
Dissertations, Theses, and Masters Projects

Theses, Dissertations, & Master Projects

2005

Racial Interactions: A Demographic Perspective on Juror Biases in Deliberations

Jennifer K. Elek
College of William & Mary - Arts & Sciences

Follow this and additional works at: <https://scholarworks.wm.edu/etd>



Part of the [Demography, Population, and Ecology Commons](#), [Ethnic Studies Commons](#), and the [Law Commons](#)

Recommended Citation

Elek, Jennifer K., "Racial Interactions: A Demographic Perspective on Juror Biases in Deliberations" (2005). *Dissertations, Theses, and Masters Projects*. Paper 1539626504.
<https://dx.doi.org/doi:10.21220/s2-wyzq-rz30>

This Thesis is brought to you for free and open access by the Theses, Dissertations, & Master Projects at W&M ScholarWorks. It has been accepted for inclusion in Dissertations, Theses, and Masters Projects by an authorized administrator of W&M ScholarWorks. For more information, please contact scholarworks@wm.edu.

RACIAL INTERACTIONS:
A DEMOGRAPHIC PERSPECTIVE ON JUROR BIASES IN DELIBERATIONS

A Thesis

Presented to

The Faculty of the Department of Psychology
The College of William and Mary in Virginia

In Partial Fulfillment

Of the Requirements for the Degree of

Master of Arts

by

Jennifer K. Elek

2005.

APPROVAL SHEET


This thesis is submitted in partial fulfillment of
the requirements for the degree of

Master of Arts


Jennifer K. Elek

Approved by the Committee, July 2005


Harvey J. Langholtz, Associate Professor


Adam J. Rubenstein, Assistant Professor


Constance J. Pilkington, Associate Professor

TABLE OF CONTENTS

	Page
Acknowledgements	iv
List of Tables	v
Abstract	vi
Introduction	2
Method	13
Results	16
Discussion	21
Appendix A: Case Data Survey	37
Appendix B: Juror Questionnaire	42
References	45
Vita	51

ACKNOWLEDGEMENTS

The author is indebted to the National Center for State Courts and Paula Hannaford-Agor for providing the access that made this investigation possible. She is also appreciative of all of the guidance and wisdom provided by Dr. Harvey J. Langholtz, her advisor of two years. Additionally, the author wishes to thank Drs. Adam J. Rubenstein and Constance J. Pilkington for their careful reading, criticism, and suggestions regarding this manuscript.

LIST OF TABLES

Table	Page
1. Intercorrelations Between Foreperson Status and Demographic Variables	30
2. Summary of Hierarchical Linear Regression Analysis for Foreperson and Defendant Race Variables Predicting Juror Final Verdict Voting Preference	31
3. Summary of Hierarchical Linear Regression Analysis for Juror and Defendant Race Variables Predicting Juror Final Verdict Voting Preference	32
4. Summary of Hierarchical Linear Regression Analysis for Foreperson and Defendant Race Variables Predicting Juror Final Verdict Voting Preference with no Juror and Defendant Racial Similarity	33
5. Summary of Hierarchical Linear Regression Analysis for Foreperson, Defendant, and Juror Race Similarity Variables Predicting Juror Final Verdict Voting Preference	34
6. Summary of <i>Post Hoc</i> Hierarchical Linear Regression Analysis for Foreperson and Defendant Race Variables Predicting Racial Minority Juror Final Verdict Voting Preference	35
7. Summary of <i>Post Hoc</i> Hierarchical Linear Regression Analysis for Juror and Defendant Race Variables Predicting Juror Final Verdict Voting Preference	36

ABSTRACT

Demographic information and retrospective measures of verdict voting preferences were collected from jurors and defendants in 358 state court criminal trials in the United States. These actual trial data were used to investigate the priming-leniency hypothesis (Foley and Pigott, 2002), as well as effects in isolation from and in conjunction with possible similarity-leniency and “black sheep” effects (e.g., Kerr, Hymes, Anderson and Weathers, 1995) during the jury deliberation period. Foreperson-defendant and juror-defendant same-race pairs elicited no priming- or similarity-leniency verdict voting behaviors from their respective jurors, although increased juror verdict punitiveness was noted for White pairs in both of these analyses. Furthermore, these punitive effects were cumulative. Alternative explanations for and implications of these results are discussed.

