Social Influence in Jury Decision Making

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This article, the first in a series on jury decision making in a simulated civil case, centers on factors involved in individual and group decision making. Its approach, while theoretical, allows the practitioner to gain a thorough understanding of key issues in jury behavior. Future articles will examine personality and demographic variables as they impact juror decisions and jury selection versus deselection strategies based on a new personality measure. The final article will provide practical recommendations for effective voir dire strategy.

Juries are a unique type of social group with strong, bidirectional influence processes in which the individual juror influences the group and the jury influences the individual. Many studies of mock juries focus on either the jurors or the jury as a unit of analysis, thereby failing to examine the bidirectional aspect of decision making. While these studies certainly have a degree of scientific merit, their external validity (that is, their applicability in understanding actual juries) is limited.

Both individual and group decision making have distinguishing characteristics. Key factors in individual decision making include life experiences, personality characteristics, attitudes, values, and beliefs. (These factors will be covered in an upcoming article.) Group decision making, of course, necessarily includes these facets of individual jurors and, in addition, involves public commitment, the influence of other jurors, conformity, attitude polarization, and information pooling. Other factors that are important in jury decision making include confidence in the correctness of the decision, individual attitude change resulting from deliberations, and selection/effectiveness of the foreperson. These facets of group decision making are the focus of this article.

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OVERVIEW OF GROUP DECISION MAKING

Generally, studies have shown that group decisions are reflective of individual decisions, with group decisions tending to be more moderate.[1] The most significant factor related to verdict appears to be case-specific attitudes, as opposed to individual characteristics or other extralegal factors.[2]

While jurors base their predeliberation judgments on different, but equal, information, the group decision (verdict) is based on information pooling and shared memories.[3] Differences in individual judgments of the same information arise from differences in memory and attention among jurors. Factors in the presentation of the case which increase the likelihood that different jurors will remember different facts magnify polarization among jurors. The more nonredundant facts shared by jurors, the greater the chance for changing individual judgments.

It is quite difficult to predict whether opinion change occurring at the individual level is manifested at the group level, because many social phenomena intervene.

Many attorneys attempt to predict what a jury will do in a given case based on their knowledge of what a particular juror will do. This is a dangerous practice, in that the opinions of an individual juror do not necessarily reflect those of jurors who engage in a group decision-making task. The main reason that one cannot generalize individual results to group outcomes is that *interpersonal interaction* is the process by which opinion change occurs in groups.[4] It is quite difficult to predict whether opinion change occurring at the individual level is manifested at the group level, because many social phenomena intervene.

Procedural mechanisms are important in jury decision making for the following reasons: social implications of the decision are significant; members initially make different decisions; the potential for conflict increases as agreement among jurors is sought; and jurors are concerned about the final outcome.[5] According to one source, "The need to manage the expression of members' decision preferences is common to virtually all consensus-seeking groups."[6] Reciprocity is an important feature of all task-oriented groups, such as juries, that work together to achieve consensus. Observers who have witnessed mock jury deliberations have seen the principle of reciprocity in action when jurors acquiesce because of concessions that other jurors have made in the past.

Impact of the Majority

Most juries decide in favor of the majority, as measured in the initial vote.[7] Minority influence rarely changes the outcome of the group decision,[8] because groups are generally insensitive to individual members' preferences. Furthermore, there are few times when changing one's vote will have an impact on the final group decision. In general, the larger the majority, the more likely its side will prevail.[9] (However, while jurors who change their original vote in favor of the majority conform to group pressure, they do not *always* change their private opinions.)

One reason why the majority opinion prevails in deliberations is that judgmental tasks involving ambiguous perceptions of right and wrong are particularly susceptible to majority effects.[10] In addition, the size of a faction is directly related to social influence.[11] Since social influence processes are key to deliberations outcome, it comes as no surprise that majority opinion generally prevails.

