14$. Of the 12 evidence-driven juries, one jury (8.3%) ended as a hung jury, and five (20.0%) of the 25 verdict-driven juries ended as hung juries, $z_{\text{prop}} = 1.03$, $p > .05$.

¹ Technically, all juries analyzed for this study are “mock juries,” and all participants are “mock jurors.” However, to avoid verbosity, mock juries will be referred to simply as “juries,” and mock jurors will be referred to as “jurors” throughout the results section. Distinctions between real and mock jurors and juries will be made as necessary in the discussion section.

4.2.3 Juror- and Jury-Level Verdicts

Participants rendered individual, pre-deliberation verdicts during Session 1. Consistent with prior administrations of this trial transcript (e.g., Schmersal, 2009), 51.3% of individual jurors rendered a verdict in favor of conviction, and 48.7% rendered a verdict in favor of acquittal. Jury composition was manipulated to produce a numerical majority in each group. There were 68.4% of jurors in the numerical majority in their group, and the remaining 28.8% of jurors were in the numerical minority (see Table 1).

Jury-level group verdicts were rendered at the end of each deliberation. Consistent with the leniency hypothesis, which suggests that juries favor acquittal more often than individual jurors (Devine et al., 2001; MacCoun & Kerr, 1988), there were more acquittals at the group level than at the individual pre-deliberation level: 32.4% of groups rendered a final verdict in favor of conviction, 51.4% of groups were in favor of acquittal, and 16.2% were considered to be hung juries. Mean deliberation length differed significantly across the three deliberation outcomes, $F(2, 34) = 8.03, p = .001$. Juries that did not reach a final decision (i.e., hung juries), $M(SD) = 38.05 (18.61)$ minutes, 95% CI [18.46, 57.65], deliberated significantly longer than juries that voted in favor of conviction, $M(SD) = 14.21 (7.12)$ minutes, 95% CI [9.68, 18.73], $t(34) = -3.67, p = .001$, and significantly longer than juries that voted in favor of acquittal, $M(SD) = 15.15 (13.82)$ minutes, 95% CI [8.49, 21.81], $t(34) = -3.77, p = .001$. Juries reaching a verdict either in favor of conviction or in favor of acquittal did not differ significantly in deliberation length, $t(34) = -0.196, p = .845$.

4.2.4 Group Composition

The composition of each group was manipulated to create four conditions based on pre-deliberation individual verdict (see Table 2). Final conditions included five- and six-person juries

and were coded as: (a) strong majority conviction, with pre-deliberation verdict compositions of five (or four) conviction to one acquittal ($n = 7$), (b) weak majority conviction, with pre-deliberation verdict compositions of four (or three) conviction to two acquittal ($n = 12$), (c) strong majority acquittal with pre-deliberation verdict compositions of five (or four) acquittal to one conviction ($n = 7$), and (d) weak majority acquittal, with pre-deliberation verdict compositions of four (or three) acquittal to two conviction ($n = 11$). Mean deliberation length did not differ by condition (see Table 3).

4.3 Social Combination Approach

It was hypothesized that the final group verdict could be predicted based on the initial composition (i.e., decision scheme; Davis, 1973; Smoke & Zajonc, 1962) of pre-deliberation individual verdicts. Previous research has suggested that the group verdict corresponds with the initial majority – the “majority rules” hypothesis (Baron & Kerr, 2003; Kalven & Zeisel, 1966; MacCoun & Kerr, 1988; Stasser et al., 1982; Tindale & Davis, 1983). This analysis was conducted at the jury level examining the distribution of pre-deliberation verdict preference for the 37 mock juries by final group verdict. An analysis of decision schemes is most appropriately conducted at the aggregate level because it examines distributions of individual preferences within a sample of groups (Parks & Nelson, 1999).

Davis (1973) pointed out that the number of decision outcomes for an individual juror is different than for a group jury. That is, an individual juror reaches a personal preference of “guilty” or “not guilty.” A group jury can render a verdict in favor of conviction, vote in favor of acquittal, or fail to reach a decision. In the current study, there were four possible distribution conditions based on two individual decision preferences: conviction and acquittal. At the group decision level, there were three possible outcomes: conviction, acquittal, and hung.

Consistent with the hypothesis, the initial distribution of pre-deliberation verdicts was associated with final group verdict, $\chi^2(6) = 25.01, p < .001$ (see Table 4). When including hung juries in the analysis, 67.5% of groups favored the initial majority's verdict, 16.2% of groups favored the initial minority's verdict, and 16.2% were declared a hung jury. Consistent with previous observations (e.g., Davis, 1973; Schubert, 1965), no juries in the extreme (i.e., strong majority conviction or strong majority acquittal) selected a final group verdict that differed from the initial majority's decision. Of the groups with a distribution of weak majority conviction, five juries (13.5%) voted in favor of acquittal, consistent with the leniency hypothesis (MacCoun & Kerr, 1988). One jury (2.7%) with an initial distribution of weak majority acquittal rendered a group verdict in favor of conviction.

A second analysis examined only groups in which a final verdict was rendered (i.e., excluded hung juries). Once again, pre-deliberation verdict distribution was significantly associated with final group decision, $\chi^2(3) = 17.95, p < .001$, and 80.7% of the juries that reached a final verdict chose a group verdict consistent with the initial majority (see Table 5).

4.4 Social Communication Approach

The social communication approach emphasizes an analysis of discussion content (Baron et al., 1992). This approach allows the researcher to examine global themes that may relate to opinion change and lead the discussion toward a final group decision; however, it provides limited insight into the explicit preferences of individual members or how those preferences are combined into one group decision.

To examine the types of evidence discussed during the group deliberation at the jury level, all jury transcriptions were coded to assess themes. Differences were examined by pre-deliberation verdict distribution. It was hypothesized that the initial distribution of pre-

deliberation verdict preferences would affect the content of the discussion such that the discussion would focus on evidence consistent with the initial majority's verdict preference. Exploratory analyses were also conducted to see if discussion content varied by deliberation style or by final verdict outcome.

4.4.1 Emergent Themes

Data were coded to determine the total number of pro-prosecution, pro-defense, and general facts in evidence discussed by each group. A qualitative assessment of the transcripts showed a number of emergent themes. Three major themes from the trial transcript factored heavily into almost all deliberations, and in most deliberations, at least one representative case fact was mentioned about: (a) the car driven by the defendant (at least one case fact about the car was mentioned in 94.6% of juries), (b) the amount of money in the defendant's possession (at least one case fact about the money was mentioned in 94.6% of juries), and (c) the similar watch in the defendant's possession (at least one case fact about the watch was mentioned in 100% of juries). Examples of representative case facts under each major theme are listed in Table 6.

After deliberation, each jury was asked to list the key facts in evidence that influenced their decision. Twenty-eight juries (75.7%) listed the description of the car as a key fact in evidence, and eight (21.6%) juries listed the description of the car as the most influential fact in making their decision. Twenty juries indicated that the description of the car supported the prosecution's case; seven juries indicated that the description of the car supported the defense's case. Although 27 juries (72.9%) listed the money as a key fact discussed during the deliberation, only one jury (2.75%) listed the money as the most influential fact in evidence. Fifteen juries perceived that the information about the money supported the prosecution; nine juries believed that this information supported the defense. Thirty-three juries (89.2%) listed the watch as a key

fact in evidence influencing the final verdict decision; eight juries (21.6%) listed the watch as the primary fact in evidence influencing the final verdict decision. Seventeen juries perceived the watch to be a fact supporting the prosecution; 11 juries perceived the watch to be a fact in support of the defense.

In addition to discussing facts in evidence about these three overarching themes, the majority of juries discussed the fact that the defendant was reported to be intoxicated at the time of the crime (83.8%), the fact that the defendant claimed to be with his girlfriend at the time of the crime (73.0%), the fact that the defendant had tools in the back of his car (89.2%), and the fact that the defendant claimed to have won the watch in question at a poker game (78.4%).

For several juries, what was not presented at the trial was almost as important as what was. Twenty (54.1%) juries talked about the fact that the defendant's girlfriend did not testify to corroborate his alibi. One jury listed this as the most influential fact in their decision. For example, Jury 32 believed that the girlfriend's testimony could have made the difference between a conviction and acquittal.

“Just the whole girlfriend thing would've been so important. If she would've just testified, that would've been it. That's enough evidence; that's enough because that's his alibi and I think that's the most important.” Juror 34, Jury 32 (32:36 to 32:49)

4.4.2 Evidence Discussed and Jury Characteristics

A series of multivariate analysis of covariance (MANCOVA) tests were conducted to determine if the type of evidence discussed during the deliberation was influenced by jury-level characteristics. The total number of pro-prosecution facts discussed, pro-defense facts discussed, and general facts discussed during the deliberation were included as dependent variables. Due to substantial departures from normality, the total number of pro-prosecution facts and the total

number of pro-defense facts were transformed using the log 10 transformation. The length of the deliberation was included in each analysis as a covariate.

It was expected that the juries would discuss more evidence consistent with the outlook of the initial majority. That is, juries with an initial majority in favor of conviction would discuss more pro-prosecution evidence, and juries with an initial majority in favor of acquittal would discuss more pro-defense evidence. For this analysis, the strong and weak majority conviction conditions based on the distribution of pre-deliberation individual verdict preferences were combined into one condition ($n = 19$). Similarly, the strong and weak majority acquittal conditions were combined into one condition ($n = 18$).

With the use of Wilks' criterion, the combined dependent variables were not significantly related to the pre-deliberation distribution of individual verdicts, $F(3, 31) = 1.05$, $p = .384$, partial $\eta^2 = .09$. After adjusting for differences on the covariate, the univariate analyses showed that the initial distribution of pre-deliberation verdicts was not associated with a difference in the number of pro-prosecution, $F(1, 33) = 0.84$, $p = .365$, partial $\eta^2 = .03$, pro-defense, $F(1, 33) = 2.13$, $p = .154$, partial $\eta^2 = .06$, or general facts in evidence discussed, $F(1, 33) = 0.02$, $p = .884$, partial $\eta^2 = .001$. The combined dependent variables were significantly related to the covariate, deliberation length, under the Wilks' criterion, $F(3, 31) = 24.31$, $p < .001$, partial $\eta^2 = .70$.

Evidence discussed did not differ by deliberation style. The combined dependent variables were not related to deliberation style using the Wilks' criterion, $F(3, 31) = 0.21$, $p = .488$, partial $\eta^2 = .02$. Univariate analyses indicated that, after adjusting for differences on the covariate, verdict-driven and evidence-driven deliberations did not differ in the number of pro-prosecution, $F(1, 33) = 0.04$, $p = .843$, partial $\eta^2 = .001$, pro-defense, $F(1, 33) = 0.004$, $p = .95$,

partial $\eta^2 = .001$, or general facts in evidence discussed, $F(1, 33) = 0.52, p = .476$, partial $\eta^2 = .02$.

A second analysis was conducted to see if the number of facts discussed differed by the size of the majority. For this analysis, the strong majority conviction and strong majority acquittal conditions were combined into one condition ($n = 14$), and the weak majority conviction and weak majority acquittal conditions were combined into one condition ($n = 23$). Two new dependent variables were created. The first new variable looked at the number of facts in support of the majority's point of view each group discussed (i.e., the number of pro-prosecution facts for majority conviction groups and the number of pro-defense facts for majority acquittal groups). The second new variable examined the number of facts in opposition to the majority's viewpoint that were discussed. A separate analysis of covariance (ANCOVA) analysis was conducted to examine each new dependent variable. The length of deliberation was controlled in each analysis. There were no significant differences for either supporting, $F(1, 34) = 1.43, p = .241$, partial $\eta^2 = .04$, or opposing, $F(1, 34) = 0.31, p = .581$, partial $\eta^2 = .04$, evidence discussed by strong or weak majorities.

4.4.3 Evidence Discussed and Final Verdict

Whether the evidence discussed during the deliberation was related to the final verdict outcome was examined next. With the use of Wilks' criterion, the combined dependent variables were not significantly related to final verdict outcome, $F(6, 60) = 2.35, p = .064$, partial $\eta^2 = .18$. At the univariate level, after controlling for the covariate, there was a significant difference in the number of pro-prosecution facts in evidence the juries had discussed, $F(2, 32) = 3.38, p = .05$, partial $\eta^2 = .17$. As expected, Helmert contrast comparisons showed that juries that rendered a final verdict in favor of conviction had discussed significantly more pro-prosecution facts in

evidence than either juries in favor of acquittal or hung juries, $p = .015$. The number of pro-defense facts in evidence discussed, $F(2, 32) = 0.89$, $p = .419$, partial $\eta^2 = .05$, and the number of general facts in evidence discussed, $F(2, 32) = 0.96$, $p = .395$, partial $\eta^2 = .06$, did not differ by final verdict outcome.

4.4.4 Reasonable Doubt

The concept of reasonable doubt was brought up in 31 (83.8%) of the deliberations. Jurors used this standard as both an argument for conviction and for acquittal. In 11 (29.7%) of the juries, the concept of reasonable doubt was mentioned in support of the prosecution's case at least once. Reasonable doubt was mentioned in support of the defense in 23 (62.2%) of the juries. Interestingly, when examining only the 12 juries in which a verdict in favor of conviction was rendered, the concept of reasonable doubt came up in eight (66.7%) of the juries, and in support of the defense in only five (41.7%) of the juries. In contrast, 17 (89.5%) of 19 juries that ended in acquittal mentioned the concept of reasonable doubt, and 12 (63.2%) of the juries ending in acquittal specifically mentioned reasonable doubt in support of the defense.

Reasonable doubt was brought up in favor of the defense in all six hung juries; in three hung juries, reasonable doubt was mentioned in support of the prosecution. Although these descriptive differences are interesting, the number of times reasonable doubt was mentioned during the deliberation did not differ significantly by final verdict outcome, $F(2, 33) = 0.47$, $p = .628$, partial $\eta^2 = .03$.

4.5 Combined Theoretical Approach

The data analyzed under the social combination approach demonstrated that the majority (67.5%) of juries selected a final group decision consistent with the initial majority. This research question, analyzed at the jury level, provided a probabilistic estimate of the final

decision based on the distribution of individual pre-deliberation preferences (decision scheme). This social combination approach provided an interesting overview of final verdict selection, but gave no insight into how the groups reached their decisions. The data analyzed under the social communication approach provided interesting insights about the types of evidence discussed by jurors. Contrary to the hypothesis, the distribution of pre-deliberation verdicts did not affect the type of evidence discussed during the group deliberation.

To gain a greater understanding of the deliberation process, the last two research questions were examined under a combined theoretical approach. These analyses explored how initial verdict preferences influenced jurors' engagement in the deliberation, which may ultimately affect final verdict outcomes, and what factors were associated with verdict change.

4.5.1 Analytic Strategy

Data analysis for jury decision making studies is complicated by the two levels of observation: jurors ($n = 216$) and juries ($n = 37$). When looking at jury-level predictors and outcomes, as in research questions 1 and 2, there is only one level of analysis, and juries, rather than individual jurors, are an appropriate unit of analysis. But when looking at juror-level predictors and outcomes, traditional single-level approaches are not appropriate. Individual juror behaviors take place within the context of specific juries; that is, jurors are nested within juries. Jurors within the same juries are likely to influence one another, making them more similar in some ways than jurors serving on different juries.

Using traditional approaches such as ANOVA or regression to examine multilevel data as if all data are on the same level can lead to statistical errors and misleading interpretations of results (Hox, 2002; Raudenbush & Bryk, 2002; Tabachnick & Fidell, 2007). Type 1 errors become more likely when the assumption of the independence of error terms is violated.

Multilevel modeling does not require independence of error terms (Tabachnick & Fidell, 2007). Recent publications (e.g., Cornwell & Hans, 2011; Wright, Strubler, & Vallano, 2010) have promoted the use of multilevel techniques, specifically mixed models and hierarchical linear modeling, in jury decision making studies to address these concerns.

Multilevel models offer three major advantages: First, the standard errors are adjusted to account for non-independence of jurors who are grouped within the same jury. Second, this modeling technique allows the research to estimate variation within juries (juror level) and variation across juries (jury level). Third, multilevel modeling allows for the investigation of cross-level interactions to test whether the estimated slopes (i.e., coefficients) for juror characteristics vary according to jury characteristics.

4.5.2 Participation in the Deliberation

This study examined whether participation in the jury deliberation was related to juror-level characteristics (e.g., in the numerical majority, verdict change) and to jury-level characteristics (e.g., deliberation style). Researchers have long studied participation to understand individual jurors' influence in the group discussion and the factors that contribute to a group decision (Cornwell & Hans, 2010; James, 1959; Strodtbeck et al., 1957; York & Cornwell, 2007). Juror participation in this study was defined by three proxy variables: the total speaking time in minutes; the total number of turns during the deliberation; and the total number of meaningful units of speech, defined by a modified word count.

Table 7 displays descriptive statistics summarizing the three measures of participation at the juror level. On average, jurors spoke for approximately 2.75 minutes (164.78 seconds) during their group deliberation, with a range of 0 minutes (0 seconds) to 25.23 minutes (1,514 seconds) and a median of 1.46 minutes (87.50 seconds). Jurors took an average of 37.60 turns during their

deliberation, with a range of 0 turns to 263 turns and a median of 26 turns. Each turn lasted 4.18 seconds, on average. Jurors provided an average of 449.70 meaningful units of speech (modified word count) during each deliberation, with a range of 0 units of speech to 4,675 units of speech and a median of 239 units of speech during the deliberation. Jurors provided an average of 10.84 units of speech per turn. As shown in Table 7, the three participation measures were correlated. All three measures were also related to the length of the deliberation. That is, the longer the deliberation, the more opportunity each juror had to speak. Therefore, deliberation length was controlled for as a jury-level covariate in the models described below.

A preliminary analysis to examine overall participation for majority and minority factions within the jury was conducted at the jury level (see Table 8). The average number of minutes of spoken speech, number of turns taken, and units of speech provided by majority and minority factions within the jury were compared. As expected, the majority faction as a whole spoke for more time during the deliberation, $t(36) = 5.41, p < .001$, took more turns during the deliberation, $t(36) = 7.00, p < .001$, and provided more units of speech during the deliberation, $t(36) = 5.16, p < .001$.

To examine participation in the jury deliberation, both juror-level and jury-level variables were used to examine a juror-level outcome (individual participation). The three correlated participation variables were included in the model as dependant variables. A multivariate multilevel model was used to examine individual jurors' participation in the jury deliberation using IBM SPSS Mixed models, version 19. Although there are different programs available to analyze multilevel models, IBM SPSS offers great flexibility in estimating a wide variety of multilevel models, including the ability to model multiple levels in a nested or cross-classified data structure simultaneously (Heck, Thomas, & Tabata, 2010).

4.5.3 Multivariate Multilevel Model

Multilevel models allow the researcher to explore different levels of analysis and cross-analysis interactions without violating the assumption of independence. The final model had three levels. In Level 1 (null model), the three dependent variables measuring participation were nested within individual jurors as repeated measures (Leyland, 2004; Heck et al., 2010). In Level 2 (juror-level model), juror-level variables were included in the model as jurors were nested within their respective juries. Finally, in Level 3 (jury-level model), juror-level and jury-level variables were added into the model as jurors were nested within juries.

Two juror-level variables were added to the Level 2 model. The first variable was a binary variable included to examine differences in participation between jurors who were in the initial majority and jurors who were in the initial minority based on the pre-deliberation distribution of individuals. The second juror-level variable was a binary variable to examine differences in participation between jurors who changed from their pre-deliberation preference and jurors who did not change from their pre-deliberation preference during the group deliberation.

Two jury-level variables were added to the Level 3 model. Deliberation style, either verdict-driven or evidence-driven, was included to see if the style of group deliberation influenced individual jurors' participation (Devine et al., 2001; Devine, Buddenbaum, Houpp, Stolle, & Studebaker, 2007; Foss, 1976). Deliberation length was included in the model as a covariate. The full model considered all independent variables as fixed effects in line with the recommendations of Heck et al. (2010) when examining multivariate multilevel models. The grouping variable for the set of dependent variables was set as a random effect to fit a random intercept model for each individual participation variable between juries.

Table 9 shows the juror-level and jury-level model estimates, indicating that participation varied within and across juries. In the Level 1 (null) model, the estimates of covariance parameters showed significant variation to be explained in participation across juries. The null model indicated that intercepts vary significantly across juries on each of the three dependent variables: total number of minutes of spoken speech during the deliberation, Wald $Z = 9.47$, $p < .001$, number of turns taken during the deliberation, Wald $Z = 9.46$, $p < .001$, and number of units of speech uttered during the deliberation, Wald $Z = 9.47$, $p < .001$. Further, the intraclass correlation, $\rho = .67$, suggested significant variability in participation across juries, underscoring the appropriateness of a multilevel model.

In the Level 2 (juror-level) model, the Type III (sum of squares) tests of the fixed effects showed that the effect of Majority, $F(3, 301.27) = 3.71$, $p = .012$, and Change, $F(3, 311.99) = 3.13$, $p = .026$, differ across the three assessments of juror-level participation². As shown in Table 9, participants in the numerical minority spoke more, $\gamma = 61.56$, $t(2624.77) = 2.38$, $p = .017$, took more turns, $\gamma = 12.30$, $t(484.91) = 2.80$, $p = .005$, and provided more units of speech, $\gamma = 194.68$, $t(58636.14) = 2.76$, $p = .006$, than jurors in the numerical majority during the group deliberation. Jurors who did not change their verdict preference during the group deliberation took more turns during the group deliberation, $\gamma = 9.58$, $t(485.04) = 2.14$, $p = .033$, than jurors who changed their verdict. Changers and non-changers did not differ in number of minutes of spoken speech, $\gamma = 28.09$, $t(1970.64) = 1.08$, $p = .282$, or number of units of speech provided, $\gamma = 107.28$, $t(7936.51) = 1.51$, $p = .132$.

² All denominator degrees of freedom in multilevel models apply the Satterthwaite correction for approximating the denominator degrees of freedom for significance tests of fixed effects in models where there are unequal variances and groups sizes (Heck et al., 2010).

In the Level 3 (jury-level) model, jury-level independent and covariate variables were incorporated into the model. The effect of Majority, $F(3, 193.37) = 3.25, p = .023$, differed across dependent variables; however, Change, $F(3, 205.23) = 2.42, p = .067$, and Style, $F(3, 96.23) = 2.52, p = .063$, did not differ across the three dependent variables. As shown in Table 9, participants in the numerical minority spoke more, $\gamma = 56.38, t(215.00) = 1.96, p = .051$, took more turns, $\gamma = 11.46, t(223.25) = 2.46, p = .015$, and uttered more units of speech, $\gamma = 179.88, t(220.71) = 2.34, p = .02$, than jurors in the numerical majority during the group deliberation. In the full model, jurors who changed during the deliberation did not differ significantly from jurors who did not change on any of the participation variables. The jury-level predictor examining deliberation style significantly influenced participation such that jurors in verdict-driven deliberations spoke more, $\gamma = 70.31, t(311.82) = 2.21, p = .028$, and provided a greater number of units of speech during the deliberation, $\gamma = 227.67, t(595.00) = 2.55, p = .01$, than jurors in evidence-driven deliberations. Jurors in verdict-driven deliberations took marginally more turns than jurors in evidence-driven deliberations, $\gamma = 14.96, t(72.05) = 1.95, p = .055$. The Level 3 (jury-level) model accounted for more variation than the Level 1 (null) model, $\chi^2(9) = 43.95, p < .05$. That is, including the juror-level and jury-level predictors in the model improved the model beyond just examining variability within jurors and between juries (Tabachnick & Fidell, 2007). Table 10 displays the estimated marginal means for participation from the jury-level model.