RACIAL INTERACTIONS:

A DEMOGRAPHIC PERSPECTIVE ON JUROR BIASES IN DELIBERATIONS

Introduction

The jury deliberation period has been empirically demonstrated as a critical phase in the juror decision-making process. Almost 40% of surveyed jurors from 172 civil trials reported a change in their verdict voting preferences during deliberations, over two times as many as the second most influential phase of the trial, the plaintiff's evidentiary phase (Hannaford, Hans, Mott, and Munsterman, 2000). Nearly 50% of these juror respondents indicated that they had made up their minds only in deliberations, dwarfing the level of decision-making occurring in other trial phases by nearly 35%. The deliberation period remains an understudied phenomenon, however, primarily because of the legal barriers preventing naturalistic observation and, of course, experimentation. Researchers have instead relied heavily on simulation studies, shadow juries, and post-trial questionnaire and interview accounts from former jurors to reveal the decision-making mechanisms involved. Inadequacies in both of these methods inhibit full comprehension of deliberation proceedings.

Simulated juries, when properly designed, can provide valuable insight that might otherwise be unobtainable. However, certain methodological shortcomings commonly influence results, rendering skewed versions of what might realistically be expected to occur over the course of actual jury trials and deliberations. Although several flaws inherent in simulated jury studies have been identified (e.g., Bornstein, 1999; Diamond, 1997; Hans, 1992; Loh, 1981), one of the most frequently cited criticisms is that of inadequate sampling. The usage of student populations in jury simulation research has received a great deal of scrutiny. Non-student samples are generally older and demographically more heterogeneous than student populations (Bornstein, 1999). College

students also tend to be more susceptible to conformity pressures, but more capable of handling complex cognitive tasks than the average member of the jury-eligible adult population (Sears, 1986). Furthermore, expert testimony holds a stronger influence over student populations than the general adult population (Nietzel, McCarthy and Kern, 1999).

Verdict differences between the student and jury populations appear to be less evident. Most studies on these verdict differences that produce significant findings are contradicted by other studies presenting opposing findings, although certain consistencies have emerged. Specifically, student juries do seem to consistently produce more lenient verdicts in criminal trials and higher awards in civil trials (Bornstein, 1999). Bornstein's (1999) analysis, however, emphasized differences between student and jury-eligible, non-student simulation study samples. Non-student simulation participants may yet differ from individuals who are actually selected as jurors. For example, *voir dire* studies on juror demographic characteristics have revealed that the juror selection process is biased against those of lower socioeconomic status, the uneducated and highly educated, the young, racial minorities, and women (Alker, Hosticka and Mitchell, 1976). Real juries have been found to be more likely to acquit than simulation juries composed of excused jurors or juries composed of a random sample of jury-eligible individuals (Diamond and Zeisel, 1974).

Post-trial interviews and surveys are not exempt from sampling biases. These methods of analysis require voluntary participation from former jurors, and the volunteer ex-juror population may differ substantially from the overall picture of selected jurors (Diamond, 1997). The ability to draw inferences from such studies is further complicated

by the empirically demonstrated inaccuracy of jurors in recalling events and retrospectively judging influences on their behavior (Hans, 1992). Any of a variety of hindsight biases may especially interfere with the recollection of trends in verdict opinion formation and other primarily subjective data.