Two types of social influence processes explain the majority effect: normative influence and informational influence. Normative influence relates to the size of the group, while informational influence relates to the number and persuasiveness of arguments. Normative pressures are most likely to occur when agreement among group members is required, judgments are public, and social concerns are salient. Informational influence is likely when fact finding is emphasized. Juries, of course, involve all of these characteristics, and thus, both types of influence.[12] The majority effect is primarily due to the ability of the majority to generate more and better arguments (thus exerting informational influence) than the minority.[13]

Influence of the Group on the Individual

Groups exert influence on individuals through the discussion of decision alternatives. Typically, juries make decisions in an egalitarian fashion, where each juror's position is given a fair hearing by the others. The overall effect of deliberations, created by the egalitarian group process, is a reduction of individual biases relating to extralegal factors.[14] Bias reduction is one way that group

decisions of juries are superior to individual decisions of jurors. The requirement of having to explain and justify one's position increases one's accountability and causes one to anticipate others' counterarguments.[15] Because it is extremely difficult to justify personal biases to others, deliberations effectively reduce juror bias.

Most research on jury decision making has shown that individual decision bias has little impact on group outcome, regardless of group size and other constraints.[16] The reason for these findings is that group decisions exhibit more leniency than individual decisions, and leniency reduces the impact of individual biases and opinions.[17] While jurors' initial attitudes make a difference in individual decisions, jury decisions are a product of jurors' personal attributes, the evidence, and legal rules.[18]

Effect of Public Commitment on Juror Attitudes

Two basic interaction styles occur within juries. One is a verdict-driven style, in which frequent pollings and statements of verdict preference take place; the other is evidence driven and involves a systematic review of the trial story and the evidence, followed by a poll.[19] Interaction styles vary, depending on the way norms develop in the group. In general, later polls demonstrate a greater leniency bias in favor of the defendant. Because juries require each member to express publicly his or her attitude about the case, there are strong social pressures to present one's view in a favorable light. Each juror has a desire to appear consistent to the group (and to himself or herself) and to honor the public commitment that is made to other jurors. Consistency and commitment combine to form a most powerful form of social influence.[20] For this reason, jurors are very likely to change their original (private) attitudes in the direction of the majority and, to appear consistent to others and themselves, actually adopt the attitude of the group after a verdict has been reached.

One of the ways in which postdeliberations attitude change occurs at the individual juror level is through heightened self-awareness. Self-awareness is the process that creates consistency; stating one's opinion to other jurors requires each juror to justify why he or she is endorsing a particular verdict.[21] This is not to say, however, that jurors will know the reason behind their change in attitude/verdict preference. Rather, they only know the outcome of their change of attitude.[22] The very act of requiring jurors to think about their opinions during deliberations will ensure that there is a high correspondence between privately held attitudes and verdict preference as stated to other jurors.[23] In the final analysis, then, it is very likely that regardless of a juror's predeliberation opinion, his or her postdeliberation opinion will correspond to the verdict reached by the jury (recall the earlier caution, however, that this is not *always* the case).

Each juror has a desire to appear consistent to the group (and to himself or herself) and to honor the public commitment that is made to other jurors.

Despite the actual effects jurors have on one another, most jurors do not recognize the influence others have on their decisions. In one particularly revealing study, 66 percent of jurors who were polled about the last case they decided reported that they had changed their verdict at some point during the trial process (including deliberations), while 78 percent of jurors stated that other jurors had "no influence" on their decision.[24] This inability to perceive others' influence holds true even when influence is measured concurrently with judgment.[25]

Confidence in Decision Accuracy

Mock jury studies allow for many measures of jury behavior that are not possible in actual juries. One of these measures is jurors' confidence. Confidence is ascertained by asking jurors, typically before and after deliberations, how confident they are that they have made the right decision about the case at issue. It is then possible to examine the profiles of jurors having varying levels of confidence as well as to assess the relationship between confidence and other variables, such as influence of other jurors.