4.5.4 Follow-Up Analyses on Changers

Analyses were conducted to examine individuals who changed their verdict during the deliberation. It was hypothesized that jurors who changed their verdict would express less confidence in their individual verdicts initially. A two-level model was constructed to predict change from initial confidence, nesting jurors within juries. The null model indicated that

intercepts did not vary significantly across juries, Wald $Z = 0.04$, $p = .97$. Further, the intraclass correlation, $\rho = .002$, suggested that the proportion of the variance that lies between juries was less than 1%. Therefore, multilevel techniques were not necessary to analyze this research question. A binary logistic regression analysis showed that confidence in pre-deliberation verdict did not significantly predict which jurors changed their verdict during the deliberation, $\beta = -0.05$, odds ratio = 0.95, 95% CI [0.63, 1.43], Wald(1) = 0.06, $p = .805$.

Next, confidence ratings for changers and non-changers were examined by the final group decision. A two-level model was developed to address between-jury variability (see Table 11). The null model showed significant variability in intercepts across juries, Wald $Z = 3.13$, $p = .002$. The intraclass correlation, $\rho = .36$, suggested that approximately 36% of total variability in final confidence ratings was between juries. Thus, multilevel modeling was necessary to examine this research question.

The Level 1 (juror-level) model showed that changers and non-changers had significantly different ratings of confidence in the final group decision, $F(1, 178.88) = 11.04$, $p = .001$. In the Level 2 (jury-level) model, juror-level predictors (Change) and jury-level predictors and covariates (Style and Deliberation Length) were included in the model to examine individual jurors' confidence in the final group decision. The Level 2 model also showed that changers and non-changers had significantly different ratings of confidence in the final group decision, $F(1, 179.13) = 11.39$, $p = .001$. Changers were significantly less confident in the final group decision than non-changers (see Table 12). Deliberation style did not significantly affect confidence ratings in the final group decision, $F(1, 32.29) = 0.003$, $p = .96$. Deliberation length was significantly associated with confidence ratings in the final group decision, $F(1, 32.37) = 4.52$, $p = .04$, such that longer deliberations were associated with less overall confidence in the final

group decision. Longer deliberations were also more likely to result in hung juries, which could partially account for this finding.

Finally, descriptive analyses were conducted to examine verdict changers further (see Table 13). A small number of jurors (6.3%) changed their verdicts prior to the group deliberation – their individual verdict ratings at the end of Session 1 differed from the individual verdict ratings at the start of Session 2. Approximately one third (31.6%) of jurors changed their verdicts during the group deliberation. Jurors who changed their verdict during the deliberation were more likely to change from an individual verdict for conviction to a group decision for acquittal (68.3% of changers) than from an individual preference for acquittal to a group decision for conviction (31.7% of changers), $\chi^2(1) = 10.63, p = .001$.

When examining changers only ($n = 68$), 39.7% of changers reported that they changed to the majority decision during the deliberation. The majority of changers reported that their decision to change was related, in part, to evidence that other group members brought up that they had forgotten (54.4%), or that other group members helped them to rethink the evidence (70.6%). Only 13.2% of changers reported perceiving coercion from other group members to change to from their original verdict.

When asked at what point during the deliberation they changed their verdict, 17.9% of changers reported that they changed their decision after hearing the verdict preferences of the other group members. The majority of changers (84.7%) reported that they changed their decision after discussing the evidence with other group members. A small number of changers (10.3%) reported that they changed their decision after perceiving coercion from other group members.

Following the group deliberation, participants were asked to rate their perceptions of their own participation in the group deliberation. Changers and non-changers did not differ in their ratings of their motivation to get other participants to see the evidence from their point of view, $F(1, 211) = 1.33, p = .250$. However, changers rated themselves as having more personal influence on the group deliberation than non-changers rated themselves, $F(1, 211) = 11.29, p = .001$.

4.6 Summary of the Findings

4.6.1 Social Combination Approach

This study found support for the “majority rules” hypothesis, but the minority prevailed in more groups than would have been expected based on prior research (e.g., Baron & Kerr, 2003; Kalven & Zeisel, 1966; Stasser et al., 1982; Tindale & Davis, 1983). When all verdict outcomes (i.e., conviction, acquittal, hung) were considered, 67.5% voted in line with the initial majority. In other words, the minority faction prevailed in 16.2% of the juries or prevented the majority faction from dominating the decision in the 16.2% of juries that were hung. When analysis was restricted to only decision outcomes (i.e., conviction, acquittal), 80.7% of groups reached a final verdict consistent with the initial majority.

4.6.2 Social Communication Approach

Three case facts were of primary interest to almost all of the juries; however, the jurors differed in how they interpreted these facts in evidence. Some jurors focused on the similarities between the witness’s descriptions and the defendant, in support of the prosecution; others highlighted the differences, in support of the defense. The analyses indicated that the number of facts in evidence discussed did not differ significantly by the distribution of pre-deliberation individual verdict preferences or by the deliberation style. The evidence discussed during the

deliberation was related to final verdict preference. Although there were no differences in the number of general or pro-defense facts in evidence discussed, juries that ultimately rendered a verdict in favor of conviction discussed significantly more pro-prosecution facts in evidence.

4.6.3 Combined Theoretical Approach

The multivariate multilevel model indicated that variance in participation resulted from both juror- and jury-level variation. This model combined the social combination and social communication theoretical approaches by examining how the initial distribution of pre-deliberation individual preferences influenced individual jurors' participation in the group deliberation. Although at the jury level, the majority faction participated more in the deliberation than the minority faction, individual jurors in the minority faction participated more in the deliberation based on all three participation outcome variables.

The multivariate multilevel model also provided information about individuals who change their verdicts during the deliberation. The juror-level model, which nested jurors within juries but did not include jury-level independent variables, showed that non-changers took significantly more turns during the deliberation, but did not differ significantly in speaking time or units of speech. This collection of findings suggests that, because changers take fewer turns but do not actually speak less, changers take longer turns. However, follow-up analyses revealed no differences in the average number of words spoken per turn or the average number of units of speech provided per turn by changers and non-changers. In the full model, changers did not differ from non-changers in participation, although the difference in the number of turns taken by jurors could be labeled as marginally significant, $p = .097$.

The multivariate multilevel model showed that, at the juror level, non-changers took significantly more turns during the deliberation, but did not differ significantly in speaking time

or number of units of speech. In the jury-level model, changers did not differ from non-changers in participation. Change during the deliberation could not be predicted by confidence in pre-deliberation individual verdict. However, changers and non-changers differed in their confidence in the final group decision. As expected, changers expressed less confidence in the final group decision. When examining changers' self-reported reasons for changing, most changers reported that discussing the evidence with other group members led them to change their decision. The majority of changers also reported that they changed their verdict during the deliberation after a group discussion of the evidence. Although changers and non-changers did not differ in their perceptions of their own motivation to participate in the jury deliberation, changers actually viewed themselves as more influential during the deliberation.

CHAPTER 5: DISCUSSION

In their landmark jury decision making study, Kalven and Zeisel (1966) neglected to examine the deliberation process. They justified this decision by noting that, in most cases, the pre-deliberation majority prevails, implying that the deliberation itself is of little interest or importance (Salerno & Diamond, 2010). But research has shown that significant discussion often precedes any vote (Hannaford-Agor, Hans, Mott, & Munsterman, 2002; Hans, 2007; Sandys & Dillehay, 1995), making it difficult to determine at what point the “majority” should be declared. At the end of their book, even Kalven and Zeisel admitted that ignoring the deliberation process may have been a mistake (p. 482). The majority may prevail more often than not, but it is still worthwhile to try to understand why.

Consistent with the findings of both empirical studies of mock jurors and post-deliberation surveys with actual jurors (Devine et al., 2001; Kalven & Zeisel, 1966; Stasser et al., 1982; Tindale & Davis, 1983; Waters & Hans, 2009; Zeisel & Diamond, 1978), the current study found that, once again, the majority prevailed. However, this does not tell the whole story. The current study contributes to the field by its focus on the procedural and communicative processes of the jury deliberation, examined under a combined theoretical approach.

5.1 Does the Majority Prevail?

The current study found support for the “majority rules” hypothesis; under a decision scheme with three group outcomes (conviction, acquittal, hung), 67.5% of groups favored the initial majority’s opinion. When hung juries were excluded from the analysis, 80.7% of groups favored the initial majority’s opinion. The majority opinion was supported more often than not, but the minority prevailed in more groups than would have been expected based on prior research (e.g., Baron & Kerr, 2003; Kalven & Zeisel, 1966; Stasser et al., 1982; Tindale &

Davis, 1983). Majorities in favor of acquittal prevailed more often than majorities in favor of guilt; this finding is consistent with previous research on majority effects in the mock deliberation (e.g., Davis et al., 1975; Nemeth, 1977) and with the leniency hypothesis (MacCoun & Kerr, 1988).

5.2 What Do Jurors Talk About?

Most juries do not start the deliberation with a unanimous collection of individual verdict preferences, and many do not begin with a vote of pre-deliberation preferences (Hannaford-Agor et al., 2002; Hans, 2007; Sandys & Dillehay, 1995). Social combination models provide a prediction of what the final outcome will be based on the initial distribution of individual verdict preferences, but these models are limited in that they fail to account for what happens after the initial poll (Penrod & Hastie, 1979; Reardon, 2008). In other words, these models can provide a probabilistic guess of what the outcome will be, but they cannot provide any information about how the individuals arrived at the group decision.

The current study also considered a social communication approach to provide information about what evidence individuals use to reach the final group decision (Parks & Nelson, 1999). Research about human cognitive processes has shown that the human tendency is to seek out, recall, and accept information that is consistent with previous beliefs about the world (Jonas et al., 2001; Kunda, 1987; Lord et al., 1979; Nickerson, 1998; Wason & Johnson-Laird, 1972). Therefore, it was expected that juries would focus on evidence more consistent with the initial majority. In the current study, the outlook of the initial majority faction did not influence the type of evidence discussed during the deliberation, although groups differed in how the evidence was interpreted.

The findings of the current study are promising; deliberation style and distribution of pre-deliberation individual verdict preferences do not seem to influence the type of evidence discussed during the deliberation. Juries have shown that they can make good decisions, given the evidence provided. And, when juries do make decisions that can be viewed as questionable, their mistakes reflect “well-documented, universal psychological principles such as heuristic reasoning and attribution errors” (Bornstein & Greene, 2011, p. 63). More research is necessary to understand how groups as a whole interpret and weigh different types of evidence.

5.3 Who Participates in the Deliberation?

5.3.1 Importance of a Jury-Level Study

The current study contributes to the field by studying the decision making process of mock juries rather than mock jurors, an important step in jury research (Nuñez, McCrea, & Culhane, 2011). Groups have been criticized for being inefficient and inaccurate (see Baron, Kerr, & Miller, 1992, for a review). Some researchers even refer to the effectiveness of group decision making as an illusion (e.g., Janis, 1972; see Paulus, 1998 for a review). The decisions of groups are influenced by the same cognitive processes that influence individual decision making (Bornstein & Greene, 2011; Ruva, McEvoy, & Bryant, 2007), and social processes also figure prominently into group decision making (Foss, 1976). Social interaction through the group decision making process can produce group norms that dictate appropriate behavior (Turner, 1991; Wellen et al., 1998). Attitudes and behavior may be altered to remain consistent with what is expected of a member of that group (Wellen et al., 1998).

Perhaps the most famous criticism of group decision making is the concept of groupthink (Janis, 1972), which is relevant to any group decision making task. Groupthink is essentially defined as “premature concurrence seeking” (McCauley, 1998, p. 143). In other words, group

decision making can lead to poorer outcomes if group members yield to pressure to agree with one another without exploring all the evidence at hand. Although the concept of groupthink is frequently cited in studies examining group decision making processes, few studies have actually examined the theory empirically (Esser, 1998). A review of the empirical literature (Park, 1998) found that the groupthink hypotheses were only partially supported in most analyses.

In studying the application of groupthink theory to the jury context, Neck and Moorhead (1992) “highlighted the jury’s use of methodical decision making procedures as the key to the avoidance of groupthink” (Esser, 1998, p. 126). The current study also produced no clear evidence of groupthink. Although the majority faction as a whole participated more than the minority faction during the deliberation, individual jurors from the initial minority participated to a greater extent than individual jurors from the initial majority. Further, the initial distribution of pre-deliberation verdicts did not influence the type of evidence discussed during the deliberation; evidence in favor of both sides was discussed equally.

5.3.2 Importance of Full Participation. The criticisms of group decision making led some researchers and legal scholars to question the effectiveness of the American jury system (e.g., Hrycan, 2006). But because the jury still represents the ideal of fairness in the American judicial procedure, other researchers stress the importance of full participation of all members of the jury (Cornwell & Hans, 2011; Hans & Vidmar, 2008). For a jury to be truly representative, diverse individual jurors should fully participate to offer a wide range of backgrounds, experiences, knowledge, and points of view (Cornwell & Hans, 2011; Marder, 2002, *Peters v. Kiff*, 1972; Sommers & Ellsworth, 2003).

The full participation of a cross-section of the community is viewed as a vital component of a fair and impartial trial by jury (Klein & Klastorin, 1999; *Taylor v. Louisiana*, 1975).

Beginning over 50 years ago with the Chicago Jury Project (e.g., James, 1959; Strodbeck et al., 1957), researchers have been interested in studying which jurors are more likely to participate in the jury deliberation. Early studies focused on gender, ethnicity, and social class as important predictors of participation and influence (e.g., Hastie et al., 1983a; James, 1959; Strodbeck et al., 1957). More recent research has suggested that demographic variables such as gender and ethnicity no longer provide an indication of who will participate in the jury deliberation (Cornwell & Hans, 2010; York & Cornwell, 2006), although social class still seems to be an indicator of perceived influence (York & Cornwell, 2006).

5.3.3 Participation and Distribution of Individual Verdicts

The current study expanded on previous studies, which primarily examined differences in participation based on juror demographic characteristics, to explore how initial verdict distributions influenced participation. By using a combined theoretical approach, this study addressed the initial distribution of individual jurors' preferences and examined participation processes within the deliberation. As a group, the majority faction spoke significantly longer, took more turns, and contributed more units of speech to the deliberation. Hastie, Penrod, and Pennington (1983b) indicated that large factions have more influence on the group's decision than small factions. Participation is one way in which influence is assessed (York & Cornwell, 2006), so it is reasonable to expect that large factions participate more during the group deliberation than small factions.

However, contrary to the hypothesis, at the individual level, jurors in the minority faction participated significantly more than jurors in the majority faction on all three measures of participation. This result was, at first, surprising. It was hypothesized that the initial composition of the jury would affect the process of the discussion such that majority faction members, in

addition to the faction itself, would participate more than minority faction members in the group deliberation.

Prior research suggests that individuals in the majority may feel more comfortable discussing their viewpoints because these attitudes are in line with group norms (Smith & Terry, 2003; Wellen et al., 1998; Wood, 2000). Kerr, MacCoun, Hansen, and Hymes (1987) found that jurors who lost support for their initial viewpoint or found themselves in the numerical minority used a more cautious than argumentative style when discussing the evidence. Davis, Bray, and Holt (1977) also concluded that initial faction size influenced individual juror participation, but did not determine the exact nature of this influence (Parks & Nelson, 1999).

Consistent with the current findings, Hawkins (1960) pointed out that larger faction sizes could lead to less participation because jurors in the majority faction share viewpoints with more individuals and can rely on their fellow jurors to provide the evidence to support their outlook. In contrast, jurors in the minority faction must provide all the evidence to support their position. Hastie et al. (1983b) noted that, under a requirement for a unanimous decision rule as in the current study, minority faction members participate more and are more influential than when a unanimous decision is not required.

Thus, it appears that the majority faction, as a whole, contributes more to the discussion in the amount of participation. However, individuals in the majority faction actually participate less in the deliberation than individuals in the minority faction, perhaps because there are more members of the majority faction to contribute to the group discussion. In other words, as the size of the faction increases, the participation of each individual in the faction decreases (Hastie et al., 1983b; Hawkins, 1960).

5.3.4 Participation and Deliberation Style

Participation was related to deliberation style – a jury-level factor. At the juror-level, the participation of individual jurors varied according to deliberation style. A verdict-driven deliberation style was associated with more participation, even after controlling for length. This finding is contrary to what would be expected based on the previous literature. In general, high levels of participation and wide-ranging discussions highlighting case facts, evidence, and judicial instructions are characteristic of evidence-driven deliberations. Verdict-driven deliberations tend to include early and frequent polling, more pressure to conform to the majority, and an increased likelihood of a hung jury (Devine et al., 2007; Hannaford-Agor et al., 2002; Hastie et al., 1983b). In the current study, even juries that began with a poll included a fairly detailed discussion of evidence favoring the point of view of both the majority and the minority. In other words, although verdict-driven juries were longer and characterized by increased participation, the type of evidence discussed during the deliberation did not differ according to deliberation style.

5.4 What Factors Are Associated with Verdict Change?

5.4.1 Participation in the Deliberation

Little research has been conducted to examine verdict change in the deliberation. Findings from the persuasion and attitude change literature suggest that examining the characteristics of the communicators, the verdict changers, and the context may provide some insight into which jurors change their verdict and why (e.g., Eagly & Chaiken, 2007; Kraus, 1995; Lavine et al., 1997; Marcus et al., 2000; Petty et al., 1997; Pornpitakpan, 2004; Shestowsky & Horowitz, 2004; Snyder, 1979; Strodbeck et al., 1957). Other social psychological theories such as the social identity approach would suggest that verdict change

may not be solely a function of compliance or persuasion, but may also be due to in-group norms that dictate context-specific attitudes and behaviors appropriate for group members (Smith & Terry, 2003; Wood, 2000).

In the current study, changers were found to take fewer turns in the group deliberation before taking into account jury-level predictor variables. At the jury level, changers and non-changers did not differ in terms of participation in the group deliberation. Although contrary to the original hypothesis, this finding is not too surprising given that individual minority faction members actually participated more in the deliberation than individual majority faction members. Most changers were in the initial minority faction and may have been one of the only group members representing the minority point of view. Evidence in support of both the prosecution and the defense was discussed equally overall, indicating that both points of view were represented in the deliberations. Changers had the opportunity to express their opinion, and most (84.7%) indicated that they changed their opinion only after discussing the evidence with the group.

5.4.2 Confidence in Pre-Deliberation Verdict

Changers did not differ from non-changers in their confidence in their individual pre-deliberation verdicts. Diamond and Casper (1992) had previously found that individual jurors who changed their verdict following deliberation expressed significantly less confidence in their pre-deliberation verdicts than non-changers. The Diamond and Casper study involved a civil case and a sample of potential jurors collected at the county courthouse during one session. The current study involved an ambiguous criminal case, and the deliberation took place after a delay of one to two weeks, on average. In the current study, jurors were generally confident in their original verdict preference. Very few individual jurors reported that they were unsure about their

initial verdict preference (8.1%). The majority of jurors (67.5%) reported that they were confident or very confident in their initial verdict preference. The remaining jurors (24.2%) reported being neutral. However, confidence decreases over time (Krishnan & Smith, 1998). Mock jurors may originally express a certain degree of confidence in their chosen verdict when the trial evidence is fresh in their mind. But, after a delay, their confidence may weaken as they recall both their original verdict and why they reached that decision. Future research examining individuals who change their verdict during the deliberation should continue to look at differences in confidence in the pre-deliberation verdict.

5.4.3 Confidence in the Group Decision

Although changers and non-changers did not differ in their confidence in their pre-deliberation individual verdicts, changers were less confident in their groups' final verdicts. Jurors may concede to the group opinion, but not necessarily personally agree with this decision. This may explain why changers are less confident in the group decision. When only examining groups that reached a decision, 22.4% of jurors stated that they did not personally agree with their group's decision. Similarly, Hans (2007) reported that, in a sample of actual jurors, 13% of jurors said that, if the decision were up to them alone, they would have reached a different final verdict from their jury. In analyzing the same data set, Waters and Hans (2009) found that 38% of juries in the sample included at least one juror who would have reached an individual verdict different from the group verdict.

5.5 When Can the Minority Prevail?

5.5.1 Normative and Informational Influence

In a recent review of the field, Bornstein and Greene (2011) point out that little is known about how individual verdict preferences “are translated into a group decision, including the

extent to which the majority exerts normative and/or informational influence over minority jurors” (p. 65). The current study makes a contribution to this gap in our understanding. First, the current study demonstrated that changers and non-changers do not differ significantly in their participation in the jury deliberation, when taking jury-level factors into account. That is, non-changers do not dominate the discussion. Further, only 13.2% of non-changers reported that they felt coerced to change to the majority opinion. The vast majority of changers (82.1%) reported that they changed their verdict after discussing the evidence with other jurors. Although it is good news that the majority of jurors do not report pressure, it is still apparent that normative influence factors into the jury deliberation. Even Henry Fonda’s character in *12 Angry Men* was willing to give in to the majority’s opinion if no one else would agree with him after an hour’s discussion (Hans, 2007).

Stasser et al. (1984) found that informational rather than normative influence was a stronger predictor of the final outcome in a deliberation. Offering more arguments, not necessarily the sheer size of the faction, was the basis for the majority’s victory. In the current study, there were no differences in the number of pro-prosecution and pro-defense facts in evidence discussed based on the initial distribution of pre-deliberation individual verdict preferences, although descriptive analyses suggested that jurors interpreted general facts in evidence differently. Further, juries that ultimately rendered a verdict in favor of conviction discussed more pro-prosecution evidence than juries that voted for acquittal or were hung.

Future research is necessary to understand under which conditions informational or normative influence are more likely to affect the final verdict outcome. For example, how does perceived credibility of the other jurors factor into the decision to change? Which jurors are more likely to be influential during the deliberation?

5.5.2 Perceptions of Influence

Decades of research have established that the distribution of individual jurors' pre-deliberation verdict preferences is a strong predictor of final verdict, as was the case in the current study. However, research has not yet shown "what makes the majority position so influential or the circumstances under which minorities are likely to prevail" (Salerno & Diamond, 2010, p. 174). Analyzing jurors' perceptions of one another could provide some insight into why the majority faction prevails so often, and why the minority faction occasionally has the power to convert the majority.

In a social relations analysis examining actual jurors' perceptions of their groups, Marcus et al. (2000) determined that the most striking finding of their study was "just how little consensus there was among the participants about which jurors were influential" (p. 183). In the current study, changers actually rated themselves as more influential during the group deliberation than non-changers rated themselves. It is possible that changers believed that, by initially representing an alternate point of view, they influenced the deliberation by encouraging a wider discussion of the evidence. Although changers perceive themselves to be influential, other jurors may not agree. More research is necessary to understand jurors' perceptions of one another, and how these perceptions influence what is discussed, what is listened to, and the final decision of the group.