Despite certain validity concerns and criticisms, previous jury research has managed to elucidate several aspects of jury decision-making in general. While juror decision-making is predominantly influenced by evidentiary issues (e.g., Greene, Chopra, Kovera, Penrod, Rose, Schuller, et al., 2002; Kalven and Zeisel, 1966; Visher, 1987), curious investigators have plodded on in their search for factors underlying remaining differences in individual verdict voting preferences. Although some research appears to indicate that certain inherent demographic factors may bias juror verdict preferences, scientific persistence in the face of a long history of inconsistent results has attracted a great deal of criticism regarding the legitimacy of this line of research. Initially, investigations focused on juror or defendant demographic variables in isolation, revealing few (and often inconsistent) main predictors of juror verdict preferences (Devine, Clayton, Dunford, Seying and Pryce, 2001; Howard and Redfering, 1983). A more fruitful—albeit less thoroughly explored—direction of demographically focused jury decision-making research, however, examines the interactive effects of these characteristics. Adler (1973) revealed a socioeconomic bias in juror decision-making, such that cases with large discrepancies in occupational status between jurors and defendants were characterized by high conviction rates. Juror sex differences also seemed to emerge as a factor influencing juror verdict votes as well, but only under specific circumstances. For example, studies with cases involving sexual crimes against women

and children appeared to influence greater conviction-prone tendencies in female jurors (Greene et al., 2002).

Other research focusing on demographic interactions between jurors and defendants has identified evidence for apparently robust juror decision-making biases. Particularly, a liking-leniency bias, wherein “factors that increase a juror’s liking for a defendant will also prompt more lenient juror treatment of that defendant” (Niedermeier, Horowitz and Kerr, 2001, p. 604), has been replicated at length using a variety of measures. For example, defendant physical attractiveness has generally been found to increase leniency, although case-specific details regarding the use of attractiveness for deceptive purposes may induce harsher verdicts (Kapardis, 2003). An overlapping subset of mock-jury studies in this area supports the notion of a similarity-leniency bias. That is, similarity has been found to have a direct positive effect on attraction (e.g., Byrne, Clore, and Smeaton, 1996), which, through liking-leniency effects (e.g., Davis, Bray and Holt, 1977), induces more favorable verdict votes from jurors. Other research has adopted the similarity-leniency hypothesis from a Social Identity Theory (SIT) perspective, claiming that people categorize others as belonging to their in-group or out-group and are motivated to maintain a positive self-image by behaving more favorably towards in-group members and/or more punitively against out-group members (e.g., Tajfel and Turner, 1986; Taylor and Hosch, 2004). Adopting either or both of these theories, several studies have supported the similarity-leniency effect. While several variables can be incorporated into the “similar-different” framework—including political ideology (Amato, 1981) and religion (Kerr, Hymes, Anderson and Weathers, 1995)—the majority of contributing literature has focused on racial similarity. Constantini and King (1981),

for instance, conducted a telephonic public opinion survey regarding a highly publicized homicide case against a defendant of Hispanic descent. An “exceptionally large” proportion of respondents with an ethnic background similar to that of the defendant were significantly less likely to believe in the defendant’s guilt and, subsequently, were also more likely to believe that they would be unable to serve as an impartial juror in his trial. Sommers and Ellsworth (2000) conducted a mock jury study that examined White and Black mock juror verdict preferences in interracial trials. When participants were subjected to conditions in which race was made salient, same-race leniency effects were detected for both Black jurors and defendants and for White jurors and defendants. Positive in-group biases and negative out-group biases have been identified in mock jury studies for White (Foley and Chamblin, 1982) and both White and Black juror-defendant pairs (Ugwuegbu, 1979).