Few studies have measured jurors' confidence. However, a large-scale study of 1,000 actual jurors revealed that almost 90 percent of jurors were confident in their decision, in that they said they would return the same verdict again if given another chance.[26] This result was obtained even though, as stated earlier, 66 percent of the jurors indicated that they had changed their verdict during the trial process.

Changers, those jurors who change their vote at some point before or during deliberations, are an important aspect of the group decision-making

process of juries.[27] Changers are, typically, less confident in their initial vote than nonchangers.[28] Although most changers are aware they have changed their attitude, it appears that they do not necessarily know why. (Recall the earlier discussion of jurors' inability to recognize the effects of social influence.) While there does not appear to be any demographic profile of changers, jurors who are authoritarian have been found to change their votes more often than others.[29] This is due to the fact that authoritarians need to be identified with the "in" group, in this case the majority, and thus are more likely to conform to the majority opinion.

Opinion Leaders

Subgroups are formed within juries based on members' similarities of viewpoint about a case. Each subgroup usually has a strong opinion leader, whose role is the most important role in the jury.[30] Opinion leaders are perceived by other jurors as having some characteristic that puts them in the position to "know." They are an important source of information for other jurors and are usually strong-willed people with good recall skills. The foreperson may or may not be an opinion leader. In general, the more dissimilar the jurors are to one another, the more influence they have on one another.[31] This occurs because similarity increases dependence among jurors and reduces their persuasive impact.

Characteristics and Effectiveness of Foreperson

Most of what is known about the impact of the jury foreperson is based on anecdotal evidence from actual juries. There have been relatively few systematic studies of why and how the foreperson is selected, the characteristics of the person selected as foreperson, or the effectiveness of the foreperson in leading the deliberations. A large-scale study of 326 actual juries in England found no relationship between foreperson characteristics and verdict.[32] Another study, which examined gender differences in deliberations, found that males were perceived as more independent, rational, influential, and as leaders more often than females.[33] (However, there were no gender differences in verdict preference.) Some characteristics make a juror particularly likely to be selected as foreperson: People with high occupational status, those with previous jury experience, and males are more likely than others to be chosen as foreperson.[34]

The general view among legal researchers is that forepersons do not exert more influence on deliberations than other jurors; they act merely as figureheads or nominal leaders.[35] They moderate, rather than dominate, the group discussion and tend to focus their comments on procedural matters. In fact, it has been argued that the legal community has misfocused its attention on the jury foreperson when attention should actually be centered on identifying opinion leaders.[36] (Recall the earlier discussion of the opinion leader as the most important juror role.) In conclusion, then, it appears that foreperson characteristics have little utility in predicting verdict.

Effect of Jury Instructions on Decisions

Several recent studies have examined the effects of jury instructions on verdicts. In addition to increasing the external validity of mock jury studies, jury instructions serve to reduce situational ambiguity by outlining for jurors exactly what is expected of them. Juror bias occurs primarily from impressions formed in ambiguous situations, requiring jurors to seek information that conforms to their initial (often incorrect) impression.[37] Thus, reduced situational ambiguity reduces the effects of individual differences such as prejudice[38] and discriminatory behavior.[39] In addition to reducing situational ambiguity by reducing the effects of individual differences, jury instructions increase the likelihood that a unanimous verdict will be realized.[40] This happens because jury instructions reduce the number of possible interpretations of the facts.

Group decisions require jurors to be accountable to one another for their actions, leading them to follow the rules more closely when deciding a case.[41] Thus, the final jury instruction read to jurors in civil cases, which admonishes them to put biases, prejudices, sympathies, and other sentiments aside, reduces the likelihood that individual prejudicial attitudes will play a significant role in jury deliberations and verdicts.