The majority-minority distinction, as used in group decision making studies, refers to an individual's *preference status*, which is based on the numerical size of the subgroup that shares that preference (Kameda, Ohtsubo, & Takezawa, 1997). In addition to preference status, Kameda and colleagues (Kameda, Takigku, & Ohtsubo, 1994, as cited in Kameda et al., 1997; Kameda et al., 1997) have examined how shared information and cognitive centrality affect group decision

making. Similar to the work on “hidden profiles” by Stasser (e.g., Stasser, 1992; Stasser & Titus, 1985), Kameda et al. (1994) examined group members who share the most information with other group members. In their mock jury study, mock jurors in the majority faction who shared the same cognitive orientation for organizing trial facts (“story organization” or “witness organization”) dominated the group decision making process. In a later study, Kameda et al. (1997) looked specifically at group members who were perceived to be the most knowledgeable based on information overlap, termed *cognitive centrality*, with the most other group members. The researchers found that the group members who were perceived to be the most cognitively central were the most influential in forming the final group decision, even if their initial preference status was in the numerical minority.

5.5.3 Participation of the Minority Faction

Research by Kameda and colleagues (Kameda et al., 1994; Kameda et al., 1997) suggests that, if individuals in the minority faction have the opportunity to express their opinions and are perceived as knowledgeable, they can be influential when they bring up information to challenge the majority point of view (also see Moscovici, 1985). In fact, Clark (1990) showed that the minority faction becomes more influential as it is able to refute more arguments made by the majority faction. In the current study, individual minority faction members actually participated in the group deliberation to a greater extent than individual majority faction members. Evidence consistent with the initial viewpoint of the minority also was discussed during the deliberation to the same extent as evidence consistent with the initial viewpoint of the majority.

The participation of minority faction members is increased under the unanimous decision rule (Hastie et al., 1983a), which was employed in the current study. The courts have, at times, questioned the necessity of a unanimous decision rule because “a majority will cease discussion

and outvote a minority only after reasoned discussion has ceased to have persuasive effect or to serve any other purpose” (Justice White, 1972, *United States Supreme Court in Johnson v. Louisiana*). Empirical evidence has shown that a non-unanimous decision rule can undermine attention to minority arguments (Davis, Kerr, Atkin, Holt, & Meek, 1975; Diamond, Rose, & Murphy, 2006; Nemeth, 1977; Salerno & Diamond, 2010). Consistent with past research, the current study further supports the notion that the opinions of the minority faction should be valued.

5.6 Why Do Juries Hang?

Hung juries offer an interesting study of when groups cannot come to a consensus. The option to declare a jury hung makes juries different from other decision making groups (Sanders & Bonito, 2010). Most groups are required to produce an end result; juries are just required to demonstrate a genuine effort. Hung juries are most likely to occur in cases where the pre-deliberation verdict preferences are deeply divided (Abramson, 2007; Kalven & Zeisel, 1966). That is, cases with a strong initial majority favoring either conviction or acquittal rarely hang. In the current study, all of the juries with a strong majority favoring either conviction or acquittal rendered group verdicts that reflected that majority’s preference.

In the current study, six juries (16.2%) could not come to a unanimous decision. Kalven and Zeisel (1966) reported that about 5.5% of their sample of 225 jury trials ended in a hung jury. More recent reports (Abramson, 2007; Hannaford-Agor et al., 2002; Vidmar & Hans, 2007) estimate that approximately 6.2% of juries result in no verdict in state courts and approximately 2.5% in federal courts. Mock jury studies typically find a much higher percentage of hung juries than would be expected based on state and federal court estimates, with an estimated 21% of mock juries failing to reach a verdict (Devine et al., 2001). The time restraints and other

limitations of the mock jury paradigm may explain this discrepancy. While future studies would benefit from providing a longer deliberation period, it may be unrealistic to expect mock jurors from a student sample to participate in a deliberation lasting more than a couple of hours. On average, the hung juries in the current sample deliberated for 38.05 minutes (2,283.17 seconds), with a median of 37.89 (2,272.50 seconds) and a range of 7.95 minutes (477.00 seconds) to 62.81 minutes (3,769.00 seconds). Although juries that were declared hung deliberated significantly longer on average than juries that reached a decision, most hung juries still did not deliberate for the full amount of time allotted. Students in mock juries that ended in a hung verdict seemed to grow frustrated early on by their group's indecision. Future studies should examine the point at which the deliberation appears to have reached a stalemate in the mock jury context, and if, given a longer period of time, this can be overcome.

5.7 Limitations and Future Directions

Researchers studying the jury deliberation are faced with a myriad of challenges. The ecological validity of simulation research, such as the current study, is often called into question (Bornstein, 1999; Diamond, 1997; Wiener, Krauss, & Lieberman, 2011). Researchers have long called for implementing strategies to enhance the quality of jury simulation studies (e.g., Vidmar, 1979; Weiten & Diamond, 1979). Studies using college samples, written transcripts, juror-level verdicts, and no deliberation process have been viewed as more limited (Bornstein, 1999; Bray & Kerr, 1982; Diamond, 1997; Nuñez et al., 2011; Vidmar, 1979; Weiten & Diamond, 1979). Conducting jury simulation research is difficult enough, even before implementing these types of changes.

Diamond (1997) and Bornstein (1999) have tried to determine whether creating more “realistic” simulations influences study results. Bornstein (1999) focused primarily on examining

validity issues pertaining to sample characteristics and trial medium, because these are two of the most criticized aspects of jury simulation research (e.g., Bray & Kerr, 1982; Davis et al., 1977; Diamond, 1997; Konecni & Ebbesen, 1979). After examining the extant literature in the field, Bornstein concluded that few differences have been found “as a function of either who the mock jurors are or how the mock trial is presented” (p. 88). Although the current study is limited in that it includes a student sample and a written trial stimulus, it should not be assumed that these findings would differ significantly from more complicated and time-intensive techniques. Further, concerning trial medium, Diamond (1997) noted that abbreviated trial stimuli may be appropriate in studies examining decision making processes in the deliberation.

One limitation of particular relevance to the current study is the finding that college student samples may be more likely to give in to normative pressure from peers (Sears, 1986). If students are indeed more likely to yield to normative pressure, the power of the initial majority in reaching a unanimous verdict consistent with the majority’s original opinion may be inflated in mock jury studies including student samples. Although researchers have noted few differences between student and community samples in final verdict outcomes (Bornstein, 1999; Casper, Benedict, & Perry, 1989; Diamond, 1997; Hosch, Culhane, Tubb, & Granillo, 2011) and the finding that the majority rules is quite robust across field and laboratory studies (Devine et al., 2001; Stasser et al., 1982), future research would benefit from specifically examining differences in deliberation processes for different types of samples.

This study is also limited by the use of five- and six-person mock juries instead of the traditional 12. Saks and Marti (1997) found that, although six- and 12-person mock juries did not differ significantly in their final verdict outcomes, individuals in six-person mock juries were able to participate more in the group discussion. Future studies would benefit from examining

participation in 12-person mock juries. It would be interesting to see if individual minority faction members continue to participate more than individual majority faction members in a larger group setting.

Even if a jury simulation manages to reflect the sample and procedure as accurately as possible, a simulation will always be limited in that the group's decision lacks real world consequences. All decision making, even real world decision making, can be viewed as hypothetical at some level (Kühberger, Schulte-Mecklenbeck, & Perner, 2002); however, the fact that mock juries reach hypothetical decisions has been an impediment to the use of psychological research by the courts (*Free v. Peters*, 1993; *Lockhart v. McCree*, 1986).

In a review of the literature examining consequentiality, Bornstein and MacCabe (2005) summarized five studies in which consequentiality was examined and found inconsistent results: “One study found that convictions were *less* likely when the decision had real consequences, one study found that convictions were *more* likely when the decision had real consequences, one study found *no difference* between real and hypothetical decisions, and the two remaining studies found no main effect of consequentiality but obtained interacting effects with other variables” (p. 452). In other words, there is no consensus as to how the lack of consequentiality affects the outcomes in jury simulation research. Bornstein and MacCabe concluded that, as always, more research is necessary to understand how serious this limitation is to the applicability of jury simulation research.

MacCoun (2005) suggested that a primary difference between mock and real jurors is that real jurors may “think harder, deliberate longer, and ponder more deeply” (p. 513). He further noted that even field methods are not without criticism, highlighting the importance of

“triangulation across fallible sources of evidence” (p. 517) by continuing to pursue jury simulation research in addition to field methods.

Every study of jury decision making ends with a long discussion of the limitations. It is true that mock jury research is limited. As discussed above, the current study relied on a college sample, a written trial transcript, and included no real world consequences for the final decision. But despite these limitations, the underlying human processes that influence group decision making still remain the same. Whether college students or community members or actual jurors, individuals bring their own distinct ideas, opinions, attitudes, and personalities into the group setting that must be reconciled into one final decision. Some individuals will be leaders, some will be changers, some will dominate the discussion, and some will give way to group pressure. This is human nature, well established by decades of psychological research. Although limitations should be recognized and noted, research examining the processes by which a set of individuals comes to one group decision can be useful in shedding a little more light on what happens behind the closed doors of the jury deliberation.

In a comprehensive review of 206 deliberating groups, Devine et al. (2001) found four categories of study: procedural characteristics, participant characteristics, case characteristics, and deliberation characteristics. Most of the studies highlighted in their review focused on one or more of the first three categories; few studies, even among those studies that included a deliberation component, examined characteristics of the deliberation process. Perhaps this gap in the field stems from Kalven and Zeisel’s (1966) assertion that the deliberation had little effect on verdict outcome. Or perhaps this limitation stems from the absence of an “overarching theoretical model” (Devine et al., 2001, p. 625). The current study began with the notion that jury decision making cannot be fully understood without considering the group deliberation. In

examining the deliberation process under a combined theoretical approach, this study offered some insight into how the deliberation helps shape the final group decision and provided some direction for future areas of study. QED

REFERENCES

- Abramson, J. (1994). *We, the jury: The jury system and the ideal of democracy*. New York: Basic Books.
- Abramson, J. (2007). Anger at angry jurors. *Chicago-Kent Law Review*, 82, 591-611.
- Baron, R. S., & Kerr, N. L. (2003). *Group process, group decision, group action* (2nd ed.). New York: Open University Press.
- Baron, R. S., Kerr, N. L., & Miller, N. (1992). *Group process, group decision, group action*. Pacific Grove, CA: Brooks/Cole.
- Birkett v. Dockery*, No. 107555 (Il. 18th Cir. October 2009).
- Bornstein, B. H. (1999). The ecological validity of jury simulations: Is the jury still out? *Law and Human Behavior*, 23, 75-91. doi: 10.1023/A:1022326807441
- Bornstein, B. H., & Greene, E. (2011). Jury decision making: Implications for and from psychology. *Current Directions in Psychological Science*, 20, 63-67. doi: 10.1177/0963721410397282
- Bornstein, B. H., & MacCabe, S. G. (2005). Jurors of the absurd? The lack of consequentiality in jury simulation research. *Florida State University Law Review*, 32, 443-467.
- Bottoms, B. L., Davis, S., & Epstein, M. E. (2004). Race and jurors' decisions in child sexual abuse cases. *Journal of Applied Social Psychology*, 34, 1-34.
doi: 10.1111/j.1559-1816.2004.tb02535.x

- Bray, R. M., & Kerr, N. L. (1982). Methodological considerations in the study of the psychology of the courtroom. In N. L. Kerr & R. M. Bray (Eds.), *The psychology of the courtroom* (pp. 287-323). New York: Academic Press.
- Brehm, S. S., Kassin, S., & Fein, S. (2005). *Social psychology* (6th ed.). Boston: Houghton Mifflin.
- Bureau of Justice Statistics (2006). *Federal Justice Statistics Reporting Program*. Retrieved from <http://www.ojp.usdoj.gov/bjs/pub/html/fjsst/2006/fjs06st.htm>
- Casper, J. D., Benedict, K., & Perry, J. L. (1989). Juror decision-making, attitudes, and the hindsight bias. *Law and Human Behavior*, 13, 291-310. doi: 10.1007/BF01067031
- Clark, R. D. III (1990). Minority influence: The role of argument refutation of the majority position and social support for the minority position. *European Journal of Social Psychology*, 20(6), 489-497. doi: 10.1002/ejsp.2420200203
- Clark, R. D. III, & Maass, A. (1990). The effects of majority size on minority influence. *European Journal of Social Psychology*, 20(2), 99-117. doi: 10.1002/ejsp.2420200203
- Cohen, J. (1992). A power primer. *Psychological Bulletin*, 112(1), 155-159.
doi: 10.1037/0033-2909.112.1.155
- Cornwell, E., & Hans, V. P. (2011). Representation through participation: A multilevel analysis of jury participation. *Law and Society Review*, 45(3), 667-698.
doi: 10.1111/j.1540-5893.2011.00447.x
- Davis, J. H. (1969). Individual-group problem solving, subject preference, and problem type. *Journal of Personality and Social Psychology*, 13, 362-374. doi: 10.1037/h0028378

- Davis, J. H. (1973). Group decision and social interaction: A theory of social decision schemes. *Psychological Review*, 80, 97-125. doi: 10.1037/h0033951
- Davis, J. H. (1980). Group decision and procedural justice. In M. L. Fishbein (Ed.), *Progress in social psychology* (pp. 157-229). Hillsdale, NJ: Erlbaum Publishers.
- Davis, J. H., Bray, R. M., & Holt, R. W. (1977). The empirical study of decision processes in juries: A critical review. In J. L. Tapp & F. J. Levine (Eds.), *Law, justice, and the individual in society* (pp. 326-368). New York: Holt, Rinehart & Winston.
- Davis, J. H., Kerr, N. L., Atkin, R. S., Holt, R., & Meek, D. (1975). The decision processes of 6- and 12- person mock juries assigned unanimous and two-thirds majority rules. *Journal of Personality and Social Psychology*, 32, 1-14. doi: 10.1037/h0076849
- Devine, D. J., Buddenbaum, J., Houp, S., Stolle, D. P., & Studebaker, N. (2007). Deliberation quality: A preliminary examination in criminal juries. *Journal of Empirical Legal Studies*, 4, 273-303. doi: 10.1111/j.1740-1461.2007.00089.x
- Devine, D. J., Clayton, L. D., Dunford, B. B., Seying, R., & Pryce, J. (2001). Jury decision making: 45 years of empirical research on deliberating groups. *Psychology, Public Policy, and Law*, 7, 622-727. doi: 10.1037/1076-8971.7.3.622
- Diamond, S. S. (1997). Illuminations and shadows from jury simulations. *Law and Human Behavior*, 21, 561-571. doi: 10.1023/A:1024831908377
- Diamond, S. S., & Casper, J. D. (1992). Blindfolding the jury to verdict consequences: Damages, experts, and the civil jury. *Law & Society Review*, 26, 513-557. doi: 10.2307/3053737

- Diamond, S. S., Rose, M. R., & Murphy, B. (2006). Revisiting the unanimity requirement: The behavior of the non-unanimous civil jury. *Northwestern University Law Review*, 100, 201-230.
- Dickinson, J. J., & Poole, D. A. (2000). Efficient coding of eyewitness narratives: A comparison of syntactic unit and word count procedures. *Behavior Research Methods, Instruments, and Computers*, 32, 537-545.
- Eagly, A. H., & Chaiken, S. (2007). The advantages of an inconclusive definition of attitude. *Social Cognition*, 25(5), 582-602. doi: 10.1521/soco.2007.25.5.582
- Eisenberg, T., Hannaford-Agor, P. L., Hans, V. P., Waters, N. L., Munsterman, G. T., Schwab, S. J., & Wells, M. T. (2005). Judge-jury agreement in criminal cases: A partial replication of Kalven and Zeisel's *The American jury*. *Journal of Empirical Legal Studies*, 2, 171-206.
- Ellsworth, P. C., & Mauro, R. (1998). Psychology and Law. In D. T. Gilbert, S. T. Fiske, & G. Lindzey (Eds.), *The handbook of social psychology* (Vol. 2, pp. 684-731). Boston: McGraw-Hill.
- Esser, J. (1998). Alive and well after 25 years: A review of groupthink research. *Organizational Behavior and Human Decision Processes*, 73(2-3), 116-141. doi: 10.1006/obhd.1998.2758
- Foley, L. A., & Pigott, M. A. (1997). Race, age, and jury decisions in a civil rape trial. *American Journal of Forensic Psychology*, 15(1), 1-18.

Fonda, H., Rose, R., Justin, G. (Producers), & Lumet, S. (Director). (1957). *Twelve angry men*.

United States: United Artists.

Foss, R. D. (1976). Group decision processes in the simulated trial jury. *Sociometry*, 39, 305-

316. doi: 10.2307/3033496

Free v. Peters, 12 F.3d 700, 705 (7th Cir. 1993).

Hahn, P. W., & Clayton, S. D. (1996). The effects of attorney presentation style, attorney

gender, and juror gender on juror decisions. *Law and Human Behavior*, 20, 533-554.

doi: 10.1007/BF01499040

Hannaford-Agor, P. L., Hans, V. P., Mott, N. L., & Munsterman, G. T. (2002). *Are hung juries a problem?* The National Center for State Courts.

Hans, V. P. (2007). Deliberation and dissent: *12 Angry Men* vs. the empirical reality of the jury.

Chicago-Kent Law Review, 82, 579-589.

Hans, V. P., & Vidmar, N. (2008). The verdict on juries. *Judicature*, 91(5), 226-230.

Hastie, R., Penrod, S. D., & Pennington, N. (1983a). *Inside the jury*. Cambridge, MA: Harvard University Press.

Hastie, R., Penrod, S. D., & Pennington, N. (1983b). What goes on in a jury deliberation?

American Bar Association Journal, 69, 1848-1853.

Hawkins, C. H. (1960). *Interaction and coalition realignments in consensus-seeking groups: a study of experimental jury deliberations*. Ph.D. Dissertation, The University of Chicago,

United States – Illinois. Retrieved October 21, 2011, from Dissertations & Theses: Full

Text.(Publication No. AAT T-07065).

- Heck, R. H., Thomas, S. L., & Tabata, L. N. (2010). *Multilevel and longitudinal modeling with IBM SPSS*. New York, NY: Taylor and Francis Group.
- Hosch, H. M., Culhane, S. E., Tubb, V. A., & Granillo, E. A. (2011). Town vs. gown: A direct comparison of community residents and student mock jurors. *Behavioral Sciences & the Law*, 29, 452-466. doi:10.1002/bsl.970
- Hox, J. (2002). *Multilevel analysis: Techniques and applications*. Mahwah, NJ: Lawrence Erlbaum Associates.
- Hrycan, B. P. (2006). The myth of trial by jury. *Criminal Law Quarterly*, 51, 157-168.
- James, R. M. (1959). Status and competence of jurors. *American Journal of Sociology*, 64(6), 563-570.
- Janis, I. (1972). *Victims of groupthink*. Boston, MA: Houghton Mifflin.
- Johnson v. Louisiana*. 406 U. S. 356 (1972).
- Jonas, E., Schulz-Hardt, S., Frey, D., & Thelen, N. (2001). Confirmation bias in sequential information search after preliminary decisions: An expansion of dissonance theoretical research on selective exposure to information. *Journal of Personality and Social Psychology*, 80(4), 557-571. doi: 10.1037/0022-3514.80.4.557
- Kalven, H., & Zeisel, H. (1966). *The American jury*. Chicago: University of Chicago Press.
- Kameda, T., Ohtsubo, Y., & Takezawa, M. (1997). Centrality in sociocognitive networks and social influence: An illustration in a group decision-making context. *Journal of Personality and Social Psychology*, 73, 296-309. doi: 10.1037/0022-3514.73.2.296

- Kameda, X, Takigiku, K., & Ohtsubo, Y. (1994, November). *Group decision making and the sharing of cognitive representations: Common knowledge effects revisited in non-multiattribute task setting*. Paper presented at the annual meeting of the Society for Judgment and Decision Making, St. Louis, MO.
- Kaplan, M. F., & Kemmerick, G. D. (1974). Juror judgment as information integration: Combining evidential and nonevidential information. *Journal of Personality and Social Psychology*, 30, 493-499. doi: 10.1037/h0037034
- Kaplan, M. F., & Miller, L. E. (1978). Reducing the effects of juror bias. *Journal of Personality and Social Psychology*, 36, 1443-1555. doi: 10.1037/0022-3514.36.12.1443
- Kerr, N. L. (1978). Severity of prescribed penalty and mock jurors' verdicts. *Journal of Personality and Social Psychology*, 36, 1431-1442. doi: 10.1037/0022-3514.36.12.1431
- Kerr, N. L., MacCoun, R. J., Hansen, C. H., & Hymes, J. A. (1987). Gaining and losing social support: Momentum in decision-making groups. *Journal of Experimental Social Psychology*, 23, 119-145. doi: 10.1016/0022-1031(87)90028-X
- Kerr, N. L., Stasser, G., & Davis, J. H. (1979). Model testing, model fitting, and social decision schemes. *Organizational Behavior and Human Performance*, 23, 399-410. doi: 10.1016/0030-5073(79)90006-0
- Kerr, N. L., & Tindale, R. S. (2004). Group performance and decision making. *Annual Review of Psychology*, 55, 623-655. doi: 10.1146/annurev.psych.55.090902.142009

- Kerwin, J., & Shaffer, D. R. (1994). Mock jurors versus mock juries: The role of deliberations in reactions to inadmissible testimony. *Personality and Social Psychology Bulletin*, 20, 153-162. doi: 10.1177/0146167294202002
- Klein, K. S., & Klastorin, T. D. (1999). Do diverse juries aid or impede justice? *Wisconsin Law Review*, 533, 553-569.
- Konecni, V J., & Ebbesen, E. B. (1979). External validity of research in legal psychology. *Law and Human Behavior*, 3, 39-70.
- Kozakai, T., Moscovici, S., & Personnaz, B. (1994). Contrary effects of group cohesiveness in minority influence: Intergroup categorization of the source and levels of influence. *European Journal of Social Psychology*, 24, 713-718. doi: 10.1002/ejsp.2420240608
- Kraus, S. J. (1995). Attitudes and the prediction of behavior: A meta-analysis of the empirical literature. *Personality and Social Psychology Bulletin*, 21, 58-75.
doi: 10.1177/0146167295211008
- Krishnan, H. S., & Smith, R. E. (1998). The relative endurance of attitudes, confidence, and attitude-behavior consistency: The role of information source and delay. *Journal of Consumer Psychology*, 7(3), 273-298. doi: 10.1207/s15327663jcp0703_03
- Kühberger, A., Schulte-Mecklenbeck, M., & Perner, J. (2002). Framing decisions: Hypothetical and real. *Organizational Behavior and Human Decision Processes*, 898, 1162-1175. doi: 10.1016/S0749-5978(02)00021-3

- Kunda, Z. (1987). Motivated inference: Self-serving generation and evaluation of causal theories. *Journal of Personality and Social Psychology*, 53(4), 636-647. doi: 10.1037/0022-3514.53.4.636
- Landis, J. R., & Koch, G. G. (1977). The measurement of observer agreement for categorical data. *Biometrics*, 33, 159-174.
- Lavine, H., Thomsen, C. J., & Gonzales, M. H. (1997). The development of interattitudinal consistency: The shared-consequences model. *Journal of Personality and Social Psychology*, 72(4), 735-749. doi: 10.1037/0022-3514.72.4.735
- Lecci, L., & Myers, B. (2008). Individual differences in attitudes relevant to juror decision making: Development and validation of the pretrial juror attitude questionnaire (PJAQ). *Journal of Applied Social Psychology*, 38(8), 2010-2038. doi: 10.1111/j.155901816.2008.00378.x
- Levett, L. M., Danielsen, E. M., Kovera, M. B., & Cutler, B. L. (2005). The psychology of jury and juror decision making. In N. Brewer & K. D. Williams (Eds.), *Psychology and law: An empirical perspective* (pp. 365-). New York, NY: Guilford Press.
- Leyland, A. H. (2004). *A review of multilevel modeling in SPSS*. Retrieved from <http://stat.gamma.rug.nl/reviewspss.pdf>
- Locke, E. A., & Latham, G. P. (2002). Building a practically useful theory of goal setting and task motivation. *American Psychologist*, 57, 705-717. doi: 10.1037/0003-066X.57.9.705
- Lockhart v. McCree*, 476 U.S. 162, 168-73 (1986).