Inquiries into the pervasiveness of the similarity-leniency bias amongst all races, however, have not always returned supportive results. Abwender and Hough (2001) found that Black participants demonstrated a same-race leniency bias, whereas White participants demonstrated no significant race-based difference in verdict voting. Perez, Hosch, Ponder and Trejo’s (1993) mock jury study of 480 participants, however, revealed a race-based similarity-leniency effect for Whites, but not for Hispanics. Other studies have countered the similarity-leniency hypothesis entirely with case-specific instances of a reverse effect. A documented “black sheep” effect (BSE) has demonstrated that similarity between jurors and defendants may also result in harsher verdicts (e.g., Marques, Robalo and Rocha, 1992). Specifically, in the Kerr et al. (1995) analysis of student mock jurors, the strength of evidence determined whether a similarity-leniency

bias or BSE would occur. In trials with weak, ambiguous prosecution evidence, the similarity-leniency bias would be upheld. In cases with strong, unambiguous prosecution evidence, the BSE would come into play. Chadee's (1996) mock jury analysis of 720 potential jurors in Trinidad detected a similar pattern for Black and White participants exposed to a recorded murder trial of a Black defendant. When evidence was ambiguous, Black participants were more lenient than the White participants. When evidence was unambiguous regarding the Black defendant's guilt, however, a reverse trend was detected: Black participants' verdicts were harsher than those of White participants. As Chadee's results clearly articulate, racial interaction biases detected in American juries are also replicated in and have implications for juries of other "new world" democratic nations.

A recent study examined similarity-leniency (in-group leniency), out-group punitiveness, and the black sheep hypotheses simultaneously to determine the role of such biases in determining verdicts, above and beyond the strength of evidence. This large-scale analysis by Taylor and Hosch (2004), using archival data collected from actual juries in two Texas counties between 1987 and 1989, served to argue against such racial interaction effects entirely. In their study, the authors hypothesized that similarity-leniency would be evident in cases in which the defendant was of the same ethnic group as the jury numerical majority. Out-group punitiveness was functionally defined as a trend towards harsher verdicts for defendants who were of a different ethnic group than their jury's numerical majority. The BSE analysis focused on cases with strong evidence against the defendant, in which the same-race juror was a numerical minority in a jury that was composed of an extreme majority (almost entirely homogeneous). No significant

results for any of the hypotheses were found. However, the unclear and potentially problematic methodology for this analysis prevents its interpretation as credible counterevidence for psychological phenomena that have been so robustly demonstrated in preceding studies. Although this examination focuses on racial comparisons between jurors and defendants, the archival data set used in this study apparently did not originally include the race of each juror. Instead, authors manually coded race based solely on the ethnicity of jurors' surnames. Furthermore, race was parsed into two categories: "Hispanic" and the artificial "Non-Hispanic," which the reader may presume to include White, Black, Asian, Native American, and a variety of other defendant ethnicities. The degree to which the combination of surname identification errors and the pooled "Non-Hispanic" racial category may have affected results is unclear. Furthermore, the functional definitions of the three biases under examination may not have been wholly accurate. Numerical minority jurors may also be affected by such biases; the juror need not be in the racial numerical majority for these effects to occur. These effects have been consistently demonstrated at the individual juror level, and the missing link in this particular evaluation may be a number of convoluting factors, including salience of racial issues, which has previously been identified as an important contributing factor for racial interaction effects (Sommers and Ellsworth, 2003; Sommers and Ellsworth, 2001; Sommers and Ellsworth, 2000).

Foley and Pigott (2002) recognized the importance of racial salience, perhaps as the parent factor that determines the applicability of similarity-lenience, out-group punitiveness, or black sheep effects. Instead of examining the racial interaction between defendants and jurors, the racial relationship between the defendant and the jury

foreperson—who has significantly more influence over jurors than any other, non-presiding juror (Foley and Pigott, 1997)—served as the primary manipulation. The authors proposed that a foreperson of a racial minority would make ethnicity salient to a juror, who would then evaluate a defendant of the same racial minority more leniently. However, this leniency shift would not occur in cases when the foreperson was white, as this is presumably a typical scenario that does not prompt racial salience. The authors suggest that this verdict voting discrepancy would occur in the context of current social attitudes about racial prejudice. Specifically, individuals in contemporary society are motivated by social desirability to appear non-prejudiced, which would counteract and overwhelm any subconscious negative stereotype activation (Biernat and Vescio, 2002; Monteith, Deneen and Tooman, 1996).