THE PRESENT STUDY

The research we conducted was designed to measure juror and jury attitudes as they affected deliberations and verdict in a simulated civil rape case. Mock jurors were of two different subgroups: university students and jury-eligible citizens. All mock jurors completed a lengthy series

of questionnaires, including demographic and personality measures. They were then shown one of four possible photos of the "plaintiff." The photo was one of the following: young white female, old white female, young black female, or old black female. The photographs were computer generated from the same original image, so as to appear as similar as possible in terms of attractiveness, friendliness, and so forth. Jurors next listened to the facts of the case via audiotape. The audiotape described a lawsuit by a woman who sued the owner/manager of her apartment complex for failing to secure the premises, thereby causing her to be raped by a maintenance man. Following the factual presentation, mock jurors listened to standard jury instructions.

The race of mock jurors had an impact on their individual predeliberations damages awards.

Mock jurors next completed a predeliberations questionnaire that required them to allocate percentages of responsibility to the defendant (apartment owner/manager) and plaintiff; award damages to compensate the plaintiff for past and future medical expenses, past and future lost wages, and past and future pain and suffering; and indicate their confidence in their decision. After all mock jurors completed their individual questions, they were asked to elect a foreperson and to deliberate until unanimity was reached. The foreperson was provided a verdict form on which to record the liability and damages decisions of the group. Following attainment of a verdict, jurors were asked to once again, on an individual basis, allocate percentages, award damages, and indicate their confidence. They were also asked to rate the degree of influence each other juror exerted.

By utilizing the above design, we were able to measure (1) jurors' preexisting attitudes and verdict preference before they participated in the group discussion; (2) jurors' postdeliberations attitudes, which we examined for effects of social influence; and (3) jury attitudes unique to the group as a whole. The following are some of our findings.

Overall Results[42]

Group Decisions

The overall pattern of results, in terms of the percentage of responsibility attributed to the plaintiff, varied by the type of mock jury (university students or jury-eligible citizens), the age of the plaintiff (old or young), and the race of the plaintiff (black or white). University student juries attributed the most responsibility to the old black plaintiff (18.42 percent), followed by the young white plaintiff (14.29 percent), then the young black plaintiff and the old white plaintiff (11.90 percent and 11.23 percent, respectively). Mock juries composed of jury-eligible citizens attributed the most responsibility to the young white plaintiff (13.41 percent), followed by the old white plaintiff (12.81 percent), with the black plaintiffs perceived as having considerably less responsibility (7.73 percent and 6.82 percent, for the old black plaintiff and young black plaintiff, respectively).

Monetary awards of the mock juries exhibited a different, almost reversed, pattern of results from the liability measure. University students awarded the highest damages to the young black plaintiff ($516,667), followed by the old white plaintiff ($448,077). The young white plaintiff received considerably less in damages ($176,190), with the old black plaintiff receiving less still ($69,737). Juries composed of jury-eligible citizens awarded damages in the following manner: young black plaintiff, $704,545; old white plaintiff, $326,563; old black plaintiff, $304,546; and young white plaintiff, $262,962.

Individual Decisions

There were few significant results obtained for individual (juror) decisions; the findings pertained to damages and were obtained from the postdeliberations decisions made by jurors. The damages awarded by individual university students were as follows: the highest damages were awarded to the young black plaintiff ($525,238); next highest were damages awarded to the old white plaintiff ($466,346), followed by the old black plaintiff ($230,790) and the young white plaintiff ($173,890). For jury-eligible citizens, the highest damages were awarded to the young black plaintiff ($738,636); next highest were damages awarded to the old black plaintiff ($373,750), followed by the old white plaintiff ($291,447) and the young white plaintiff ($259,259).