- Lord, C. G., Ross, L., & Lepper, M. R. (1979). Biased assimilation and attitude polarization: The effects of prior theories on subsequently considered evidence. *Journal of Personality and Social Psychology*, 37(11), 2098-2109. doi: 10.1037/0022-3514.37.11.2098
- Lorge, I., Fox, D., Davitz, J., & Brenner, M. (1958). A survey of studies contrasting the quality of group performance and individual performance. *Psychological Bulletin*, 55, 337-372. doi: 10.1037/h0042344
- MacCoun, R. J. (2005). Comparing legal factfinders: Real and mock, amateur and professional. *Florida State University Law Review*, 32, 511-518.
- MacCoun, R. J., & Kerr, N. L. (1988). Asymmetric influence in mock jury deliberations: Jurors' bias for leniency. *Journal of Personality and Social Psychology*, 54, 21-33. doi: 10.1037//0022-3514.54.1.21
- Marcus, D. K., Lyons, P. M., & Guyton, M. R. (2000). Studying perceptions of juror influence in vivo: A social relations analysis. *Law and Human Behavior*, 24(2), 173-186. doi: 10.1023/A:1005406902505
- Marder, N. (2002). Juries, justice, & multiculturalism. *Southern California Law Review*, 75, 659-726.
- Marshall C. R., & Wise, J. A. (1975). Juror decisions and the determination of guilt in capital punishment cases: A Bayesian perspective. In D. Wendt & C. Vlek (Eds.), *Utility, probability, and human decision making* (pp. 257-269). Dordrecht, Holland: Reidel.

- Martire, K. A., & Kemp, R. I. (2009). The impact of eyewitness expert evidence and judicial instruction on juror ability to evaluate eyewitness testimony. *Law and Human Behavior*, 33, 225-236. doi: 10.1007/s10979-008-9134-z
- McCauley, C. (1998). Group dynamics in Janis's theory of groupthink: Backward and forward. *Organizational Behavior and Human Decision Processes*, 73(2-3), 142-162. doi: 10.1006/obhd.1998.2759
- Michaelsen, L. K., Watson, W. E., & Black, R. H. (1989). A realistic test of individual versus group consensus decision making. *Journal of Applied Psychology*, 74, 834-839. doi: 10.1037/0021-9010.74.5.834
- Miller, M. K., & Kazmar, M. N. (2007). Psychology research and public opinion do not support proposed changes to the jury system. *Hamline Law Review*, 30(2), 285-313.
- Mize, G. E., Hannaford-Agor, P., & Waters, N. L. (2007). *The state-of-the-states survey of jury improvement efforts: A compendium report*. The National Center for State Courts.
- Moscovici, S. (1980). Towards a theory of conversion behaviour. In L. Berkowitz (Ed.) *Advances in experimental social psychology* (Vol. 13). New York, NY: Academic Press.
- Moscovici, S. (1985) Social influence and conformity. In G. Lindzey & E. Aronson (Eds.) *Handbook of social psychology* (Vol. 2, pp. 347-412). New York: McGraw-Hill.
- Moscovici, S., & Faucheux, C. (1972). Social influence, conformity bias, and the study of active minorities. In L. Berkowitz (Ed.), *Advances in experimental social psychology* (Vol. 6). New York: Academic Press.

- Moscovici, S., & Lage, E. (1976). Studies in social influence III: Majority versus minority influence in a group. *European Journal of Social Psychology*, 6, 149-174.
doi: 10.1002/ejsp.2420060202
- Narby, D. J., Cutler, B. L., & Moran, G. (1993). A meta-analysis of the association between authoritarianism and jurors' perceptions of defendant culpability. *Journal of Applied Psychology*, 78, 34-42. doi: 10.1037/0021-9010.78.1.34
- Neck, C. P., & Moorhead, G. (1992). Jury deliberations in the trial of U. S. v. John Delorean: A case analysis of groupthink avoidance and an enhanced framework. *Human Relations*, 45(10), 1077-1091. doi: 10.1177/001872679204501004
- Nemeth, C. (1977). Interactions between jurors as a function of majority vs. unanimity decision rules. *Journal of Applied Social Psychology*, 7, 38-56.
doi: 10.1111/j.1559-1816.1977.tb02416.x
- Nickerson, R. S. (1998). Confirmation bias: A ubiquitous phenomenon in many guises. *Review of General Psychology*, 2(2), 175-220. doi: 10.1037/1089-2680.2.2.175
- Núñez, N., McCrea, S. M., & Culhane, S. E. (2011). Jury decision making research: Are researchers focusing on the mouse and not the elephant in the room? *Behavioral Sciences & the Law*, 29, 439-451. doi:10.1002/bsl.967
- Parks, C. D., & Nelson, N. L. (1999). Discussion and decision: The interrelationship between initial preference distribution and group discussion content. *Organization Behavior and Human Decision Processes*, 80, 87-101. doi: 10.1006/obhd.1999.2856

- Paulus, P. (1998). Developing consensus about groupthink after all these years. *Organizational Behavior and Human Decision Processes*, 73, 362-374. doi: 10.1006/obhd.1998.2767
- Pennington, N. & Hastie, R. (1986). Evidence evaluation in complex decision making. *Journal of Personality and Social Psychology*, 51, 242-258. doi: 10.1037/0022-3514.51.2.242
- Pennington, N., & Hastie, R. (1988). Explanation-based decision making: Effects of memory structure on judgment. *Journal of Experimental Psychology: Learning, Memory, and Cognition*, 14, 521-533. doi: 10.1037/0278-7393.14.3.521
- Pennington, N., & Hastie, R. (1992). Explaining the evidence: Tests of the story model for juror decision making. *Journal of Personality and Social Psychology*, 62, 189-206.
doi: 10.1037/0022-3514.62.2.189
- Pennington, N., & Hastie, R. (1993). The story model for juror decision making. In R. Hastie (Ed.), *Inside the juror: The psychology of juror decision making* (pp. 192-221). New York, NY: Cambridge University Press.
- Penrod, S., & Hastie, R. (1979). Models of jury decision making: A critical review. *Psychological Bulletin*, 86, 462-492. doi: 10.1037/0033-2909.86.3.462
- Penrod, S., & Heuer, L. (1998). Improving group performance: The case of the jury. In R. S. Tindale et al. (Eds.), *Theory and research on small groups* (pp. 127-152). New York: Plenum.
- Peters v. Kiff*, 407 U.S. 492 (1972).

- Petty, R. E., Tormala, Z. L., Briñol, P., & Jarvis, W. B. G. (2006). Implicit ambivalence from attitude change: an exploration of the PAST model. *Journal of Personality and Social Psychology*, 90, 21-41. doi: 10.1037/0022-3514.90.1.21
- Petty, R. E., Wegener, D. T., & Fabrigar, L. R. (1997). Attitudes and attitude change. *Annual Review of Psychology*, 48, 609-647. doi: 10.1146/annurev.psych.48.1.609
- Pornpitakpan, C. (2004). The persuasiveness of source credibility: A critical review of five decades' evidence. *Journal of Applied Social Psychology*, 34(2), 243-281. doi: 10.1111/j.1559-1816.2004.tb02547.x
- Prislin, R., & Wood, W. (2005). Social influence in attitudes and attitude change. In D. Albarracin, B. T. Johnson, & M. P. Zanna (Eds.), *The handbook of attitudes* (pp. 671-706). Hillsdale, NJ: Erlbaum.
- Raudenbush, S. W., & Bryk, A. S. (2002). *Hierarchical linear models: Applications and data analysis methods* (2nd ed.). Thousand Oaks, CA: Sage.
- Reardon, M. (2008). *Jury decision making and the story model: How do deliberation style and evidence order influence the stories that juries create?* Ph.D. Dissertation, Florida International University United States – Florida. Retrieved September 22, 2011, from Dissertations & Theses: Full Text. (Publication No. AAT 3343274).
- Rotenberg, K. J., Hewlett, M. G., & Siegwart, C. M. (1998). Principled moral reasoning and self-monitoring as predictors of jury functioning. *Basic and Applied Social Psychology*, 20, 167-173. doi: 10.1207/s15324834basp2002_8

- Ruva, C., McEvoy, C., & Bryant, J. B. (2007). Effects of pre-trial publicity and jury deliberation on juror bias and source memory errors. *Applied Cognitive Psychology, 21*, 45-67. doi: 10.1002/acp.1254
- Saks, M. J. (1976). The limits of scientific jury selection: Ethical and empirical. *Jurimetrics Journal, 17*, 3-22. doi: 10.1023/A:1024819605652
- Saks, M. J. (1997). What do jury experiments tell us about how juries (should) make decisions? *Southern California Interdisciplinary Law Journal, 6*, 1-53.
- Saks, M. J., & Marti, M. W. (1997). A meta-analysis of the effects of jury size. *Law and Human Behavior, 21*, 451-466. doi: 10.1023/A:1024819605652
- Salerno, J. M., & Diamond, S. S. (2010). The promise of a cognitive perspective on jury deliberation. *Psychonomic Bulletin & Review, 17*, 174-179. doi: 10.3758/PBR.17.2.174
- Sanders, R. E., & Bonito, J. A. (2010). Speaking for the institution: A fourth production site for group members' influence attempts. *Small Group Research, 41*, 427-451. doi: 10.1177/1046496410366309
- Sandys, M., & Dillehay, R. C. (1995). First-ballot votes, predebate dispositions, and final verdicts in jury trials. *Law and Human Behavior, 19*(2), 175-195. doi: 10.1007/BF01499324
- Schmersal, L. A. (2009). Preexisting attitudes about the legal system: The thirteenth juror? M.A. Thesis, The University of Texas – El Paso, United States – Texas. Retrieved October 21, 2011, from Dissertations & Theses: Full Text. (Publication No. AAT 1465271).

- Schubert, R. J. (1965) *The political role of the courts: Judicial policy-making*. Chicago: Scott, Forestman.
- Sears, D. O. (1986). College sophomores in the laboratory: Influences of a narrow data base on social psychology's view of human nature. *Journal of Personality and Social Psychology*, 51, 515-530. doi: 10.1037/0022-3514.51.3.515
- Semmler, C., & Brewer, N. (2002). Effects of mood and emotion on juror processing and judgments. *Behavioral Sciences and the Law*, 20, 423-436. doi: 10.1002/bsl.502
- Shestowsky, D., & Horowitz, L. M. (2004). How the need for cognition scale predicts behavior in mock jury deliberations. *Law and Human Behavior*, 28, 305-337.
doi: 10.1023/B:LAHU.00000029141.46850.fb
- Sommers, S. R., & Ellsworth, P. C. (2003). How much do we really know about race and juries – A review of social science theory and research. *Chicago-Kent Law Review*, 78, 997-1032.
- Smith, A., & Saks, M. J. (2008). The case for overturning *Williams v. Florida* and the six-person jury: History, law, and empirical evidence. *Florida Law Review*, 60, 441-470.
- Smith, J. R., & Terry, D. J. (2003). Attitude-behaviour consistency: The role of group norms, attitude accessibility, and mode of behavioural decision-making. *European Journal of Social Psychology*, 33, 591-608. doi: 10.1002/ejsp.172
- Smoke, W. H., & Zajonc, R. B. (1962). On the reliability of group judgments and decisions. In J. J. Criswell, H. Solomon, & P. Suppes (Eds.), *Mathematical methods in small group processes*. Stanford, CA: Stanford University Press.

- Snyder, M., & Cantor, N. (1979). Testing hypotheses about other people: The use of historical knowledge. *Journal of Experimental Social Psychology*, 15, 330-342.
doi: 10.1016/0022-1031(79)90042-8
- Stasser, G. (1992). Information salience and the discovery of hidden profiles by decision-making groups: A “thought experiment.” *Organizational Behavior and Human Decision Processes*, 52, 156-181. doi: 10.1016/0749-5978(92)90049-D
- Stasser, G. (1999). A primer of social decision scheme theory: Models of group influence, competitive model-testing, and prospective modeling. *Organizational Behavior and Human Decision Processes*, 80, 3-20. doi: 10.1006/obhd.199.2851
- Stasser, G., Kerr, N. L., & Bray, R. (1982). The social psychology of jury deliberations: Structure, process, and product. In N. Kerr and R. Bray (Eds.) *The psychology of the courtroom*. New York: Academic Press.
- Stasser, G., Stella, N., Hanna, C., & Colella, A. (1984). The majority effect in jury deliberations: Number of supporters vs. number of supporting arguments. *Law and Psychology Review*, 8, 115-127.
- Stasser, G., & Titus, W. (1985). Pooling of unshared information in group decision making: Biased information sampling during discussion. *Journal of Personality and Social Psychology*, 48, 1467-1478. doi: 10.1037/0022-3514.48.6.1467
- Strodtbeck, F. L., James, R. M., & Hawkins, C. (1957). Social status in jury deliberations. *American Sociological Review*, 22(6), 713-719. doi: 10.2307/2089202

- Tabachnick, B. G., & Fidell, L. S. (2007). *Using multivariate statistics* (5th ed.). Boston, MA: Pearson Education, Inc.
- Taylor v. Louisiana*, 419 U.S. 522 (1975).
- Taylor, T. S., & Hosch, H. M. (2004). An examination of jury verdicts for evidence of a similarity-leniency effect, an out-group punitiveness effect or a black sheep effect. *Law and Human Behavior*, 28, 587-598. doi: 10.1023/B:LAHU.0000046436.36228.71
- Tindale, R. S., & Davis, J. H. (1983). Group decision making and jury verdicts. In H. H. Blumberg, A. P. Hare, V. Kent, & M. F. Davies (Eds.), *Small groups and social interaction* (Vol. 2, pp 9-38). Chichester, UK: Wiley.
- Trost, M. R., Maass, A., & Kenrick, D. T. (1992). Minority influence: Personal relevance biases cognitive process and reverse private acceptance. *Journal of Experimental Social Psychology*, 28, 234-254. doi: 10.1016/0022-1031(92)90054-N
- Turner, J. C. (1991). *Social influence*. Pacific Grove, CA: Brooks/Cole.
- Vidmar, N. (1979). The other issues in jury simulation research: A commentary with particular reference to defendant character studies. *Law and Human Behavior*, 3, 95-106.
- Vidmar, N., & Hans, V. P. (2007). *American juries*. New York, NY: Prometheus.
- Visher, C. (1987). Juror decision making: The importance of evidence. *Law and Human Behavior*, 11, 1-17. doi: 10.1007/BF01044835
- Wason, P. C., & Johnson-Laird, P. N., (1972). *Psychology of reasoning: Structure and content*. Oxford, England: Harvard University Press.

- Waters, N. L., & Hans, V. P. (2009). A jury of one: Opinion formation, conformity, and dissent on juries. *Journal of Empirical Legal Studies*, 6(3), 513-540.
- Weiten, W., & Diamond, S. S. (1979). A critical review of the jury simulation paradigm: The case of defendant characteristics. *Law and Human Behavior*, 3, 71-93.
- Weld, H. P., & Danzig, E. R. (1940). A study of the way in which a verdict is reached by a jury. *American Journal of Psychology*, 53, 518-536. doi: 10.2307/1417631
- Weld, H. P., & Roff, M. (1938). A study in the formation of opinion based upon legal evidence. *American Journal of Psychology*, 51, 609-628.
- Wellen, J. M., Hogg, M. A., & Terry, D. J. (1998). Group norms and attitude-behavior consistency: The role of group salience and mood. *Group Dynamics: Theory, Research, and Practice*, 2(1), 48-56. doi: 10.1037/1089-2699.2.1.48
- Wiener, R. L., Krauss, D. A., & Lieberman, J. D. (2011). Mock jury research: Where do we go from here? *Behavioral Sciences & the Law*, 29, 467-479. doi:10.1002/bsl.989
- Williams v. Florida*, 399 U. S. 78 (1970).
- Wright, D. B., Strubler, K. A., & Vallano, J. P. (2011). Statistical techniques for juror and jury research. *Legal and Criminological Psychology*, 16, 90-125. doi: 10.1348/135532510X487655
- Wu, C., & Shaffer, D. R. (1987). Susceptibility to persuasive appeals as a function of source credibility and prior experience with the attitude object. *Journal of Personality and Social Psychology*, 52, 677-688. doi: 10.1037/0022-3514.52.4.677

- Wood, W. (2000). Attitude change: Persuasion and social influence. *Annual Review of Psychology*, 51, 539-570. doi: 10.1146/annurev.psych.51.1.539
- Wood, W., Lundgren, S., Ouellette, J. A., Busceme, S., & Blackstone, T. (1994). Minority influence: A meta-analytic review of social influence processes. *Psychological Bulletin*, 115, 323-345. doi: 10.1037/0033-2909.115.3.323
- York, E., & Cornwell, B. (2005). Status on trial: Social characteristics and influence in the jury room. *Social Forces*, 85(1), 455-478.
- Zarnoth, P., & Snizek, J. A. (1997). The social influence of confidence in group decision making. *Journal of Experimental Social Psychology*, 33, 345-366. doi: 10.1006/jesp.1997.1326
- Zeisel, H., & Diamond, S. S. (1974). "Convincing empirical evidence" on the six-member jury. *University of Chicago Law Review*, 41, 281-295.

TABLE 1*Juror-Level Frequencies and Descriptive Statistics*

| | | Frequency | Percent |
|---------------------------------|--------------------|-----------|-----------|
| Gender | | | |
| | Man | 81 | 40.5 |
| | Woman | 118 | 59.5 |
| Self-Reported Ethnicity | | | |
| | African American | 4 | 1.9 |
| | Asian | 3 | 1.4 |
| | Non-Hispanic White | 23 | 10.6 |
| | Hispanic | 162 | 75.0 |
| | Native American | 3 | 1.4 |
| | Other | 2 | 0.9 |
| Individual Verdict | | | |
| | Conviction | 102 | 51.3 |
| | Acquittal | 97 | 48.7 |
| Initial Faction in Deliberation | | | |
| | Majority Faction | 147 | 68.4 |
| | Minority Faction | 62 | 28.8 |
| | | | |
| | | | |
| | | <i>M</i> | <i>SD</i> |
| Age | | 22.87 | 4.98 |

TABLE 2*Jury-Level Descriptive Statistics*

| Jury-Level Variable (<i>n</i> = 37) | <i>M</i> (<i>SEM</i>) | 95% CI | |
|--|-------------------------|----------|----------|
| | | LL | UL |
| Length of Deliberation in Minutes | 18.56 (2.52) | 13.44 | 23.67 |
| Strong Majority Conviction (<i>n</i> = 7) | 14.10 (3.28) | 6.06 | 22.14 |
| Weak Majority Conviction (<i>n</i> = 12) | 22.83 (5.15) | 11.49 | 34.17 |
| Strong Majority Acquittal (<i>n</i> = 7) | 12.62 (4.59) | 1.38 | 23.85 |
| Weak Majority Acquittal (<i>n</i> = 11) | 20.50 (5.20) | 8.91 | 32.10 |
| Majority Faction Time in Minutes | 10.30 (1.36) | 7.53 | 13.07 |
| Strong Majority Conviction (<i>n</i> = 7) | 8.60 (2.39) | 2.74 | 14.45 |
| Weak Majority Conviction (<i>n</i> = 12) | 12.21 (2.95) | 6.33 | 18.08 |
| Strong Majority Acquittal (<i>n</i> = 7) | 7.27 (2.21) | 1.86 | 12.67 |
| Weak Majority Acquittal (<i>n</i> = 11) | 11.24 (2.95) | 4.67 | 17.81 |
| Minority Faction Time in Minutes | 5.72 (1.12) | 3.44 | 7.99 |
| Strong Majority Conviction (<i>n</i> = 7) | 2.67 (0.80) | 0.73 | 4.62 |
| Weak Majority Conviction (<i>n</i> = 12) | 8.09 (2.67) | 2.21 | 13.97 |
| Strong Majority Acquittal (<i>n</i> = 7) | 3.43 (1.64) | -0.59 | 7.44 |
| Weak Majority Acquittal (<i>n</i> = 11) | 6.53 (1.96) | 2.16 | 10.89 |
| Majority Faction Number of Turns | 145.46 (16.30) | 112.40 | 178.52 |
| Strong Majority Conviction (<i>n</i> = 7) | 138.29 (28.95) | 67.45 | 209.12 |
| Weak Majority Conviction (<i>n</i> = 12) | 167.50 (160.28) | 95.73 | 239.27 |
| Strong Majority Acquittal (<i>n</i> = 7) | 121.57 (41.50) | 20.03 | 223.11 |
| Weak Majority Acquittal (<i>n</i> = 11) | 141.18 (29.50) | 75.45 | 206.91 |
| Minority Faction Number of Turns | 73.76 (12.36) | 48.68 | 98.93 |
| Strong Majority Conviction (<i>n</i> = 7) | 37.23 (8.64) | 16.29 | 58.56 |
| Weak Majority Conviction (<i>n</i> = 12) | 107.08 (42.12) | 42.12 | 172.05 |
| Strong Majority Acquittal (<i>n</i> = 7) | 44.71 (4.12) | 4.12 | 85.31 |
| Weak Majority Acquittal (<i>n</i> = 11) | 79.00 (33.86) | 33.86 | 124.14 |
| Majority Faction Modified Word Count | 1,666.30 (230.32) | 1,199.19 | 2,133.41 |
| Strong Majority Conviction (<i>n</i> = 7) | 1,335.43 (395.31) | 368.15 | 2,302.71 |
| Weak Majority Conviction (<i>n</i> = 12) | 2,009.25 (501.54) | 905.37 | 3,113.13 |
| Strong Majority Acquittal (<i>n</i> = 7) | 1,141.29 (346.29) | 293.96 | 1,988.62 |
| Weak Majority Acquittal (<i>n</i> = 11) | 1,836.82 (441.37) | 853.39 | 2,820.25 |

| | | | |
|--|-------------------|--------|----------|
| Minority Faction Modified Word Count | 957.35 (188.43) | 575.20 | 1,339.51 |
| Strong Majority Conviction ($n = 7$) | 427.29 (154.19) | 50.00 | 804.58 |
| Weak Majority Conviction ($n = 12$) | 1,349.58 (440.57) | 379.90 | 2,319.26 |
| Strong Majority Acquittal ($n = 7$) | 524.86 (250.19) | -87.34 | 1,137.06 |
| Weak Majority Acquittal ($n = 11$) | 1,142.00 (337.75) | 389.45 | 1,894.55 |

Note. CI = confidence interval; *LL* = lower limit; *UL* = upper limit.