Foley and Pigott's (2002) analysis attempted to isolate the foreperson's race-priming contribution from other potentially biasing effects prior to deliberations. Using a participant pool split between college students and jury-eligible citizens, their study found no differences in juror or foreperson verdict preference prior to deliberations. Only after deliberations commenced and the mock jury selected its foreperson, however, did reverse discrimination in jury verdict emerge. Black foreperson juries attributed significantly less responsibility to the Black defendant, but no difference was detected when the defendant was White. No global similarity-leniency effects between jurors and defendants were found.

Although decision-making research on the deliberation phase has been scarce, several other studies have also specifically honed in on this trial phase. Rumsey (1979) suggested that juror opinion shifts during the deliberation phase increased leniency for

the defendant, based on his investigation of demographic manipulations on remorse in 96 male and female student subjects. Other research has provided supporting evidence for such a leniency shift in deliberations using additional student and community volunteer samples (MacCoun and Kerr, 1988; Kerr, MacCoun and Kramer, 1996). Therefore, despite the strong relationships that evidentiary issues and initial jury majority verdict voting preferences have with a jury's ultimate verdict (Devine et al., 2001; Tanford and Penrod, 1986), the deliberation phase still reliably alters individual verdict voting preferences, and more lenient attributions of defendant culpability has been one consistently identified byproduct.

The present study extends Foley and Pigott's (2002) deliberation phase analysis of the priming-leniency hypothesis. One of the concerns regarding previous work on racial interaction effects is that research has been almost exclusively conducted using mock juries, without real-jury comparisons to verify the validity of these findings. Despite the potentially confounding methodological inadequacies and outdated sample pool in Taylor and Hosch (2004), their results suggest that several racial biases detected in simulation studies may simply be laboratory artifacts without real-world consequences. To address this issue, the current study incorporated data from hundreds of actual felony criminal trials from four major court sites across the United States, collected between the years 2000 and 2001. Furthermore, to illustrate the importance of deliberations in this particular sample, the frequency of opinion change over each of the key phases of the trial will be analyzed.

In addition, Hans (1992) has argued that contemporary juries are far more diversified and representative of the general public than they have been in the past. For

example, Klein and Klastorin (1999) demonstrated a relationship between jury racial diversity and hung jury rates, but only for cases in which the defendant was black. With such a dramatic implication already detected, it is reasonable to suspect that foreperson statistics have likely become less polarized by such diversity as well. The average foreperson may no longer be predominantly white (e.g., Boster, Hunter and Hale, 1991), male (e.g., Beckham and Aronson, 1978; Mills and Bohannon, 1981), higher status (e.g., Strodbeck, James and Hawkins, 1957; Strodbeck and Lipinski, 1985), or with more previous jury experience (e.g., Dillehay and Nietzel, 1985) than the average juror. With this in mind, an updated characterization of juror and foreperson demographic characteristics may be in order. Thus, the second step of the present study is an exploratory analysis of the current status of these features.

To determine whether Foley and Pigott's (2002) findings extend to actual state court felony trials, the present study replicates the original investigation, but expands the racial groupings to include Hispanics as well. Same-race foreperson and defendant trials will be examined as predictors of final juror votes. Again, pre-deliberation verdict votes of jurors will be included to control for any pre-existing biases or judgments, such as evidentiary issues and "initial-impression" contributions from similarity-leniency and black sheep effects that may color a juror's perception of such evidence. By adding pre-deliberation verdict preferences to the analysis, we can ensure that only the consequences induced by deliberations will be investigated. If Foley and Pigott's (2002) priming-leniency hypothesis is generalizable to actual trial scenarios, Black and Hispanic defendants will be treated more leniently by juries with Black and Hispanic foremen, respectively.