The race of mock jurors had an impact on their individual predeliberations damages awards. For university students, the highest damages were awarded to the black plaintiffs by black mock jurors ($1,708,167); next highest were damages awarded to the black plaintiffs by white mock jurors ($444,778). White plaintiffs were awarded less in monetary

damages by both white and black mock jurors ($327,485 and $152,857, respectively). Jury-eligible citizens reacted the same as university students in terms of their predeliberations damages awards. Black mock jurors awarded the highest damages to black plaintiffs ($555,000), while white mock jurors awarded black plaintiffs the next highest amount ($406,757), with white plaintiffs receiving almost the same damages from white mock jurors ($402,000). Black mock jurors awarded considerably less damages to white plaintiffs ($173,750).

The Effect of the Group on the Individual

Overall, there appeared to be little impact of the group decision on individual jurors. Jurors were consistent in their attributions of responsibility to the plaintiff, changing their predeliberation decision of 13.34 percent to 12.45 percent, postdeliberations. Mock jurors showed similar consistency in their damages awards ($380,299, predeliberations; $378,943, postdeliberations). Jurors' predeliberations judgments of liability were similar to the group decision (13.34 percent and 12.02 percent, respectively); however, predeliberations damages awarded by individual jurors differed from those awarded by juries as a group, with individuals tending toward higher awards ($380,299 versus $354,079).

Jurors' postdeliberations judgments of liability were even more similar to the group decision (12.45 percent and 12.02 percent, respectively); however, postdeliberations damages awarded by individual jurors differed from those awarded by juries as a group, with individuals again tending toward higher awards ($378,943 versus $354,079).

Although there was consistency in jurors' judgments over time, there were differences between mock jurors who did and did not change their individual decisions after the jury reached a group verdict. First, concerning liability, the following profile of "changers" (those who changed their assessment of the plaintiff's responsibility after deliberations) emerged: they were younger, had fewer children, were less antiauthoritarian, assigned more responsibility to the plaintiff, were less confident in their decisions, and were less educated than nonchangers. Changers were also analyzed in terms of whether their change favored the plaintiff or the defendant in terms of amount of responsibility assigned. Compared to those whose changed opinion favored the defendant, jurors whose change favored the plaintiff exhibited the following characteristics: they attributed less responsibility and awarded less damages to the plaintiff; they were marginally more universally oriented (nonprejudiced); they were more politically conservative; they were more confident in their judgments; and they were less influential on other jurors. "Plaintiff changers" assigned an average of 3.41 percent responsibility to the plaintiff, as compared to an average of 34 percent for "defendant changers."

With regard to damages, the following profile of changers was revealed: they were younger, had fewer children, and held more belief in a just world than nonchangers. Changers whose change resulted in a higher monetary damage award for the plaintiff were less authoritarian, more external in locus of control, and more universally oriented than jurors whose change resulted in lower damages for the plaintiff. Mock jurors who increased their award awarded an average of $677,659 to the plaintiff, while those who decreased their award awarded an average of $335,038.

Jurors' Confidence

Mock jurors were asked to rate their own level of confidence with regard to their liability and damages assessments. Confidence remained stable across predeliberations and postdeliberations measures (4.93 versus 5.20, respectively). Mock jurors who were more confident attributed less responsibility to the plaintiff than other jurors in both predeliberations and postdeliberations measures (9.18 percent versus 17.11 percent, respectively, predeliberations; 6.81 percent versus 21.66 percent, respectively, postdeliberations). There was a positive correlation between both predeliberations confidence and influence rating and postdeliberations confidence and influence rating, meaning that mock jurors who were more confident in their own judgments were rated by other jurors as having more influence in the final, group verdict. In addition, those jurors who were more confident had a higher universal orientation score (indicating a lack of prejudice) than less confident jurors.

Opinion Leaders

Opinion leaders are those jurors whom the others perceive as having influenced their deliberations. In the present study, mock jurors were divided into four analysis groups, depending on the influence rating they received from other jurors. Those jurors receiving the highest and lowest ratings (representing high influence and low influence) were compared on numerous demographic

and personality dimensions. Mock jurors who were rated as high in influence were higher in antiauthoritarianism than other mock jurors. Influential mock jurors were marginally less likely than others to endorse the notion of a just world (meaning that they were less likely to believe that people get what they deserve in life). (These and other personality variables will be discussed in detail in an upcoming article in this journal.) In addition, mock jurors who were viewed as influential tended to award higher damages than jurors who were rated as having little influence ($455,733 versus $213,913 for the predeliberations award; $457,000 versus $332,093 for the postdeliberations award). It is important to note that there were no other characteristics common to opinion leaders, including whether or not they had been victims of crime.