TABLE 3*Length of Deliberation by Distribution of Individual Verdict Preferences, Deliberation Style, and Final Outcome*

| Length of Deliberation in Minutes at the Jury Level (<i>n</i> = 37) | | 95% CI | |
|---|-----------------------------|--------|-------|
| | | LL | UL |
| Distribution | | | |
| Strong Majority Conviction (<i>n</i> = 7) | 14.10 (3.28) | 6.06 | 22.14 |
| Weak Majority Conviction (<i>n</i> = 12) | 22.83 (5.15) | 11.49 | 34.17 |
| Strong Majority Acquittal (<i>n</i> = 7) | 12.62 (4.59) | 1.38 | 23.85 |
| Weak Majority Acquittal (<i>n</i> = 11) | 20.50 (5.20) | 8.91 | 32.10 |
| Deliberation Style | | | |
| Verdict-Driven (<i>n</i> = 25) | 21.16 (3.39) | 14.17 | 28.16 |
| Evidence-Driven (<i>n</i> = 12) | 13.12 (2.82) | 6.91 | 19.34 |
| Final Outcome | | | |
| Conviction (<i>n</i> = 12) | 14.21 (2.06) ^{a,b} | 9.68 | 18.73 |
| Acquittal (<i>n</i> = 19) | 15.15 (3.17) ^a | 8.49 | 21.81 |
| Hung (<i>n</i> = 6) | 38.05 (7.62) ^b | 18.46 | 57.65 |

Note. CI = confidence interval; *LL* = lower limit; *UL* = upper limit.

^a and ^b represent significant contrast comparisons.

TABLE 4*Group Outcome by Initial Distribution of Pre-Deliberation Verdict Preferences*

| Jury-Level Outcome | Initial Distribution of Pre-Deliberation Verdict Preference | | | |
|--------------------------|---|--------------------------|---------------------------|-------------------------|
| | Strong Majority Conviction | Weak Majority Conviction | Strong Majority Acquittal | Weak Majority Acquittal |
| Conviction | 7 (18.9%) | 4 (10.8%) | 0 (0.0%) | 1 (2.7%) |
| Acquittal | 0 (0.0%) | 5 (13.5%) | 7 (18.9%) | 7 (18.9%) |
| Hung | 0 (0.0%) | 3 (8.1%) | 0 (0.0%) | 3 (8.1%) |
| $\chi^2(6) = 25.01^{**}$ | | | | |

* $p < .05$. ** $p < .01$.

TABLE 5*Group Decision by Initial Distribution of Pre-Deliberation Verdict Preferences*

| Jury-Level Decision | Initial Distribution of Pre-Deliberation Verdict Preference | | | |
|---------------------|---|--------------------------|---------------------------|-------------------------|
| | Strong Majority Conviction | Weak Majority Conviction | Strong Majority Acquittal | Weak Majority Acquittal |
| Conviction | 7 (22.6%) | 4 (12.9%) | 0 (0.0%) | 1 (3.2%) |
| Acquittal | 0 (0.0%) | 5 (16.1%) | 7 (22.6%) | 7 (22.6%) |

 $\chi^2(3) = 17.95^{**}$ * $p < .05$. ** $p < .01$.

TABLE 6

Representative Case Facts for Emergent Themes from Facts in Evidence Discussed During the Deliberation

| Example of Representative Facts in Evidence for Each Theme | Frequency (across juries) | Percent of Juries | Mean (per jury) | Median (per jury) | Range (per jury) | Characteristic Response |
|--|---------------------------|-------------------|-----------------|-------------------|------------------|--|
| Car | | | | | | |
| Similar car | 24 | 65.8 | 2.03 | 1.00 | 0-10 | "But the coincidence that within that small area there in a similar car?" |
| Car was not an exact match | 13 | 35.9 | 0.46 | 0.00 | 0-2 | "Honestly, to pinpoint him for it – no one even saw who it was. Just to pinpoint because he drove that car..." |
| Witness recalled similar license plate number | 20 | 54.1 | 1.22 | 1.00 | 0-7 | "The license plates were really close too." |
| License plate description not completely accurate | 19 | 51.4 | 0.78 | 1.00 | 0-3 | "It's just the first two letters out of six." |
| Money | | | | | | |
| Defendant was found with an amount of money similar to the amount stolen | 23 | 62.2 | 1.7 | 1.00 | 0-6 | "He had the approximate exact amount of money that was missing." |
| Defendant had a different amount of money to the amount stolen | 13 | 35.1 | 0.59 | 0.00 | 0-5 | "First of all, wasn't it like a wad of money? Why was the extra money there? He had extra money." |
| Watch | | | | | | |
| Defendant was found with a watch similar to the one stolen | 32 | 86.5 | 3.24 | 2.00 | 0-13 | "And then searching the car and then finding a similar watch..." |
| The victim could not positively identify the watch | 26 | 70.3 | 1.95 | 1.00 | 0-9 | "The old lady couldn't identify the watch, either." |
| The watch was not engraved | 12 | 32.4 | 0.73 | 0.00 | 0-7 | "There was no engraving, which is why she could not tell if it was the exact one." |
| Other Defendant Characteristics | | | | | | |
| Defendant was reported to be intoxicated | 31 | 83.8 | 3.24 | 2.00 | 0-15 | "He was intoxicated. That was big." |
| Defendant was found with tools | 33 | 89.2 | 3.38 | 2.00 | 0-14 | "Those tools could be used for robbery." |
| Beyond Facts in Evidence | | | | | | |
| Reasonable doubt | 31 | 83.8 | 4.19 | 3.00 | 0-18 | "That is why I am bothered. The whole reasonable doubt thing. They did not present beyond a reasonable doubt that he did do it." |
| Girlfriend was not a witness | 20 | 54.1 | 1.86 | 1.00 | 0-15 | "If he was really at his girlfriend's house, he should have had her there." |

TABLE 7*Summary of Intercorrelations, Means, Medians, and Ranges for Juror-Level Participation*

| Juror-Level Variables ($n = 216$) | 1 | 2 | 3 | 4 |
|--------------------------------------|---------------|------------|----------|------------|
| 1. Length of Deliberation in Minutes | 1.00 | | | |
| 2. Spoken Time in Minutes | .65** | 1.00 | | |
| 3. Number of Turns | .60** | .86** | 1.00 | |
| 4. Modified Word Count | .66** | .99*** | .89** | 1.00 |
| <i>M</i> | 18.81 | 2.75 | 37.60 | 449.70 |
| (<i>SEM</i>) | (1.04) | (0.24) | (2.60) | (40.47) |
| Median | 12.63 | 1.46 | 26 | 239 |
| Range | 3.01 to 62.82 | 0 to 25.23 | 0 to 263 | 0 to 4,675 |

* $p < .05$ ** $p < .01$. *** $p < .001$.

TABLE 8*Descriptive Statistics for Jury-Level Participation*

| Jury-Level Variable (<i>n</i> = 37) | <i>M</i> (<i>SEM</i>) | Mean Difference | 95% CI for Mean Difference | |
|--------------------------------------|-------------------------|-----------------|----------------------------|--------|
| | | | LL | UL |
| Time in Minutes | | | | |
| Majority Faction | 10.30 (1.36) | 4.58** | 2.87 | 6.30 |
| Minority Faction | 5.72 (1.12) | | | |
| Number of Turns | | | | |
| Majority Faction | 145.46 (16.30) | 71.70** | 50.94 | 92.46 |
| Minority Faction | 73.76 (12.36) | | | |
| Modified Word Count | | | | |
| Majority Faction | 1,666.30 (230.32) | 708.95** | 430.45 | 987.44 |
| Minority Faction | 957.35 (188.43) | | | |

Note. CI = confidence interval; *LL* = lower limit; *UL* = upper limit.

p* < .05. *p* < .01.

TABLE 9

Fixed Effects Estimates for Models of Juror-Level Participation

| Parameter | Model 1 (Null Model) | | Model 2 (Juror-Level Model) | | Model 3 (Jury-Level Model) | |
|-----------------------|----------------------|------------------|-----------------------------|------------------|----------------------------|------------------|
| | Estimate | 95% CI | Estimate | 95% CI | Estimate | 95% CI |
| Level 1 (Null Model) | | | | | | |
| DV Index 1 (time) | 163.45* (23.13) | [116.60, 210.30] | 127.11* (28.3) | [72.17, 182.60] | 88.09* (34.25) | [2.72, 155.47] |
| DV Index 2 (turn) | 37.41* (4.42) | [28.46, 46.35] | 27.36* (4.87) | [17.80, 36.93] | 18.72* (7.26) | [4.33, 33.11] |
| DV Index 3 (mwc) | 446.04* (65.24) | [313.90, 578.19] | 318.37* (72.92) | [175.34, 461.40] | 190.01* (93.95) | [5.31, 374.71] |
| Level 2 (Juror-Level) | | | | | | |
| Majority*Index 1 | | | 61.56* (25.84) | [10.90, 112.22] | 56.38* (28.74) | [-0.27, 113.03] |
| Majority*Index 2 | | | 12.30** (4.39) | [3.67, 20.93] | 11.46* (4.67) | [2.27, 20.66] |
| Majority*Index 3 | | | 194.68** (70.40) | [56.22, 333.15] | 179.88* (76.61) | [28.90, 330.85] |
| Change*Index 1 | | | 28.09 (26.13) | [-23.15, 79.34] | 18.91 (28.86) | [-37.95, 75.77] |
| Change*Index 2 | | | 9.58* (4.47) | [0.79, 18.37] | 7.90 (4.74) | [-1.44, 17.25] |
| Change*Index 3 | | | 107.28 (71.17) | [-32.22, 246.79] | 78.58 (76.91) | [-72.91, 230.08] |
| Level 3 (Jury-Level) | | | | | | |
| Style*Index 1 | | | | | 70.31* (31.86) | [7.62, 133.00] |
| Style*Index 2 | | | | | 14.96 (7.66) | [-0.32, 30.23] |
| Style*Index 3 | | | | | 227.67** (89.13) | [52.62, 402.73] |
| -2*log likelihood | 7,280.11 | | 7,263.67 | | 7,236.16 | |
| χ^2_{diff} | | | 16.44 | | 43.95* | |

Note. Standard errors are in parentheses. Length is included in the jury-level model as a covariate. Majority = indication if the participant was in the majority or minority faction; Change = indication of whether the participant changed verdict during deliberation; Style = deliberation style.

* $p < .05$. ** $p < .01$.

TABLE 10*Estimated Marginal Means for Juror-Level Participation Variables from the Full Multilevel Model*

| Juror-Level Variable (<i>n</i> = 216) | <i>M</i> (<i>SEM</i>) | 95% CI | |
|--|-------------------------|--------|--------|
| | | LL | UL |
| Time in Minutes | 2.68 (0.28) | 2.13 | 3.24 |
| In Majority Faction (<i>n</i> = 151) | 2.21 (0.32) | 1.57 | 2.85 |
| In Minority Faction (<i>n</i> = 64) | 3.15 (0.41) | 2.34 | 3.96 |
| Change in Verdict (<i>n</i> = 68) | 2.52 (0.40) | 1.74 | 3.30 |
| No Change in Verdict (<i>n</i> = 145) | 2.84 (0.34) | 2.16 | 3.51 |
| Number of Turns | 35.88 (3.94) | 28.40 | 43.73 |
| In Majority Faction (<i>n</i> = 151) | 30.15 (4.24) | 21.74 | 38.57 |
| In Minority Faction (<i>n</i> = 64) | 41.62 (4.90) | 31.94 | 51.29 |
| Change in Verdict (<i>n</i> = 68) | 31.93 (4.80) | 22.44 | 41.43 |
| No Change in Verdict (<i>n</i> = 145) | 39.84 (4.89) | 31.14 | 48.53 |
| Modified Word Count | 470.07 (47.07) | 340.60 | 525.55 |
| In Majority Faction (<i>n</i> = 151) | 343.14 (53.56) | 237.87 | 448.41 |
| In Minority Faction (<i>n</i> = 64) | 523.02 (67.07) | 391.07 | 654.96 |
| Change in Verdict (<i>n</i> = 68) | 393.76 (64.76) | 266.42 | 521.15 |
| No Change in Verdict (<i>n</i> = 145) | 472.37 (56.53) | 361.24 | 583.50 |

Note. CI = confidence interval; *LL* = lower limit; *UL* = upper limit. Deliberation length is controlled. Means are adjusted to account for correlations among dependent variables.

TABLE 11*Fixed Effects Estimates for Models of Juror-Level Confidence in Group Verdict*

| Parameter | Model 1 (Null Model) | | Model 2 (Juror-Level Model) | | Model 3 (Jury-Level Model) | |
|-----------------------|----------------------|--------------|-----------------------------|--------------|----------------------------|---------------|
| | Estimate | 95% CI | Estimate | 95% CI | Estimate | 95% CI |
| Intercept | 3.77 (0.09) | [3.57, 3.96] | 3.54 (0.12) | [3.31, 3.77] | 3.77 (0.19) | [3.39, 4.15] |
| Level 1 (Juror-Level) | | | | | | |
| Change | | | 0.34 (0.10)** | [0.14, 0.53] | 0.34 (0.10)** | [0.14, 0.54] |
| Level 2 (Jury-Level) | | | | | | |
| Style | | | | | 0.01 (0.20) | [-0.39, 0.41] |
| Length | | | | | 0.00 (0.00)* | [0.00, 0.00] |
| -2*log likelihood | 461.92 | | 453.92 | | 467.23 | |

Note. Standard errors are in parentheses. Length is included in the jury-level model as a covariate. Change = indication of whether the participant changed verdict during deliberation; Style = deliberation style.

* $p < .05$. ** $p < .01$.

TABLE 12

Estimated Marginal Means for Juror-Level Confidence in the Group Verdict from the Full Multilevel Model

| Variable | | <i>M (SEM)</i> | 95% CI | |
|-------------|--|--------------------------|--------|------|
| | | | LL | UL |
| Juror-Level | | | | |
| | Change in Verdict (<i>n</i> = 68) | 3.54 (0.12) ^a | 3.30 | 3.77 |
| | No Change in Verdict (<i>n</i> = 145) | 3.88 (0.10) ^a | 3.67 | 4.08 |
| Jury-Level | | | | |
| | Verdict-Driven (<i>n</i> = 25) | 3.71 (0.12) | 3.48 | 3.95 |
| | Evidence-Driven (<i>n</i> = 12) | 3.70 (0.16) | 3.38 | 4.00 |

Note. CI = confidence interval; *LL* = lower limit; *UL* = upper limit. Deliberation length is controlled.

^a represents significant contrast comparisons.

TABLE 13*Additional Descriptive Statistics about Verdict Changers*

| All Jurors (<i>n</i> = 216) | Frequency | Percent |
|---------------------------------------|-----------|---------|
| Change Verdict During Deliberation | | |
| Yes | 68 | 31.6 |
| No | 147 | 68.4 |
| Confidence in Individual Verdict | | |
| Very Unsure | 0 | 0.0 |
| Somewhat Unsure | 16 | 8.1 |
| Neutral | 48 | 24.2 |
| Confident | 118 | 59.6 |
| Very Confident | 16 | 8.1 |
| Confidence in Group Verdict | | |
| Very Unsure | 3 | 1.5 |
| Somewhat Unsure | 12 | 5.9 |
| Neutral | 42 | 20.6 |
| Confident | 118 | 57.8 |
| Very Confident | 29 | 14.2 |
| Agree with Group Verdict | | |
| Yes | 160 | 74.8 |
| No | 48 | 22.4 |
| Changers Only (<i>n</i> = 68) | | |
| Changed Verdict Pre-Deliberation | | |
| Yes | 5 | 8.3 |
| No | 55 | 91.7 |
| I Changed to the Majority Decision | | |
| Yes | 27 | 39.7 |
| No | 41 | 60.3 |
| Others Brought Up Evidence I Forgot | | |
| Yes | 37 | 54.4 |
| No | 28 | 41.2 |
| Others Helped Me Rethink Evidence | | |
| Yes | 48 | 70.6 |
| No | 20 | 29.4 |
| I Felt Coerced by the Group to Change | | |
| Yes | 9 | 13.2 |
| No | 59 | 86.8 |

APPENDIX A

Detailed Descriptions of All Project Materials

Voir Dire Questionnaire

The voir dire questionnaire (see Appendix B) collected basic demographic information (e.g., age, gender, jury eligibility, and ethnicity) about each participant. In addition, participants were asked about connections to the legal system (e.g., “Do you have a close friend or family member who is now or who has ever been law enforcement?”); past experiences with the police (e.g., “Have you ever reported a crime to the police?”); and past experiences with the court system (e.g., “Have you ever been a witness in a criminal case?”).

Participants’ attitudes about the legal system were assessed through the administration of the Pretrial Juror Attitude Questionnaire (PJAQ; Lecci & Myers, 2008). The PJAQ is a 29-item scale representing six underlying factors: conviction proneness (e.g., “Criminals should be caught and convicted by any means necessary.”), system confidence (e.g., “When it is the suspect’s word against the police officer’s, I believe the police.”), cynicism towards the defense (e.g., “Lawyers will do whatever it takes, even lie, to win a case.”), social justice (e.g., “Rich individuals are almost never convicted of their crimes.”), racial bias (e.g., “Minorities use the race issue only when they are guilty.”), and innate criminality (e.g., “Once a criminal, always a criminal.”).

Trial Transcript

Participants were asked to read a trial transcript (see Appendix C) that describes a burglary of habitation trial. This transcript has previously been shown to produce nearly equal

frequencies of convictions and acquittals. In the transcript, participants learn that a woman arrives home to find that her residence has been burglarized and a specified amount of money and a gold watch are missing. When questioned by the police, the woman provides a detailed description of a vehicle she saw leaving her driveway. The defendant is found in his vehicle, which matches the description, nearby the woman's residence. When his vehicle is searched, several watches and a large sum of money are found in addition to a toolbox containing tools similar to those used in the burglary. The testimony and cross-examination of the victim, a police officer, and the defendant are all presented in the transcript.

Individual Verdict Form

The verdict form (see Appendix D) asked participants to render an individual verdict of either Guilty or Not-Guilty. Participants rated their confidence in their personal verdict decision on a scale from 1 = "Very Unsure" to 5 = "Very Confident." In addition, participants who selected a verdict of guilty were asked to provide a sentencing recommendation in accordance with Texas law.

Post Individual Verdict Questionnaire

The post individual verdict questionnaire (see Appendix E) was used to assess individual participants' interpretations of the evidence and opinions about trial participants. Participants were asked to generate from memory a list of the facts in evidence. This list was presented as a test of recall rather than of recognition in accordance with the findings of Snyder and Cantor (1979) to ensure that participants were not cued by facts of evidence listed in a recognition task. Participants ranked the facts recalled in order of most important to least important in forming their verdict preference (e.g., 1 being most important, 2 being second most important, etc.).

Finally, participants were asked to indicate whether each fact generated appeared to support the prosecution or the defense or served as a general fact of the case (e.g., time of arrest).

As a rating of perceived strength of evidence (SOE), participants were asked to consider the case as a whole and rate how strong they perceived the evidence against the defendant to be overall. Participants rated the perceived SOE on 5-point Likert-type scale (1 = “Very Weak Case against the Defendant” to 5 = “Very Strong Case against the Defendant”). Last, participants were asked to rate the likeability and the perceived persuasiveness of all the trial participants: the judge, the prosecuting attorney, the defense attorney, the victim, the defendant, and the witness for the prosecution. Ratings of likeability were measured by a 5-point Likert-type scale (1 = “Very Likeable” to 5 = “Very Unlikeable”). Similarly, perceived persuasiveness will be measured by a 5-point Likert-type scale (1 = “Very Persuasive” to 5 = “Not at all Persuasive”).

Group Decision Form and Post-Deliberation Group Questionnaire

The group decision form (see Appendix F) asked the participants in each mock jury to reach a unanimous group verdict to find the defendant either Guilty or Not-Guilty. In addition, mock juries in favor of conviction were asked to provide a sentencing recommendation in accordance with Texas law.

The post-deliberation group questionnaire was used to assess the group’s use of the evidence during the deliberation. All members of the group completed this form together following the group decision. The group was provided with a checklist of the facts in evidence and was asked to check all facts discussed during the deliberation. In addition, the group rated each fact discussed as supporting the prosecution, the defense, or neither (i.e., neutral). As a group, participants were asked to rate the strength of the evidence. The group was asked to

consider the case as a whole and rate how strong they perceived the evidence against the defendant to be overall. As in the individual form, participants rated the perceived SOE on 5-point Likert-type scale (1 = “Very Strong Case against the Defendant” to 5 = “Very Weak Case against the Defendant”). As in the individual questionnaire, the group also was asked to rate the likeability and the perceived persuasiveness of all the trial participants: the judge, the prosecuting attorney, the defense attorney, the victim, the defendant, and the witness for the prosecution. Ratings of likeability were measured by a 5-point Likert-type scale (1 = “Very Likeable” to 5 = “Very Unlikeable”). Similarly, perceived persuasiveness was measured by a 5-point Likert-type scale (1 = “Very Persuasive” to 5 = “Not at all Persuasive”).

Post-Deliberation Individual Questionnaire

Each individual mock juror completed a post-deliberation individual questionnaire separately after the group deliberation (see Appendix H). Participants were asked to indicate their group’s decision and their confidence in the group’s decision. Participants indicated their personal verdict decision and whether they changed from their individual decision (as indicated in the individual verdict form). Participants who changed from their initial verdict selection were asked about their reasons for changing their position. Finally, participants answered a series of questions about the group decision process. These questions included open-ended questions (e.g., “How would you describe the process that led to your group decision?”), self-ratings (e.g., “How motivated were you to persuade group members to see things from your point of view?”), and ratings of each other group members (e.g., “How similar is this person to you?”).

APPENDIX B

Voir Dire Questionnaire

Demographic Information:

Age: _____ Gender: _____ Ethnicity: _____

Years Lived in El Paso: _____

Licensed Driver: Yes _____ No _____

Registered Voter: Yes _____ No _____

Marital Status: Married _____ Never Married _____ Divorced _____ Widowed _____

If Married: Years Married _____

If You Have Children: Number of Children: _____

Your Occupation and Employer: _____

Name of Last School or College Attended, Grade Completed, or Degree Received:

What is (was) the principal profession or vocation of your parents?

Father: _____ Mother: _____

Your religious preference (if any): _____

Experiences with the Legal System:

In this section, you will be asked some general questions about your personal experiences with the legal system. Please answer these questions honestly. Again, please remember that these answers are completely anonymous.

Have you served on a jury before? Yes _____ No _____

If yes, how many times? _____

Was it Civil _____; Criminal _____; Grand Jury _____?

Was a verdict rendered? Yes _____ No _____

Are you now or have you ever been a law enforcement officer? ____ Yes ____ No

If yes, state what type and when: _____

Do you have a close friend or relative who is now or ever has been a law enforcement officer?

Yes ____ No ____

If yes, state the nature of the relationship, type of law enforcement officer, and when the individual was (is) a law enforcement officer: _____

Have you ever been a victim of a crime? Yes ____ No ____

If yes, state the nature of the crime and when it occurred: _____

Has any close friend or relative ever been the victim of a crime? Yes ____ No ____

If yes, state the nature of the crime and when it occurred: _____

Have you ever been a witness in a criminal case? Yes ____ No ____

If yes, state the type of case and when it occurred: _____

Overall, how do you feel about police officers?