Similarity-leniency or black-sheep effects over the course of deliberations will also be examined. Aside from Foley and Pigott (2002), previous studies have not analyzed the role of such biases in deliberations alone. Foley and Pigott (2002) revealed no such biases in their simulation study, but a real-jury examination may yield different results. Although the nature of such biases suggest that much of their influence likely occurs over the perception of and perspective on trial evidence and argument—before the deliberation period—some effects may extend into deliberations. As black sheep effects are established as an attempt to distance oneself from a negatively perceived similar other in cases of severe prosecution evidence, it seems possible that same-race jurors in such scenarios would exhibit this bias most strongly in the deliberation period, after exposure to strong evidence presented in the trial and when they are most likely to feel the pressure of social comparison. Although previous studies have cited a leniency shift during the deliberation period, it may be more likely that similarity-leniency is attenuated in same-race jurors over the course of deliberations, akin to a sort of “regression to the mean” effect. Thus, as a caveat to research indicating a leniency shift in deliberations, both a diminished similarity-leniency effect and a stronger black sheep effect should be noted during the deliberation phase.

Should the previous hypothesis yield any significant results, another crucial assessment would examine priming-leniency effects in absence of similarity-leniency effects. That is, the motivation to be perceived as “unprejudiced” may be relevant only to White jurors, as Foley and Pigott (2002) claim, but differential priming-leniency effects may also occur for jurors of any race. In order to isolate and detect such priming-leniency effects, similarity-leniency and “black sheep” effects in their entirety must be eliminated.

Therefore, the same-race foreperson-defendant analysis will be conducted solely for jurors of a non-similar ethnicity, extracting effects based on juror and defendant racial similarity.

Finally, this study will attempt to address the question of how similarity-leniency, black sheep, and priming-leniency effects interact. Of the possible outcomes, priming-leniency may be negated by similarity-leniency effects, or vice-versa. Even still, their effects may be supplementary. For jurors in whom the black sheep effect is influencing verdict voting behavior, any priming-leniency bias may be rendered irrelevant. It may also be possible that these two biases serve to counteract each other. Furthermore, one of these racial interaction biases may prove to be more influential than the rest, overwhelming any other effects. This study will conclude by examining the additive nature of previously identified racial interaction biases in the defendant, the foreperson, and the juror himself.

Method

Archival data from Hannaford-Agor, Hans, Mott, and Munsterman's (2002) "Are Hung Juries A Problem?" study was obtained for the statistical analyses in the current investigation. As a part of the original Hannaford-Agor et al. (2002) study, the National Center for State Courts, a court research and development institute in Williamsburg, Virginia, issued several questionnaire packets to judges of non-capital felony jury trials from four jurisdictions: the Los Angeles County Superior Court in California, Maricopa County Superior Court in Arizona, Bronx County Supreme Court in New York, and the District of Columbia Superior Court in Washington, DC. These packets contained surveys to be completed by attorneys, judges, and individual jurors, and also included

case data forms that were typically completed by court staff. The participating court sites, selected for their high case volume, court personnel cooperative in data collection, and institutional characteristics such as hung jury rate concerns, high caseload, or newly implemented procedural innovations, were independently responsible for the distribution and collection of surveys.

A pretest of survey packet materials and data collection procedures was conducted in Los Angeles in 1999. Of fifty distributed packets, 18 were completed and returned. The results of this pretest were evaluated by the project's Advisory Committee, which submitted recommendations for its revision that primarily focused on improving measurements of hung jury rates and altering the juror survey to eliminate questions that might provide grounds for appeal by the defendant.