Foreperson Characteristics

There were few demographic and personality characteristics descriptive of the jury foreperson. Similar to the finding for opinion leaders, forepersons tended to be more antiauthoritarian than other jurors. In addition, forepersons tended to be more educated than other jurors and more confident in the accuracy of their postdeliberations judgments (they were marginally more confident in their predeliberations judgments as well). Further, forepersons were more likely to have an internal locus of control (meaning that they believe they have personal responsibility for their life events) than other jurors. Finally, forepersons were rated by other jurors as more influential in the verdict than nonforepersons.

Implications of the Results

The most consistent finding in the present study was the stability exhibited in jurors' decision making. This stability was evidenced in jurors' relatively unchanging liability and damages assessments, as well as ratings of confidence, over time. The verdict obtained by the jury as a group apparently had little impact on decisions made by individual jurors. One reason for this finding was the relatively high correspondence between juror and jury decisions, resulting, in part, from the perception of clear negligence of the defendant and all jurors' desire to compensate the plaintiff.

The most striking result of our study was the differential treatment of the plaintiff, depending on her age and race, by the jurors. The young black plaintiff fared most favorably with mock juries from both population groups; she was perceived as having the least responsibility and was awarded the highest damages. Liability and damages for the other plaintiffs varied more and depended on the type of mock juror (university student or jury-eligible citizen). While the race of the mock juror had a surprisingly large influence on predeliberations judgments, this relationship was not observed in postdeliberations judgments. Consistent with past research, it appears that deliberations had the effect of reducing individual bias such that postdeliberations decisions of jurors reflected jury verdicts.

Confidence and influence emerged in this study as important variables in juror decision making. Confident jurors tended to be perceived as influential in verdict determination. In turn, influential jurors tended to be more likely to be generous in their damages awards. Confidence and influence, as well as an antiauthoritarian attitude, emerged as positive foreperson characteristics and are deserving of further study.

It appears that deliberations had the effect of reducing individual bias such that postdeliberations decisions of jurors reflected jury verdicts.

In contrast to previous research, several characteristics were identified as common to jury forepersons. In the present study, the foreperson was influential in deciding the verdict such that, for all practical purposes, the foreperson functioned as the opinion leader on the jury. The finding that the forepersons tended to hold an antiauthoritarian attitude means that the foreperson led the group effectively, without domination.

An important factor related to jury selection concerns identification of jurors who are likely to change their opinion over the course of the trial. Our study found several characteristics that distinguished those who changed their opinions from those who did not. Our results were supportive of past studies that have found a relationship between opinion change, confidence, and authoritarianism. It appears that juror confidence is a key variable in many aspects of juror decision making, such that practitioners are well advised to attempt assessments of potential jurors' confidence.

The results of this preliminary study on juror and jury behavior point to several important trends. First, white plaintiffs in civil rape cases cannot expect more favorable treatment from juries than minority plaintiffs. Jurors may be attempting

to "even the score" of past discrimination through their favorable verdicts in cases involving black plaintiffs. Second, jury selection strategies must focus on the juror as part of the jury. Each juror has a relative impact on the jury as a whole and must be questioned in terms of how influential she or he will be within the group, in addition to how fair she or he can be toward the parties. This finding has considerable import, because a fair juror *may or may not* influence others to vote his or her way. Finally, foreperson characteristics should be closely monitored by attorneys to isolate those that do and do not lead to effective leadership, and, in turn, are predictive of verdict.

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