-3
Very
Negative

-2

-1

0
Neutral

1

2

3
Very
Positive

Have you ever spoken with a police officer? Yes ____ No ____

If yes, how many times?

____ Once or twice
____ A few times
____ Several times
____ Many times

If yes, in what contexts? (check all that apply)

____ Speeding ticket / traffic accident
____ Answering questions about something I had seen
____ Answering questions about something I may have done
____ Answering questions about something that happened to me
____ Talking about general issues or concerns such as safety
____ In a social context
____ Other (please explain) _____

Have you ever reported a crime to the police? Yes ____ No ____

Please answer the questions below based on the given scale.

| 1 | 2 | 3 | 4 | 5 |
|-------------------|----------|----------------------------|-------|----------------|
| Strongly Disagree | Disagree | Neither Agree nor Disagree | Agree | Strongly Agree |

- _____ If a suspect runs from the police, then he probably committed the crime.
- _____ A defendant should be found guilty if 11 out of 12 jurors vote guilty.
- _____ Too often jurors hesitate to convict someone who is guilty out of pure sympathy.
- _____ In most cases where the accused presents a strong defense, it is only because of a good lawyer.
- _____ Out of every 100 people brought to trial, at least 75 are guilty of the crime with which they are charged.
- _____ For serious crimes like murder, a defendant should be found guilty so long as there is a 90% chance that he committed the crime.
- _____ Defense lawyers don't really care about guilt or innocence, they are just in business to make money.
- _____ Generally, the police make an arrest only when they are sure about who committed the crime.
- _____ Many accident claims filed against insurance companies are phony.
- _____ The defendant is often a victim of his own bad reputation.
- _____ Extenuating circumstances should not be considered; if a person commits a crime, then that person should be punished.
- _____ If the defendant committed a victimless crime like gambling or possession of marijuana, he should never be convicted.
- _____ Defense lawyers are too willing to defend individuals they know are guilty.
- _____ Police routinely lie to protect other police officers.
- _____ Once a criminal, always a criminal.
- _____ Lawyers will do whatever it takes, even lie, to win a case.
- _____ Criminals should be caught and convicted by "any means necessary."
- _____ A prior record of conviction is the best indicator of a person's guilt in the present case.
- _____ Rich individuals are almost never convicted of their crimes.
- _____ If a defendant is a member of a gang, he/she is definitely guilty of the crime.
- _____ Minorities use the "race issue" only when they are guilty.
- _____ When it is the suspect's word against the police officer's, I believe the police.
- _____ Men are more likely to be guilty of crimes than are women.
- _____ The large number of African Americans currently in prison is an example of the innate criminality of that group.
- _____ A black man on trial with a predominantly white jury will always be found guilty.
- _____ Minority suspects are likely to be guilty, more often than not.
- _____ If a witness refuses to take a lie detector test, it is because he/she is hiding something.
- _____ Defendants who change their story are almost always guilty.
- _____ Famous people are often considered to be "above the law."

APPENDIX C

IN THE DISTRICT COURT OF EL PASO, TEXAS
THREE HUNDRED THIRTY-FOURTH JUDICIAL DISTRICT

THE STATE OF TEXAS

V.

MARCO ANTONIO MEDRANO

Prosecutor: Ladies and gentlemen of the jury at this point in time the State is going to explain this case to you.

This is about a burglary of a habitation. The victim in this case is Ms. Mary Martin. Ms. Martin is going to testify to you today and the State expects to show that she was returning home the evening of January 10th about 8:45 in the evening when she observed a blue Ford Taurus leaving her home. Shortly thereafter she entered her home and discovered that the house had been broken into. She was missing a watch and a quantity in cash.

Ladies and gentlemen, the State also expects to bring Officer Bolick here to testify: to tell you about his arrest of Mark Medrano; to tell you about the evidence he collected at the scene where Mark Medrano was arrested.

Ladies and gentlemen after you hear the evidence presented by the State, the State is confident you will find the Mark Medrano guilty of burglary of a habitation. Thank you very much.

Judge: The Defense may make its opening statement at this time.

Defense Attorney: May it please the Court, Mr. Arredondo {Prosecutor}, Mr. Medrano, and ladies and gentlemen of the jury.

I anticipate that in this trial you will hear from several witnesses. I anticipate that you will hear from Mary Martin, this is the homeowner. I anticipate that you will hear from Officer Howard Bolick, the investigating officer, and I anticipate their testimony to be totally inconclusive and full of reasonable doubt. I expect that you'll find many inconsistencies in what these State witnesses have to tell you. And based on those inconsistencies; I think some very crucial inconsistencies; I'm going to ask that you return a finding of not guilty on behalf of Mr. Medrano. Thank you.

(Judge addresses Prosecutor.)

Judge: If you would call your first witness, please.

(Prosecutor addresses Judge.)

Prosecutor: Mary Martin to the stand.

(Judge addresses witness.)

Judge: You may approach the stand.

(Witness takes the stand. Judge addresses Prosecutor.)

Judge: Counsel, you may proceed with the direct examination.

Prosecutor: Thank you, your Honor.

Ma'am would you give us your full name please?

Mary Martin: Mary Martin.

Prosecutor: Let me take you back to January 10th. Did something unusual happen that day to you?

Mary Martin: Yes, it did; that evening it did.

Prosecutor: What happened that evening?

Mary Martin: Well I came home and I noticed the door to my house was jimmied open.

Prosecutor: Okay. About what time was it that night?

Mary Martin: It was about 8:45 p.m.

Prosecutor: How do you know that was the time?

Mary Martin: Because I wanted to be home by 9 p.m., for sure inside the house, ready to watch a TV program.

Prosecutor: Okay. Where were you that evening?

Mary Martin: At a friend of mine's having Sunday supper.

Prosecutor: What is the name of your friend?

Mary Martin: Nancy Coolidge.

Prosecutor: Did you see anybody in your home?

Mary Martin: No, I did not.

Prosecutor: Did you see anybody leaving your home?

Mary Martin: Yes, I did. Well I saw a car speeding away from my driveway, and there was someone in the car driving away.

Prosecutor: Just one person in the car?

Mary Martin: To the best of my knowledge, yes. There was one person in the car.

Prosecutor: What kind of car?

Mary Martin: Yes. It was a blue 4-door sedan, probably a Sable, and I thought it was maybe 8 to 10 years old, and yes I noticed it had a little gray smudge or some kind of smudge on the right front fender.

Prosecutor: Okay. You said it was just one person in the car?

Mary Martin: Yes. I think it was a man. I am not sure.

Prosecutor: Did you get a good look at this person?

Mary Martin: No, he was leaving too fast for me to get a good look.

Prosecutor: Did you get a look at the license plate?

Mary Martin: Well I did see part of it, it was like D as in "dog," and it was D-D-C or D-D-X

Prosecutor: Okay. When this vehicle left the area what did you do?

Mary Martin: Well, I got out of my car and opened the door, and I looked at the jimmied door, and I went to the other part of the house and went in. And what else did you want to know?

Prosecutor: Let me ask you about the jimmied door. What is it that you would describe as being jimmied?

Mary Martin: It was like pried open I think that would be it.

Prosecutor: That was your front door?

Mary Martin: Yes.

Prosecutor: Had you locked that front door that day?

Mary Martin: Yes.

Prosecutor: Who else lives in the house with you?

Mary Martin: No one.

Prosecutor: How long have you been living in that home?

Mary Martin: 15 years.

Prosecutor: Have you always lived there alone?

Mary Martin: No, I have not.

Prosecutor: Who else lived with you?

Mary Martin: My husband.

Prosecutor: Where is your husband right now?

Mary Martin: He's no longer with us; he's dead.

Prosecutor: When did he pass away?

Mary Martin: Five years ago.

Prosecutor: So you have been living alone for five years?

Mary Martin: Yes, I've been a widow for five years and living alone.

Prosecutor: When you entered the house, did you see anything was taken?

Mary Martin: Did I see anything taken? Yes. I noticed some drawers that were askew, and things were falling out of them, I looked at the skewed drawers. So I looked at drawers where I had a box... Is that what you mean?

Prosecutor: Yes, ma'am.

Mary Martin: And in one box there had been 252 dollars. I knew that was the amount because I had that earmarked to go to the bank on Monday, which was the next day. And there was another box which had some silver cufflinks, they were still there, and then there was my husband's gold watch and it was missing; a watch and the money.

Prosecutor: Okay. Did you call the police that evening?

Mary Martin: Yes.

Prosecutor: And did they respond?

Mary Martin: Yes, they did, very quickly. They came in 20 minutes; they were fairly near to me.

Prosecutor: Do you know the officer's name?

Mary Martin: No I don't. I know what he looks like, I could identify him, but I forget the name.

Prosecutor: Did you give the officer a description of the car you saw that night?

Mary Martin: Yes, I did.

Prosecutor: And your description of the partial license plate that you remember?

Mary Martin: Yes, I did.

Prosecutor: Did you give a description of what was missing that night?

Mary Martin: Yes, of course.

(Prosecutor addresses Judge)

Prosecutor: Your Honor may I approach the Mary Martin?

Judge: Yes, you may.

(Prosecutor shows Mary Martin a gold watch.)

Prosecutor: I'm handing you a watch. Take a look at this please. Do you recognize this watch?

Mary Martin: It looks exactly like my husband's watch, I can't be sure it is that watch, but it looks exactly like it.

Prosecutor: Okay. Did you give anybody permission to enter your home that night?

Mary Martin: Oh no.

Prosecutor: Did you give anybody permission to take any money or that watch from you?

Mary Martin: No, of course not.

(Prosecutor addresses Judge)

Prosecutor: At this time your Honor, the State is going to pass the Mary Martin.

(Judge addresses Defense Attorney)

Judge: Cross examination, please.

Defense Attorney: Thank you, Judge. Ms. Martin I am the attorney representing Mr. Medrano, and that is the young man who is seated here and who's on trial for this matter. Do you understand that it is crucial for you to be completely candid and truthful in your responses, ma'am?

Mary Martin: Yes.

Defense Attorney: About this vehicle you've described, how far were you to the vehicle when you first saw it, approximately?

Mary Martin: How far was the vehicle when I first saw it?

Defense Attorney: Yes, ma'am. What distance were you from the vehicle?

Mary Martin: Well, I'm not very good at estimating that, but about 20 to 25 feet, maybe from here to where the jury box is.

Defense Attorney: Could it have been about as much as maybe a half of a regular block, a neighborhood block, could it have been that distance, ma'am?

Mary Martin: Well, that depends on block; you mean where I live?

Defense Attorney: Yes, ma'am.

Mary Martin: A little closer.

Defense Attorney: What type of lighting exists out there on the street you live on?

Mary Martin: There is a street light near the end of the block and then a couple of the neighbors have lights that light up their walkway, and the entrance to their driveways and a light that lights up one of the walkways to our house. And a light that goes on and off when people go into the drive and out.

Defense Attorney: Okay. Ma'am, isn't it true that you did tell the officers and you testified here in front of this jury that you never saw the person inside the car?

Mary Martin: Well, I saw a person. I don't know what you mean by that.

Defense Attorney: You don't remember the face of the person inside the car do you?

Mary Martin: No, that's correct.

Defense Attorney: You don't know if this person was a male or a female do you?

Mary Martin: That's difficult to tell these days because some have men have long hair and

some women have short hair, but no I couldn't tell.

Defense Attorney: Well isn't it true that you don't know, you never described any distinctive clothing or anything distinctive about the person that you say you saw driving that vehicle?

Mary Martin: No, I was paying more attention to the car.

Defense Attorney: Okay, and from a distance you're describing, how many feet would you say you were from this vehicle?

Mary Martin: Like I said before, maybe 20 feet, maybe less, but I could see the car.

Defense Attorney: And from that distance you're saying you could see clearly the color of the vehicle?

Mary Martin: I could see the color, and I could see part of the license plate because my brother and I used to play games all the time about looking at license plates and cars so I'm used to doing that still. It's just a habit.

Defense Attorney: And you say you saw the letters either D-D-C or D-D-X is that right?

Mary Martin: Yes, I did.

Defense Attorney: May I approach the witness your Honor?

Judge: Yes, you may.

(Defense Attorney shows Mary Martin a watch.)

Defense Attorney: This is the watch that you describe as looking a lot like your late husband's watch is that right?

Mary Martin: That's correct.

Defense Attorney: How long were you married?

Mary Martin: We were married for about 20 years.

Defense Attorney: Okay. But you've told the ladies and gentlemen of this jury you weren't absolutely sure that this was one and the same watch, isn't this true?

Mary Martin: What I said was that it looks exactly like the watch that he had and that he wore, but I can't be absolutely certain. There are no initials on the back and the only identification is that the watch looked exactly like this.

Defense Attorney: Then you would agree with me, ma'am, that this watch isn't a one of a kind watch, isn't that true?

Mary Martin: I don't know, I assume it isn't, but I'm not sure of that either.

Defense Attorney: Well, when your husband purchased this watch was it engraved or was there anything distinctive about his watch that would separate it from any other watch?

Mary Martin: I don't know because I don't know where he bought it, so I don't know if it's just one of a kind.

Defense Attorney: But you can tell you're not absolutely sure that this is your husband's watch, isn't that true, Ms. Martin?

Mary Martin: I just stated that because there are no initials on the back that this could be someone else's watch, but it looks exactly like his watch.

(Judge addresses Mary Martin)

Judge: Thank you, ma'am. You're excused.

(Judge addresses Prosecutor.)

Judge: You may call your next witness.

Prosecutor: Howard Bolick to the stand.

(Judge addresses Officer.)

Judge: You may approach the stand.

(Officer takes the stand. Judge addresses Prosecutor.)

Judge: Counsel, you may proceed with the direct examination.

(Prosecutor addresses Judge.)

Prosecutor: Thank you, your Honor. Officer, can you give the ladies and gentlemen of the jury your name please?

Officer: My name is Howard Bolick.

Prosecutor: Who are you employed with?

Officer: By the police department.

Prosecutor: How long have you been so employed?

Officer: Eleven years.

Prosecutor: What were your duties on January 10th of this year?

Officer: Routing patrol on the northeast part of the city.

Prosecutor: Were you alone?

Officer: Yes, I was.

Prosecutor: Were you in uniform?

Officer: Yes.

Prosecutor: In a marked vehicle?

Officer: Yes.

Prosecutor: A vehicle with lights on top?

Officer: That is correct.

Prosecutor: Do you recall responding to a burglary call that evening?

Officer: Yes, at about 8:55 that evening I was dispatched to 9625 Goldwing.

Prosecutor: Did you obtain a report from Ms. Martin?

Officer: Yes, in reference to a burglary of a habitation.

Prosecutor: Did she give a description of a particular person?

Officer: She was unable to give a suspect description at that time as far as the person.

Prosecutor: Did you get any kind of description?

Officer: She did advise me that she had seen...

(Defense Attorney intercedes with an objection. Defense Attorney addresses Judge.)

Defense Attorney: I'm going to object on hearsay that this officer may have heard.

(Judge addresses Officer.)

Judge: You may state whether she gave you a description or if she did not give you a description.

Officer: Okay, your Honor.

(Prosecutor continues.)

Prosecutor: Did she give any other description?

Officer: Yes, she did.

Prosecutor: Was there an indication that things had been taken from the home?

Officer: Yes.

Prosecutor: Did you get a list of those things?

Officer: Yes.

Prosecutor: Did you make a subsequent arrest for this offense?

Officer: Yes, it was about 45 minutes later.

Prosecutor: Did you pull someone over? How did that go about?

Officer: After leaving her house, I was patrolling the area. About 45 minutes later I observed a blue Ford Taurus with Texas license DDQ-384 as I drove by I observed there was a single male inside the vehicle.

Prosecutor: What first drew your attention to this vehicle?

Officer: As I went by the vehicle, I observed there was one individual seated at the driver's seat as my patrol car went by he ducked down as if trying to avoid me.

Prosecutor: Did the description of the vehicle you just gave match the description given by Ms. Martin?

Officer: Somewhat, it was a rough description.

Prosecutor: Okay. What did you do when you stopped?

Officer: When I stopped, I approached the vehicle after observing him duck down. I approached from the rear of the vehicle; as I did so, I observed him with a 16 ounce can of Budweiser, which he was drinking at the time.

Prosecutor: He was drinking, you observed him drinking?

Officer: Yes, I did.

Prosecutor: What did you do when you saw this?

Officer: At that time I shone my light on the car and ordered him out of the vehicle for my own safety.

Prosecutor: At this point in time did you arrest the defendant?

Officer: No, not at that time.

Prosecutor: Okay, but he had violated the law?

Officer: Yes, Sir, it was a municipal violation.

Prosecutor: What was the demeanor of the defendant?

Officer: It was my opinion that the defendant was intoxicated. I noticed that he had slurred speech, bloodshot eyes, some difficulty standing, and staggered somewhat as he walked toward me.

Prosecutor: Do you see the person which you stopped that evening here today?

Officer: Yes, at the Defense Attorney table.

Prosecutor: Let the record show that he has identified Mr. Medrano. At what point in time did you connect Mr. Medrano with the burglary at Ms. Martin's home?

Officer: Shortly after he stepped out of the vehicle, I realized the car did meet the description. And also because he was intoxicated and drinking in public at that time I placed him under arrest and continued the investigation believing he was involved in the burglary.

Prosecutor: Pursuant to this arrest, did you search Mr. Medrano's vehicle?

Officer: I asked for his permission, and at that time he said, "Sure, I ain't got nothing to hide."

Prosecutor: Did you indeed go through the car?

Officer: Yes, Sir, I did.

Prosecutor: Did you find anything unusual in that car.?

Officer: Yes, Sir, in the front part of the car, I located three watches, one of them being the gold Bulova watch.

(Prosecutor addresses Judge.)

Prosecutor: May I approach the witness?

Judge: Yes, you may.

(Prosecutor shows Officer three watches.)

Prosecutor: Sir, I am going to show you three watches, would you please take a good look at them? Sir, do you recognize these watches from any place?

Officer: Yes, these are the watches I removed from the Mark Medrano's vehicle.

Prosecutor: How do you know these are the same ones that you recovered from the vehicle?

Officer: In accordant with department policy, they are all tagged with my initials, ID number, and case number on the back.

Prosecutor: Okay, so they all have your ID number to show that they're the same ones?

Officer: Yes.

(Prosecutor addresses Judge.)

Prosecutor: At this time the State moves to enter the watches into evidence.

(Judge addresses Defense Attorney.)

Judge: Any objections?

(Defense Attorney addresses Judge.)

Defense Attorney: Judge, I will object on basis that there is not a proper predicate or chain of custody on these items and for those reasons we are objecting to their admission.

Judge: Overruled, the exhibits are admitted.

(Prosecutor addresses Officer.)

Prosecutor: So those are three watches that you recovered from the vehicle?

Officer: Yes, Sir, they are.

Prosecutor: Did you ever show those watches to Ms. Martin?

Officer: Yes, Sir, I did, about 30 minutes after I made the stop of the defendant.

Prosecutor: Was there identification made?

Officer: Yes, Sir, there was.

Prosecutor: To which one?

Officer: It would be to the gold Bulova watch.

Prosecutor: What did Ms. Martin state?

Officer: She stated that it appeared to be her husband's watch, her late husband's watch.

Prosecutor: Did you find anything else in the vehicle?

Officer: Yes, Sir, when I looked in the trunk I noticed several tools, including a couple of screwdrivers, crowbars, and a small garden tool.

Prosecutor: How did you get into the trunk?

Officer: With the keys that the defendant provided

Prosecutor: The defendant provided you the keys?

(Prosecutor addresses Judge.)

Prosecutor: Your Honor, may I approach the witness?

Judge: Yes, you may.

(Prosecutor addresses Officer.)

Prosecutor: Officer, please take a look at these tools. Do you recognize them from anyplace?

Officer: Yes, Sir.

Prosecutor: Where do you recognize them from?

Officer: These are the tools I removed from the defendant's vehicle.

Prosecutor: And they were located in the trunk of the vehicle?

Officer: Yes, Sir.

Prosecutor: How do you know these are the same tools that you located?

Officer: Again, they're tagged in accordance to our procedures.

Prosecutor: What kind of tools do we have here?

Officer: They are general tools; however, they could also be used as burglary tools.

(Defense Attorney addresses Judge.)

Defense Attorney: Excuse me, Judge, I'm going to object that the witness is speculating as to how these tools may or may not be used.

Judge: Predicate has not yet been laid for any knowledge. The objection is sustained at this time.

(Prosecutor addresses Officer.)

Prosecutor: When you searched the defendant was there any money found on him?

Officer: Yes, Sir, he had 270 dollars in his pockets.

(Prosecutor addresses Judge.)

Prosecutor: Your Honor, the State passes the witness.

(Judge addresses Defense Attorney.)

Judge: Cross examination.

Defense Attorney: Thank you, Judge.

(Defense Attorney addresses Officer.)

Defense Attorney: Officer Bolick, you can't tell this jury who broke into Mary Martin's house, can you?

Officer: No, Sir, I can't tell them exactly who.

Defense Attorney: Because you weren't present, you didn't see who did that, isn't that right?

Officer: Exactly.

Defense Attorney: You described arresting my client initially because he was parked alongside a roadway?

Officer: No, Sir, I arrested him because he was in violation of several municipal ordinances.

Defense Attorney: And that violation had to do with him consuming an alcoholic beverage, isn't that right, Sir?

Officer: An open container in a public place and public intoxication.

Defense Attorney: Well, Sir, isn't it true that when you drove your patrol unit by, my client's vehicle was legally parked on the side of the road?

Officer: Yes, Sir, it was.

Defense Attorney: There was no portion of my client's vehicle protruding onto that roadway or obstructing traffic in any way or form, isn't that true?

Officer: That's correct.

Defense Attorney: The only reason that you stopped was because you saw my client inside the vehicle at that hour, isn't that true?

Officer: Yes, Sir, at that hour, and because I saw your client duck down as if trying to avoid me as I drove my marked unit past him.

Defense Attorney: Sir, you retrieved some items from my client's vehicle, and these are exhibits in front of you, is that correct?

Officer: Yes, that is correct.

Defense Attorney: On these three watches, didn't my client explain to you where he got them from?

Officer: No, Sir, he never explained.

Defense Attorney: Do you recall him telling you that he won them in a poker game?

Officer: No, Sir, I don't.

Defense Attorney: Are you sure of that Officer?

Officer: Yes, I am.

Defense Attorney: And these tools, is there anything unusual about these tools? A hammer, some pliers, screwdrivers... Anything unusual about these tools?

Officer: No, they're general carpenter's tools in most circumstances.

Defense Attorney: Well, isn't it true that many people carry these types of tools in their vehicles, in their toolbox?

Officer: Yes, Sir, it is.

Defense Attorney: It's certainly not illegal to carry these tools around is it?

Officer: No, it's not.

Defense Attorney: And this money that my client had in his possession is there anything unusual about that paper money?

Officer: No, Sir.

Defense Attorney: In fact, for a person that works and gets paid, it's not unusual for him to carry that sum of money is it?

Officer: No, it's not.

Defense Attorney: It was your testimony that my client was intoxicated?

Officer: Yes, Sir.

Defense Attorney: Isn't it true that you don't have any type of testing to determine if he was intoxicated?

Officer: I didn't conduct a test, but in 11 years I have dealt with several intoxicated persons.

Defense Attorney: Okay, Officer, I'm just asking you a very simple question. Did you conduct a test of intoxication?

Officer: No, Sir, I didn't conduct a sobriety test.

Defense Attorney: And, Sir, you testified that my client, when you asked him if you could search his car, he didn't have any problem with that, did he, Sir?

Officer: No, Sir, he didn't.

Defense Attorney: In fact, he said "Go on right ahead. I've got nothing to hide." Isn't that true?

Officer: That's correct.

Defense Attorney: Did he appear sincere when he told you that?

Officer: Yes.

Defense Attorney: In fact, Mr. Medrano was cooperative and polite with you, isn't that true?

Officer: Yes.

Defense Attorney: Again, from your personal knowledge, you don't know who broke into Ms. Martin's house, do you?

Officer: No, I don't.

Defense Attorney: You didn't see my client do it, did you?

Officer: No, I didn't see anybody do it.

Defense Attorney: Okay. Thank you, Sir.

(Judge addresses Officer.)

Judge: Alright, thank you, Sir. You're excused.

(Judge addresses Defense Attorney.)

Judge: You may call your first witness, Counsel.

Defense Attorney: Thank you, Judge. I will call Mark Medrano.

(Judge addresses Mark Medrano.)

Judge: Sir, if you would approach the witness stand.

(Defense Attorney addresses Mark Medrano.)

Defense Attorney: How are you doing Mr. Medrano?

Mark Medrano: Pretty good.

Defense Attorney: Would you please state your full name for the ladies and gentlemen of this jury?

Mark Medrano: Yes. Mark Medrano.

Defense Attorney: And where do you live?

Mark Medrano: I live on 100 Glenn Oaks.

Defense Attorney: How long have you lived at 100 Glenn Oaks?

Mark Medrano: About five years.

Defense Attorney: What do you do for a living, Mr. Medrano?

Mark Medrano: I work in construction.

Defense Attorney: And you have been working in construction for how many years?

Mark Medrano: Three.

Defense Attorney: Are you married?

Mark Medrano: No.

Defense Attorney: Mark, I need to take you back to January 10th. Do you remember that day?

Mark Medrano: Yes.

Defense Attorney: And why is it that this day is so memorable?

Mark Medrano: I was arrested that day.

Defense Attorney: That's a pretty memorable event, isn't it Sir? And going back to that day, why were you arrested?

Mark Medrano: I don't know.

Defense Attorney: Mark, have you ever been arrested for anything in your life?

Mark Medrano: No, not prior to that.

Defense Attorney: Not even a traffic ticket?

Mark Medrano: No.

Defense Attorney: Let's go back to the day of this arrest. Can you tell the ladies and gentlemen of this jury where you were at?

Mark Medrano: I was at my girlfriend's house.

Defense Attorney: What is your girlfriend's name?

Mark Medrano: It's Rosa Garcia.

Defense Attorney: Where is her house located?

Mark Medrano: She lives on Skylark

Defense Attorney: What time did you arrive at Rosa's house?

Mark Medrano: It was around 6 o'clock.

Defense Attorney: How long did you stay there at your girlfriend's house that evening?

Mark Medrano: Until around 10:00 or 10:15.

Defense Attorney: Now, Mark, if you would be kind enough to tell the ladies and gentlemen of this jury what is it you did there at your girlfriend's house that evening.

Mark Medrano: We had dinner and watched television for a while.

Defense Attorney: Do you remember what you had for dinner that night?

Mark Medrano: Yes, we had barbeque ribs, potato salad, and corn.

Defense Attorney: Pretty full dinner?

Mark Medrano: Yes.

Defense Attorney: After leaving, where did you go?

Mark Medrano: I was on my way home.

Defense Attorney: Were you driving?

Mark Medrano: Yes.

Defense Attorney: What type of vehicle do you drive?

Mark Medrano: It's an '89 Ford Taurus.

Defense Attorney: What color is it?

Mark Medrano: It's blue.

Defense Attorney: Did you drive all the way home?

Mark Medrano: No, I was feeling a little tired, so I pulled over to get some rest.

Defense Attorney: Where did you pull over?

Mark Medrano: Just about halfway to my home.

Defense Attorney: What happened then, Mr. Medrano?

Mark Medrano: The police officers arrived, and I was arrested.

Defense Attorney: Why did they arrest you?

Mark Medrano: They didn't tell me.

Defense Attorney: They didn't tell you why they were arresting you?

Mark Medrano: No.

Defense Attorney: After they arrested you what happened then?

Mark Medrano: They took me to jail.

Defense Attorney: Mr. Medrano, you know why you're here this day, don't you?

Mark Medrano: Yes.

Defense Attorney: You know you're accused of breaking into a lady's house, Mary Martin's house, you know that don't you?

Mark Medrano: Yes.

Defense Attorney: Did you break into that house?

Mark Medrano: No, I didn't.

Defense Attorney: When they searched this vehicle, were there any items that were retrieved

from your vehicle?

Mark Medrano: Yes, they pulled out some stuff.

(Defense Attorney addresses Judge.)

Defense Attorney: Judge, may I approach the witness?

Judge: Yes, you may.

(Defense Attorney shows watches to Mark Medrano.)

Defense Attorney: Mr. Medrano, I am now showing you items that have been previously admitted into evidence. I'm going to ask you, as to this first set of items, do you recognize those?

Mark Medrano: Yes.

Defense Attorney: What are they?

Mark Medrano: These are my watches.

Defense Attorney: Were these watches retrieved from your vehicle?

Mark Medrano: Yes.

Defense Attorney: The other items; that paper money?

Mark Medrano: Yes.

Defense Attorney: Is that your money, Sir?

Mark Medrano: Yes.

(Defense Attorney addresses Judge.)

Defense Attorney: I believe that's all that I have for Mr. Medrano at this time. Pass the witness.

(Judge addresses Prosecutor.)

Judge: Cross examination.

Prosecutor: Mr. Medrano, I'm going to ask you some questions please let me know if you don't understand so I can rephrase them. Is that okay with you?

Mark Medrano: Yes.

Prosecutor: You state you're a construction worker.

Mark Medrano: Yes.

Prosecutor: Who do you work for?

Mark Medrano: Miller Construction.

Prosecutor: Let me take you back to January 10th. You said that you were visiting your girlfriend that night.

Mark Medrano: Yes.

Prosecutor: How did you get to your girlfriend's house?

Mark Medrano: I drove there.

Prosecutor: And you drove in your blue Ford Taurus?

Mark Medrano: Yes.

Prosecutor: Is this the same car with a rust spot on the right front side of the car?

Mark Medrano: Yes.

Prosecutor: What is the license plate of your car?

Mark Medrano: D-D-Q 3-8-4.

Prosecutor: You state that you had dinner with your girlfriend, am I correct?

Mark Medrano: Yes.

Prosecutor: What did you have to drink during dinner?

Mark Medrano: I had a couple of beers.

Prosecutor: A couple of beers?

Mark Medrano: Yes.

Prosecutor: Could it have been more?

Mark Medrano: No, it was just two.

Prosecutor: Are you sure?

Mark Medrano: Yes.

Prosecutor: What did you all do after dinner?

Mark Medrano: We watched some TV then.

Prosecutor: Some TV?

Mark Medrano: Yes.

Prosecutor: And did you drink then?

Mark Medrano: Yes, I had about three beers then.

Prosecutor: Are you sure it was just three?

Mark Medrano: Yes.

Prosecutor: Could it have been more?

Mark Medrano: No.

Prosecutor: And then you stated that you left at 10:00-10:15, am I right?

Mark Medrano: Yes.

Prosecutor: How do you know that was the time?

Mark Medrano: It was the same time that the show ended.

Prosecutor: What show are you talking about?

Mark Medrano: Some Sylvester Stallone movie.

Prosecutor: Do you know which one?

Mark Medrano: I can't recall.

Prosecutor: Okay. You left at 10:15, got in your car and started driving home, am I correct?

Mark Medrano: Yes.

Prosecutor: And you pulled over, right?

Mark Medrano: Yes.

Prosecutor: Do you know exactly where you pulled over?

Mark Medrano: I don't remember the name of the street.

Prosecutor: You don't remember the name of the street? This is a route that you take often, am I correct?

Mark Medrano: Yes.

Prosecutor: To travel between you and your girlfriend's house, am I right?

Mark Medrano: Yes, that's correct

Prosecutor: But you don't remember the name of the street.

Mark Medrano: No.

Prosecutor: And you stated that you didn't even remember how long you were there before the police showed up, am I correct?

Mark Medrano: Yeah, I was trying to get some sleep.

Prosecutor: And the next thing you know a police officer was arresting you, am I correct?

Mark Medrano: Yes, that's correct.

Prosecutor: And you remember the facts correctly, am I correct?

Mark Medrano: Yes.

Prosecutor: But you had at least five beers that night, am I right?

Mark Medrano: Yes.

Prosecutor: And isn't it true that they even found an empty can in your car?

Mark Medrano: Yes, that's correct.

Prosecutor: Would you say that you were intoxicated that night?

Mark Medrano: I was feeling a little tipsy, but not intoxicated.

Prosecutor: You weren't intoxicated, but you had five beers and drove?

Mark Medrano: That is correct.

Prosecutor: Sir, do you recognize those three watches in front of you?

Mark Medrano: Yes, they're mine.

Prosecutor: Those are the three watches that the officer retrieved from your car?

Mark Medrano: Yes.

Prosecutor: How is it that you got to have three watches in your possession?

Mark Medrano: I won them in a poker game the day before.

Prosecutor: The day before?

Mark Medrano: Yes.

Prosecutor: Whom were you in that poker game with?

Mark Medrano: Some people from work.

Prosecutor: And you won those watches as part of a bet?

Mark Medrano: Yes.

Prosecutor: From whom specifically did you win those watches from?

Mark Medrano: It was just some people there at the game.

Prosecutor: So you don't know exactly who?

Mark Medrano: I'm not sure about their names.

Prosecutor: Okay. Do you see the money right next to you?

Mark Medrano: Yes.

Prosecutor: That is 270 dollars. Am I correct?

(Mark Medrano counts money.)

Mark Medrano: Yes.

Prosecutor: That's the money that you had on you when the police arrested you?

Mark Medrano: Yes.

Prosecutor: How is it that you were in possession of so much money that night?

Mark Medrano: That was from my paycheck from the week before.

Prosecutor: From the week before. When was it that you got paid?

Mark Medrano: It was the Friday before that.

Prosecutor: Did you get paid 270 dollars?

Mark Medrano: No, I was paid 300 dollars.

Prosecutor: What did you use 30 dollars for?

Mark Medrano: I just bought some food and stuff like that.

Prosecutor: Did you use any of that money for the gambling?

Mark Medrano: No.

(Defense Attorney objects. Defense Attorney addresses Judge.)

Defense Attorney: I'm going to object to the counsel's repeated questions about gambling. My client is not on trial for any gambling here and obviously this is an attempt by the prosecutor to try to inflame the passions of this jury.

Judge: The objection is overruled. You may proceed, Counsel.

(Prosecutor addresses Mark Medrano.)

Prosecutor: Did you or did you not use any of that money when you gambled?

Mark Medrano: No, I didn't use this money.

Prosecutor: None at all?

Mark Medrano: No.

Prosecutor: So, is it that you and your friends, then, just use watches to gamble with?

(Defense Attorney objects. Defense Attorney addresses Judge.)

Defense Attorney: Again, this is badgering the witness. I'm going object on basis that this question has been asked and answered. It is repetitive, not relevant, and it's badgering of my client.

(Judge addresses Mark Medrano.)

Judge: Overruled. You may proceed, Counsel.

(Mark Medrano responds.)

Mark Medrano: Yes, that's correct.

(Prosecutor addresses Judge.)

Prosecutor: Your Honor, may I approach the witness?

Judge: Yes you may.

(Prosecutor addresses Mark Medrano.)

Prosecutor: These are tools that were admitted into evidence earlier today. Would you take a good look at those?

Mark Medrano: Yes, these are my tools.

Prosecutor: Were those in your car the night you were arrested?

Mark Medrano: Yes.

Prosecutor: Why do you carry so many tools around?

Mark Medrano: Just in case my car breaks down so I can work on it.

Prosecutor: So, those tools are for fixing your car?

Mark Medrano: Yes.

Prosecutor: Those aren't tools from work?

Mark Medrano: No.

Prosecutor: You wouldn't take tools from work, would you?

Mark Medrano: No, I wouldn't.

Prosecutor: Take a look at that. Is that a hammer?

Mark Medrano: Yes, yes it is.

Prosecutor: Can you pick that up?

(Mark Medrano picks up hammer.)

Prosecutor: How is it that you use that to fix your car?

Mark Medrano: Sometimes I have to hit the battery to get it going.

Prosecutor: Alright. Do you see that green tool, right in front of you?

Mark Medrano: Yes.

Prosecutor: Now, that's a gardening tool, isn't that correct?

Mark Medrano: Yes, I believe so.

Prosecutor: How is it that you use that to fix your car?

Mark Medrano: Well, sometimes I have to poke around in there, in the engine a little, so I use this one.

Prosecutor: You told the ladies and gentlemen of this jury that you've never been arrested, is this correct?

Mark Medrano: Yes.

Prosecutor: But isn't it true then that on this particular weekend you were arrested because you had been drinking at least five beers and had been driving and had an empty can in your car? Wouldn't it be safe to say you were driving while intoxicated?

(Defense Attorney objects. Defense Attorney addresses Judge.)

Defense Attorney: Excuse me Judge, again, I'm going to object. My client has not been charged with driving while intoxicated. Again, this is a direct attempt by the State to prejudice this jury. I'm going to object on basis that any probative value is far outweighed by the prejudicial effects of this type of question Judge.

(Judge addresses Prosecutor)

Judge: Objection is overruled, you may proceed, Counsel.

(Prosecutor addresses Mark Medrano.)

Prosecutor: Isn't it also true that on this particular weekend, the day before, you were actually out gambling, am I correct?

Mark Medrano: Yes, that is correct.

Prosecutor: Thank you. No further questions by the State.

(Judge addresses Mark Medrano.)

Judge: Thank you, Sir. You may take your seat at the counsel table.

(Judge addresses Jury.)

Judge: Ladies and gentlemen, I will read the charge to you at this time. After the attorneys have presented their summations, you will go to the jury room. You will then select one of your members, either male or female, as foreperson. It shall be your foreperson's duty: to preside over your discussions and deliberations upon your case; to vote with you; and, when you unanimously agree upon a verdict, to certify it is your verdict by signing his name as foreperson. You will have this charge with you in the jury room and you shall refer to it for guidance during your deliberations.

Your sole duty at this time is to determine the guilt or non-guilt of the defendant under the indictment in this cause and restrict your deliberations solely to the issue of whether the defendant is guilty or not guilty. After you have arrived at your verdict, you will notify the bailiff that you have reached your verdict. *You* are the exclusive judges of the facts proved, the credibility of the witnesses, and the weight to be given to the testimony, but you are bound to receive the law as is given to you in this charge, and you are bound to be governed thereby. You shall consider only the evidence and exhibits presented here in the courtroom to the witnesses who have testified.

In deliberating on this case, you shall not talk to anyone except the members of the jury about it until you have been finally discharged from service on this jury. You are instructed that the grand jury indictment is not evidence of guilt. It is a means whereby the defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered by you, in passing upon the non-guilt or guilt of the defendant. All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that a person has been arrested, confined, or indicted for, or otherwise charged for the offense gives rise to no inference of guilt at the trial.

The law does not require the defendant to prove his innocence or to produce any evidence at all. The presumption that innocence alone is sufficient to acquit the defendant, unless the jurors are satisfied beyond a reasonable doubt of a defendant's guilt after a careful and impartial consideration of all the evidence in this case. The prosecution has the burden of proving the defendant guilty and it must do so by each and every element of the offense beyond a reasonable doubt and if it fails to do so, you must acquit the defendant. It is not required for the prosecution to prove guilt beyond all possible doubt, it is required that the prosecution's proof excludes all reasonable doubt concerning the defendant's guilt.

A reasonable doubt is a doubt based on reason, common sense, after careful and impartial consideration of all the evidence in the case. It's the kind of doubt that would make a reasonable person hesitate to act in the most important of his or her own affairs. Proof beyond a reasonable doubt therefore must be proof such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your affairs. In the event that you have a reasonable doubt as to the defendant's guilt after considering all the evidence before you and these instructions you will acquit him and say by your verdict not guilty.

The defendant, Marco Antonio Medrano, stands charged by indictment with the offense of burglary, alleged to have been committed on or about the 10th day of January. The defendant has pled not guilty.

Our law provides that a person commits the offense of burglary if:

- 1) Without the effective consent of the owner he enters a habitation with the intent to commit theft; or
- 2) Without the effective consent of the owner he enters a habitation, and commits theft or attempts to commit theft.

Now, if you find from the evidence, beyond a reasonable doubt, that on or about the 10th day of January, the defendant, Marco Antonio Medrano did:

1) Enter a habitation owned by Mary Martin, without the effective consent of said owner with the intent to commit the offense of theft; or

2) Enter a habitation owned by Mary Martin, without the effective consent of said owner and then and there commit or attempt to commit the offense of theft,

then you will find the defendant guilty as charged in the indictment. That is Verdict Form A. Unless you so find beyond a reasonable doubt or if you have a reasonable doubt thereof, you will find the defendant not guilty. That is Verdict Form B.

Concerning the manner of deliberations, you are instructed as follows: in order to return a verdict each juror must agree to it. Jurors have a duty to consult with one another and to deliberate toward reaching an agreement, if a verdict can be reached without aggravating individual judgment. Each juror must decide the case for themselves, but only after an impartial consideration of the evidence with fellow jurors. In the course of the deliberations the juror should not hesitate to reexamine his or her own views and change that opinion if convinced it is erroneous. No juror should surrender his or her honest conviction as to the weight or effect of the evidence solely because of the opinion of other jurors or for the mere purpose of returning a verdict. You shall not reach a verdict by lot, or by chance, or by any other method except by a fair and impartial deliberation of the law and the evidence. Do not let bias, prejudice, or sympathy play any part in your deliberations.

I have signed the original charge. At this time we will proceed with the arguments, with the defendant's first, and the State's following. You may proceed with the arguments at this time.

Defense Attorney: May it please the Court, Mr. Arredondo, Mr. Medrano, and ladies and gentlemen of the jury. This has been a rather short trial. There haven't been that many witnesses, and I entrust their testimony to your memory. I thank you for having listened and for having been as attentive as you've been. Mr. Medrano and I both thank you from the bottom of our hearts.

This is a very, very important day in the life of this young man. Back during the first day, when you were out there in the panel and we were picking the panel, you promised one thing, and that is that you would follow the law. And that you would hold the state of Texas to its burden. And that burden is the highest burden in our system of jurisprudence. It's beyond a reasonable doubt. And why is this the highest burden? People, it's because we're talking about liberty, we're talking about a person's freedom and we want to make sure, we want to be positive before we take that away from any person in this free country of ours.

Here I submit to you that this case is complete with reasonable doubt. It's everywhere, in every one of the witnesses that the State produced. Remember the definition of reasonable doubt: it is the kind of doubt that if a person would have this kind of doubt in making the most crucial decisions in his or her life—that's the decision to get married, the decision to have that triple

bypass; if there is any doubt; any doubt, in this type of decision, then people, that is the kind of doubt that reasonable doubt is here. And I submit to you that this case has it.

The question for you today is, do you believe that that doubt exists here? And again if we look at the State's witnesses, let's look at what they're telling us. And I think that the answer becomes readily apparent.

Mary Martin, that's the homeowner, she's telling you: "Well, yeah, I recognize a blue car. And yeah, it looked like a man was driving the car, it looked like a man was inside." She doesn't even know if this was a woman. She can't tell you anything about the facial features of this man or this person. She doesn't know who was driving the car, pure and simple. But hey, this person had a bunch of tools on him, he had screwdrivers, some pliers, he had to be a burglar. Well, people, use your common sense. Use your common sense. I know many, many people that have many articles like these in their respective toolboxes, and guess what? Those toolboxes are in their cars.

She never identifies her husband's watch. This is a lady that has been married for years. This is a lady that has had every opportunity in the world to go back and look at that watch and I submit to you that she knows this watch. She knows its particulars; she knows how this watch looks. And she told you on that Mary Martin stand: "I can't positively identify it. I can't tell you for certain that this is my husband's." Is that reasonable doubt? Are these tools reasonable doubt?

No one places my client at that address, nobody sees my client near that home. Is that reasonable doubt? Can anyone identify my client as being inside that vehicle? And absolutely no one, no one sees my client near the house.

The State's case is based on nothing but assumptions and innuendos. And because my client had some cash on him and some watches; and he explained where he got those watches, and some tools, they want you to strip him of his liberty. They want you to label him a felon; they want you to convict him. That's the evidence that the State has, and based on that they want you to strip Mr. Medrano of his fundamental rights, and of the freedoms that he enjoys.

Let's look at Mr. Medrano. What do we know about him? Well, we know that he has no prior criminal history, not even a traffic ticket. Never, never had he been arrested for anything. And this is a man that they want you to label a burglar, this is a man that they want to strip of his freedoms.

I ask you, and I implore you, to do the right thing here, to do the only thing that you can do under the evidence and under the facts presented. And that is to find Mr. Medrano not guilty. Thank you.

Prosecutor: May it please the Court, Mr. Carrasco, Mr. Medrano, ladies and gentlemen of the jury, you have now heard all the evidence in this case. At this point at time, all we're going to do is argue this case. All the evidence has already been presented to you, so nothing that I state or that the defense attorney is going to state is actual evidence; all we're doing is giving you interpretations of the evidence.

You've heard the judge read the charge to you, and I want you to pay particular attention to the burden of proof. Burden of proof does not state that the state has to prove beyond all reasonable doubt, beyond all doubt, that the defendant was the one who committed this crime. The State has to prove this beyond any reasonable doubt.

What am I saying? There can be a doubt, the question is, is it reasonable or not? Use your common knowledge and look at the facts, look at the evidence presented, and if there are any doubts ask yourself that question: Is that reasonable or not? Ladies and gentlemen, what we have is Mary Martin, who is coming home, 8:45 in the evening, walking to her door, she sees the blue car leaving her home, she walks in the door, the door has been jimmied, she goes into her house, the house has been ransacked, the drawers are pulled out, boxes are open, 252 dollars in cash is missing and a gold watch is missing. We don't have an identification of the defendant by Ms. Martin saying: "Yes, that's the guy, Mr. Medrano, I saw at my house." We don't have that in this case. But before you go back there and say: "I guess there's not enough evidence" ask yourselves a very important question: Who controlled the crime? Was it Ms. Martin? Was Ms. Martin the one that said: "You know what? Let's have a burglary at my house. And when I get home I'm going to see the guy face to face and then he's going to get away and then I'm going to be able to identify him." Do we have that? No.

Who's the person that controlled this crime? It was Mr. Medrano. If you're Mr. Medrano, what are you going to do? Are you going to say: "I'm going to commit a crime here and present an opportunity for an eyewitness to see me and point me out in front of a jury"? No. That's not what we have here. So although we have a situation where there is no positive identification by Ms. Martin as to who was in her house, remember, who was the one who controlled the situation?

Another important piece of evidence: the watch, the gold watch. There's a watch that was found on Mr. Medrano's possession by Officer Bolick. Now, you heard testimony from Ms. Martin. She saw the watch, she can't say with 100% certainty that that is the watch. Now why is that? Don't hold her to a higher bit of accountability than you would anybody else, including yourselves. This lady had not seen this watch on a daily basis. She didn't sit there and put it on every day. She didn't pull it out of the drawer, opened the box, and look inside at it every single day. She didn't do that. Her husband had died five years before, and it was in a box and it was in a drawer and she hadn't seen that watch in five years.

Now, Ms. Martin could've come up here and said: "You know, that is the watch; I'm a 100% sure." But no, she was being honest with you, ladies and gentlemen. She was being honest in telling you what she really thought. She said: "That's very similar to the one my husband had." And that's the situation we have here.

What else do we have? We have a defendant that is found six blocks away, in an intoxicated state, with a mess full of tools. That's a little strange, ladies and gentlemen.

What the State is asking is not the impossible. The only thing the State is asking you to do is to make reasonable conclusions from the facts presented. And when you do that, the State is certain that you're going to find that the State met its burden of proof. Remember, use your common

sense when you go back there, put the pieces of the puzzle together. This isn't a situation where it's all presented right in front of you, where you're the eyewitness, and the camera's right there, and you can see the whole thing, it's all videotaped for you. That's not the situation.

Remember, the defendant was the one who controlled this crime. That's the reason why there's bits and pieces and why you need to go back there, study all the evidence very carefully, and look at it. The State is confident when you do that, that you can agree that the State has met its burden of proof beyond all reasonable doubt, that the defendant is guilty of burglary of a habitation. Thank you very much.

(Judge addresses Jury.)

Judge: Arguments having concluded, ladies and gentlemen of the jury, we will send you back to the jury room for your deliberations. We wish you well in your deliberations. When you have concluded your deliberations and have reached a verdict, please advise the bailiff. Thank you.

APPENDIX D

Individual Verdict Form

IN THE DISTRICT COURT OF EL PASO, TEXAS THREE HUNDRED THIRTY-FOURTH JUDICIAL DISTRICT

VERDICT FORM

_____ I find the defendant **GUILTY** of burglary.

_____ I find the defendant **NOT GUILTY** of burglary.

Rate your confidence that you selected that correct verdict decision.

| | | | | |
|-------------|--------|---------|-----------|----------------|
| Very Unsure | Unsure | Neutral | Confident | Very Confident |
| 1 | 2 | 3 | 4 | 5 |

Please explain your confidence rating: _____

Continue **ONLY** if you checked **GUILTY**.

If you found the defendant **GUILTY**, for how many years would you sentence the defendant?

The sentencing guideline in the State of Texas for this offense of Second Degree Felony burglary is no more than 20 years and no less than 2 years. In addition, the defendant, if charged, may be punished by a fine not to exceed \$10,000.

My sentence is: _____ Years and \$_____ Fine (optional)

APPENDIX E

Post Verdict Questionnaire

Without looking back at the trial transcript, please list from memory all relevant facts in evidence on a separate line in the first column. You do not have to use all the lines.

| Evidence | Weight | Rank Order | Pro-Prosecution or Defense |
|----------|--------|------------|----------------------------|
| | | | |

On the second column, please weight each fact in evidence in terms of the degree to which it influenced your decision. Assign a percentage to each fact such that the total equals 100%. You do not have to assign a percentage to each fact. You may assign 0% to facts that were not influential in your decision making.

On the third column, please rank order each fact in order of importance to you in making your personal verdict decision with 1 being the most important, 2, being next important, and so on.

On the last column, please indicate whether you personally feel that piece of evidence supports the prosecution's case (guilty) or the defense's case (not guilty), regardless of your personal verdict preference.

Considering all the evidence discussed in the trial, please indicate how strong you believe the evidence to be against the defendant. When evaluating strength of evidence, think about how guilty the evidence made the defendant look.

| | | | | |
|--------------------------------|------|---------|--------|--------------------------------------|
| Very Weak Against Defendant | Weak | Neutral | Strong | Very Strong Against the Defendant |
| 1 | 2 | 3 | 4 | 5 |

Using the scale provided, please rate the trial participants:

Prosecuting Attorney:

| | | | | |
|----------------------|---|--------------|---|----------------------------|
| Very Likable 1 | 2 | Neutral 3 | 4 | Very Unlikable 5 |
| Very Persuasive 1 | 2 | Neutral 3 | 4 | Not at all Persuasive 5 |

Defense Attorney:

| | | | | |
|----------------------|---|--------------|---|----------------------------|
| Very Likable 1 | 2 | Neutral 3 | 4 | Very Unlikable 5 |
| Very Persuasive 1 | 2 | Neutral 3 | 4 | Not at all Persuasive 5 |

Judge:

| | | | | |
|----------------------|---|--------------|---|----------------------------|
| Very Likable 1 | 2 | Neutral 3 | 4 | Very Unlikable 5 |
| Very Persuasive 1 | 2 | Neutral 3 | 4 | Not at all Persuasive 5 |

Ms. Mary Martin:

| | | | | |
|----------------------|---|--------------|---|----------------------------|
| Very Likable 1 | 2 | Neutral 3 | 4 | Very Unlikable 5 |
| Very Persuasive 1 | 2 | Neutral 3 | 4 | Not at all Persuasive 5 |

Mr. Mark Medrano:

| | | | | |
|----------------------|---|--------------|---|----------------------------|
| Very Likable 1 | 2 | Neutral 3 | 4 | Very Unlikable 5 |
| Very Persuasive 1 | 2 | Neutral 3 | 4 | Not at all Persuasive 5 |

Police Officer:

| | | | | |
|----------------------|---|--------------|---|----------------------------|
| Very Likable 1 | 2 | Neutral 3 | 4 | Very Unlikable 5 |
| Very Persuasive 1 | 2 | Neutral 3 | 4 | Not at all Persuasive 5 |

APPENDIX F

Group Deliberation Form

Please indicate your group's verdict.

_____ We find the defendant **GUILTY** of burglary.

_____ We find the defendant **NOT GUILTY** of burglary.

Answer this item **ONLY** if you checked **GUILTY**.

If you found the defendant **GUILTY**, for how many years would you sentence the defendant?

The sentencing guideline in the State of Texas for this offense of Second Degree Felony burglary is no more than 20 years and no less than 2 years. In addition, the defendant, if charged, may be punished by a fine not to exceed \$10,000.

Sentence: _____ Years and \$_____ Fine (optional)

Considering all the evidence discussed in the trial, as a group, please indicate how strong you believe the evidence to be against the defendant. When evaluating strength of evidence, think about how guilty the evidence made the defendant look.

| Very Weak Against Defendant | Weak | Neutral | Strong | Very Strong Against the Defendant |
|--------------------------------|------|---------|--------|--------------------------------------|
| 1 | 2 | 3 | 4 | 5 |

Indicate which facts in evidence that your group discussed in reaching your group decision. For each fact in evidence listed, please make a check mark in the "discussed?" column to indicate that your group discussed that fact.

| Fact in Evidence | Discussed? |
|--|------------|
| Mr. Medrano claims he was with his girlfriend on the evening in question | |
| Ms. Martin reported that the car was a four door Sedan | |
| Mr. Medrano gave permission to search the car | |
| Mr. Medrano's license plate is D-D-Q 384 | |
| Mr. Medrano had garden tools in his trunk | |
| Mr. Medrano was paid \$300 two days before the burglary | |
| Ms. Martin could not say if the person she saw was a man or a woman | |
| Mr. Medrano provided the officer with the keys to search his vehicle | |
| Ms. Martin was 20-25 feet away when she saw the car | |

| | |
|--|--|
| Mr. Medrano claimed he left his girlfriend's home at 10-10:30pm | |
| The Bulova watch stolen was not engraved | |
| \$252 stolen from Ms. Martin | |
| Mr. Medrano was parked legally on the side of the road | |
| 8:55pm police arrived at Ms. Martin's home | |
| 9:40pm Officer Bolick arrests Mr. Medrano | |
| Ms. Martin identified the watch as being similar to her husband's watch | |
| Ms. Martin's drive is well lit | |
| Gold Bulova watch stolen from Ms. Martin | |
| Mr. Medrano arrived at girlfriend's home at 6pm | |
| One watch in Mr. Medrano's possession was a gold Bulova | |
| Mr. Medrano works in construction | |
| Mr. Medrano pulled over on side of the road because he was tired | |
| Ms. Martin saw someone in driveway | |
| Ms. Martin's home had been locked | |
| Ms. Martin's husband had been dead for 5 years | |
| Officer Bolick did not conduct a sobriety test | |
| The burglary took place on Jan 10 | |
| The gold Bulova watch belonged to Ms. Martin's husband | |
| Mr. Medrano was arrested on Jan 10 | |
| Mr. Medrano drives an 89 Ford Taurus | |
| Mr. Medrano was in a blue car | |
| Mr. Medrano did not explain to the arresting officer where he obtained the three watches | |
| Mr. Medrano did not know his co-workers names from whom he won the watches | |
| Mr. Medrano ducked when the officer drove by | |
| Mr. Medrano had \$270 in his pocket | |
| Ms. Martin could not verify that the watch was her husband's | |
| Mr. Medrano was in possession of 3 watches | |
| Mr. Medrano was reported to be drunk | |
| Break in 8:45pm | |
| Door was jimmied open | |
| Ms. Martin reported seeing a blue car | |
| Mr. Medrano claims he won the 3 watches in a poker game | |
| Ms. Martin reported the license plate was D-D-X or C | |
| Ms. Martin reported that the car had a gray smudge | |
| The police arrived 20 minutes after the burglary | |

| Evidence | Weight | Rank Order | Pro-Prosecution or Defense |
|--------------------------|--------|------------|----------------------------|
| 1. Victim's statement | 10 | 1 | Pro-Prosecution |
| 2. Eyewitness testimony | 8 | 2 | Pro-Prosecution |
| 3. Forensic evidence | 7 | 3 | Pro-Prosecution |
| 4. Defendant's statement | 5 | 4 | Pro-Defense |
| 5. Alibi evidence | 3 | 5 | Pro-Defense |
| 6. Character evidence | 2 | 6 | Pro-Defense |
| 7. Expert testimony | 1 | 7 | Pro-Prosecution |

| | | | |
|--|--|--|--|
| | | | |
|--|--|--|--|

On the third column, please rank order each fact in order of importance to you in making your personal verdict decision with 1 being the most important, 2, being next important, and so on.

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Using the scale provided, please rate the trial participants:

Prosecuting Attorney:

| | | | | |
|----------------------|---|--------------|---|----------------------------|
| Very Likable 1 | 2 | Neutral 3 | 4 | Very Unlikable 5 |
| Very Persuasive 1 | 2 | Neutral 3 | 4 | Not at all Persuasive 5 |

Defense Attorney:

| | | | | |
|----------------------|---|--------------|---|----------------------------|
| Very Likable 1 | 2 | Neutral 3 | 4 | Very Unlikable 5 |
| Very Persuasive 1 | 2 | Neutral 3 | 4 | Not at all Persuasive 5 |

Judge:

| | | | | |
|----------------------|---|--------------|---|----------------------------|
| Very Likable 1 | 2 | Neutral 3 | 4 | Very Unlikable 5 |
| Very Persuasive 1 | 2 | Neutral 3 | 4 | Not at all Persuasive 5 |

Ms. Mary Martin:

| | | | | |
|----------------------|---|--------------|---|----------------------------|
| Very Likable 1 | 2 | Neutral 3 | 4 | Very Unlikable 5 |
| Very Persuasive 1 | 2 | Neutral 3 | 4 | Not at all Persuasive 5 |

Mr. Mark Medrano:

| | | | | |
|----------------------|---|--------------|---|----------------------------|
| Very Likable 1 | 2 | Neutral 3 | 4 | Very Unlikable 5 |
| Very Persuasive 1 | 2 | Neutral 3 | 4 | Not at all Persuasive 5 |

Police Officer:

| | | | | |
|----------------------|---|--------------|---|----------------------------|
| Very Likable 1 | 2 | Neutral 3 | 4 | Very Unlikable 5 |
| Very Persuasive 1 | 2 | Neutral 3 | 4 | Not at all Persuasive 5 |

APPENDIX G

Post Deliberation Questionnaire

What was your group's verdict?

_____ **GUILTY** of burglary.

_____ **NOT GUILTY** of burglary.

Rate your confidence that your group selected that correct verdict decision.

| Very Unsure | Unsure | Neutral | Confident | Very Confident |
|-------------|--------|---------|-----------|----------------|
| 1 | 2 | 3 | 4 | 5 |

Please explain your confidence rating: _____

Do you personally believe that your group reached the correct verdict decision?

_____ **YES**

_____ **NO**

Please explain your answer: _____

Does the group's verdict decision differ from your initial verdict decision (before deliberation)?

_____ **YES**

_____ **NO**

If YES, what persuaded you to change your decision?

Check all that apply:

- ☐ I changed to the majority decision.
 - ☐ Other group members brought up evidence that I did not recall.
 - ☐ Other group members helped me to rethink the evidence.
 - ☐ I felt coerced by other group members to change my verdict.
 - ☐ Other: Please include any other reason in the space provided below.
-
-

At what point during the group deliberation did you decide to change your verdict?

Check all that apply:

- ☐ I changed my decision prior to the group deliberation.
 - ☐ I changed my decision after hearing the verdict preferences of the other group members.
 - ☐ I changed my decision after discussing the evidence with the other group members.
 - ☐ I changed my decision toward after I felt coerced by other group members.
 - ☐ Other: Please include any additional information in the space provided below.
-
-

Group Decision Process

How would you describe the process that led to your group decision?

What evidence influenced your group's decision?

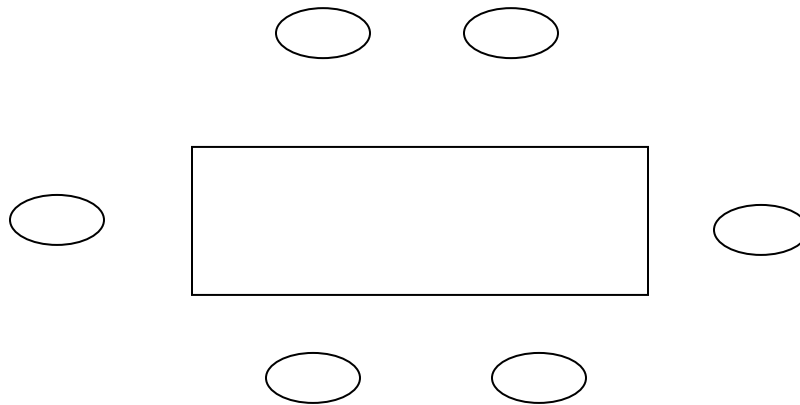
How influential were you in the group decision?

| | | | | |
|------------------|---|---------|---|------------------------|
| Very Influential | | Neutral | | Not at all Influential |
| 1 | 2 | 3 | 4 | 5 |

How motivated were you to persuade other group members to see things from your point of view?

| | | | | |
|----------------|---|---------|---|----------------------|
| Very Motivated | | Neutral | | Not at all Motivated |
| 1 | 2 | 3 | 4 | 5 |

Perceptions of Other Group Members



The picture represents the table at which you deliberated with your group. We are interested in your perceptions of each of the other group members. Please indicate where you sat with an “X”. Using your group member’s numbers, please indicate your responses to the following questions. Be sure to write the number of the group member you rate in the space provided.

Juror # _____

How similar is this person to you?

| | | | | |
|-------------------|---|---------|---|--------------------|
| Extremely Similar | | Neutral | | Not at all Similar |
| 1 | 2 | 3 | 4 | 5 |

How likeable?

| | | | | |
|--------------------|---|---------|---|---------------------|
| Extremely Likeable | | Neutral | | Not at all Likeable |
| 1 | 2 | 3 | 4 | 5 |

How persuasive?

| | | | | |
|----------------------|---|---------|---|-----------------------|
| Extremely Persuasive | | Neutral | | Not at all Persuasive |
| 1 | 2 | 3 | 4 | 5 |

How knowledgeable?

| | | | | |
|-------------------------|---|---------|---|--------------------------|
| Extremely Knowledgeable | | Neutral | | Not at all Knowledgeable |
| 1 | 2 | 3 | 4 | 5 |

Juror # _____

How similar is this person to you?

| | | | | |
|-------------------|---|---------|---|--------------------|
| Extremely Similar | | Neutral | | Not at all Similar |
| 1 | 2 | 3 | 4 | 5 |

How likeable?

| | | | | |
|--------------------|---|---------|---|---------------------|
| Extremely Likeable | | Neutral | | Not at all Likeable |
| 1 | 2 | 3 | 4 | 5 |

How persuasive?

| | | | | |
|----------------------|---|---------|---|-----------------------|
| Extremely Persuasive | | Neutral | | Not at all Persuasive |
| 1 | 2 | 3 | 4 | 5 |

How knowledgeable?

| | | | | |
|-------------------------|---|---------|---|--------------------------|
| Extremely Knowledgeable | | Neutral | | Not at all Knowledgeable |
| 1 | 2 | 3 | 4 | 5 |

Juror # _____

How similar is this person to you?

| | | | | |
|-------------------|---|---------|---|--------------------|
| Extremely Similar | | Neutral | | Not at all Similar |
| 1 | 2 | 3 | 4 | 5 |

How likeable?

| | | | | |
|--------------------|---|---------|---|---------------------|
| Extremely Likeable | | Neutral | | Not at all Likeable |
| 1 | 2 | 3 | 4 | 5 |

How persuasive?

| | | | | |
|----------------------|---|---------|---|-----------------------|
| Extremely Persuasive | | Neutral | | Not at all Persuasive |
| 1 | 2 | 3 | 4 | 5 |

How knowledgeable?

| | | | | |
|-------------------------|---|---------|---|--------------------------|
| Extremely Knowledgeable | | Neutral | | Not at all Knowledgeable |
| 1 | 2 | 3 | 4 | 5 |

Juror # _____

How similar is this person to you?

| | | | | |
|-------------------|---|---------|---|--------------------|
| Extremely Similar | | Neutral | | Not at all Similar |
| 1 | 2 | 3 | 4 | 5 |

How likeable?

| | | | | |
|--------------------|---|---------|---|---------------------|
| Extremely Likeable | | Neutral | | Not at all Likeable |
| 1 | 2 | 3 | 4 | 5 |

How persuasive?

| | | | | |
|----------------------|---|---------|---|-----------------------|
| Extremely Persuasive | | Neutral | | Not at all Persuasive |
| 1 | 2 | 3 | 4 | 5 |

How knowledgeable?

| | | | | |
|-------------------------|---|---------|---|--------------------------|
| Extremely Knowledgeable | | Neutral | | Not at all Knowledgeable |
| 1 | 2 | 3 | 4 | 5 |

Juror # _____

How similar is this person to you?

| | | | | |
|-------------------|---|---------|---|--------------------|
| Extremely Similar | | Neutral | | Not at all Similar |
| 1 | 2 | 3 | 4 | 5 |

How likeable?

| | | | | |
|--------------------|---|---------|---|---------------------|
| Extremely Likeable | | Neutral | | Not at all Likeable |
| 1 | 2 | 3 | 4 | 5 |

How persuasive?

| | | | | |
|----------------------|---|---------|---|-----------------------|
| Extremely Persuasive | | Neutral | | Not at all Persuasive |
| 1 | 2 | 3 | 4 | 5 |

How knowledgeable?

| | | | | |
|-------------------------|---|---------|---|--------------------------|
| Extremely Knowledgeable | | Neutral | | Not at all Knowledgeable |
| 1 | 2 | 3 | 4 | 5 |

APPENDIX H

Description of Modified Word Count Coding Procedure

Deliberation transcripts were coded for individual juror-level participation using a variation of the modified word count procedure described by Dickinson and Poole (2000). First, all 37 deliberation transcripts were combined into a single file using a macro written in Microsoft Word:

Sub MergeDocs()

Dim rng As Range

Dim MainDoc As Document

Dim strFile As String

Const strFolder = "C:\Users\Usman Javaid\Desktop\Word documents\"

Set MainDoc = Documents.Add

strFile = Dir\$(strFolder & "*.docx")

Do Until strFile = ""

Set rng = MainDoc.Range

rng.Collapse wdCollapseEnd

rng.InsertFile strFolder & strFile

strFile = Dir\$()

Loop

End Sub

The file including all transcriptions was then modified using the advanced find and replace function in Microsoft Word. Words were not deleted, but were replaced as hidden text, and hidden text was not included in any word count calculations.

The coding was completed in five steps. First, all contractions were replaced with the full text (e.g., “I’ve” was replaced with “I have”). This step was completed for consistency in word count. Individuals who said “haven’t” provided as much meaningful information as individuals who said “have not”; however, using raw word count procedures, “haven’t” would count as one word, and “have not” would count as two words. Second, all hedges and hesitations were removed. For the current study, the removed hedges included: “uh,” “so,” “um,” “just,” “you know,” “like,” “kind of,” “kinda,” “sort of,” “sorta,” “or something,” “yeah,” “or whatever,” “oh,” “okay,” “well,” and “I mean.” Third, all false starts and repeated phrases were removed. The coder read over the text of the transcript and identified repetitive words and phrases for removal (e.g., “He, uh, he said that” or “I don’t know if, well, I don’t know if I agree”). Fourth, all conjunctions (e.g., “and,” “or,” “although”) were removed. Finally, all articles (e.g., “a,” “an,” “the”) were removed. The coder reviewed the transcriptions to ensure that the hidden text procedure was executed correctly.

Next, the text of each transcription was copied into a separate sheet in Microsoft Excel. A series of formulae were used to calculate the total number of words spoken (excluding hidden text) during the deliberation, the number of turns during the deliberation, and the average number of words spoken during each turn. Using a formula, a word count was completed for each turn in the deliberation:

$$=IF(LEN(TRIM(D2))=0,0,LEN(TRIM(D2))-LEN(SUBSTITUTE(D2," ",""))+1)$$

This word count excluded all hidden text. Next, all the turns for each juror in the deliberation were combined to provide a modified word count for each individual participant in the deliberation. For example:

=DSUM(Juries!\$A\$1:\$J\$8131,"MWC",Time!HD\$1:HD\$2)

The average number of words spoken during each turn was calculated by dividing the total number of words spoken (excluding hidden words) divided by the number of turns. For example:

=DAVERAGE(Juries!\$A\$1:\$J\$8131,"MWC",Time!HD\$1:HD\$2)

CURRICULUM VITA

Larissa A. Schmursal, a proud native of the great state of Nebraska, earned a Bachelor of Arts in Psychology from the University of Nebraska – Lincoln (UNL) in 2005. Since moving to Texas in 2006, she has incorporated “y’all” into her vocabulary, developed a love of line dancing, and earned a Master of Arts degree in Psychology from the University of Texas at El Paso (UTEP) in 2009.

While pursuing her degrees at UTEP, Schmursal worked as an evaluator for the Mental Health Unit at the El Paso County Public Defender’s Office in 2007-2008. In fall 2008, Schmursal began working full time as a researcher at UTEP’s Center for Institutional Evaluation, Research, and Planning (CIERP), where she is currently the group leader for Research and Communications. Now that her dissertation is completed, Schmursal plans to become fluent in Spanish, improve her cooking skills, and maybe even revisit her childhood dream of being a ballerina.

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