Following this pretest and revision of data collection procedures, the four test sites issued questionnaire packets to the appropriate courtrooms at varying periods between June 2000 and October 2001. The questionnaire packets themselves contained instructions, individualized questionnaires (for the judge, attorneys, and jurors), and a case data form. Court personnel distributed the packet questionnaires to judges, jurors, and attorneys for all cases that continued through jury deliberations. Participation in the completion and return of the questionnaires was entirely voluntary and anonymous. The packet components were completed in the following sequence: the case data form (Appendix A) completed by the judge or clerk during jury selection and actual trial; Part I of judge and attorney questionnaires completed during jury deliberations; and Part II of judge and attorney questionnaires, as well as juror questionnaires in their entirety (Appendix B), completed following the announcement of verdict and during release of

jurors. A chronological timeline depicting this sequence is charted in the methodology of the original study (Hannaford-Agor et al., 2002). Reported response rates for returned questionnaires were 91% for judges, 69% for defense attorneys, 72% for prosecuting attorneys, and 80% for jurors. For more information regarding methodological concerns in data collection, see “Chapter Three – Project Methodology” (pp. 29-40) in Hannaford-Agor et al. (2002).

For the present study, information extracted from the questionnaires and forms included:

- Case Data Form – defendant race/ethnicity (White, Black, Hispanic).
- Juror Questionnaires – Juror formation of opinion over the course of the trial and jury deliberations, predeliberation verdict voting preference, and religiosity were measured using 7-point Likert scales. Juror final verdict vote and demographic information, such as sex, age (18-25, 26-35, 36-45, 46-55, 56-65, over 65), race/ethnicity (Black, White, Hispanic, Native American, Asian, Other), education level (Less than four years of high school, High school graduate, Some college, College graduate, Post-graduate work), income (Under \$10, 000, Between \$10,000 and \$19,999, Between \$20,000 and \$29,999, Between \$30,000 and \$39,999, Between \$40,000 and \$49,999, Between \$50,000 and \$75,000, Over \$75,000), occupation (Managerial specialties, Professional, Technical/Sales, Service, Agricultural, Mechanic/Craftsman, Operator/Laboror/Transportation worker, Other), previous jury experience, and foreperson status employed nominal scales.

Ethnicity, sex, household income, education, age, occupational category, religiosity, and whether or not the respondent had previous experience as a juror were examined in the comparative demographic evaluation between jurors and foremen. Juror, foreperson, and defendant race and sex were contrasted to determine the predictive value of demographic interaction effects in juror verdict voting preferences. Juror verdict votes were evaluated on a 7-point Likert scale with “1” strongly favoring the prosecution and “7” strongly favoring the defense. That is, the lowest score reflected a juror’s voting preference that strongly favored a guilty verdict for the defendant, whereas the highest score reflected a strong not-guilty verdict preference. Jurors were asked to retrospectively rate individual voting preferences after the actual criminal trial itself, but prior to jury deliberations (the “pre-deliberation verdict vote preference”). The jurors were also asked to indicate whether or not they had changed their culpability opinions over various phases of the trial and jury deliberations. Responses from 3314 jurors and 308 defendants in trials at four state court sites were included in the analyses.

Results

Initial Analyses

Opinion formation. Out of 3314 juror questionnaire respondents, 2603 voluntarily reported information on their opinion formation processes. Of these jurors, 31% indicated that they never changed their minds about the direction of their verdict votes over the course of the trial. The most influential segment of the trial appears to be jury deliberations, as 23.6% of all juror respondents reported a change in the directionality of their verdict vote preferences during this trial phase. The testimony of the state, or the prosecution, swayed 18.4%, and each of the five remaining trial segments (opening

statements by the prosecution and defense, testimony of the defense, and closing arguments of the prosecution and defense) influenced a verdict voting preference shift for an average of only 7% of jurors.

Juror and foreperson demographic frequencies. Demographic frequencies for all non-presiding juror respondents revealed that they were most often white (45.8%), female (57.4%), religious (64.8%), middle-aged professionals (39.5%) between the ages 36 to 45 (25.1%), with an annual household income greater than \$75,000 (30.9%). Non-presiding jurors were also more likely to have previously served as a juror than not (52.8%) and to have some college education or an undergraduate degree (59.4%). Foreperson respondents were most often white (38%), female (53.3%), and religious (70%), with managerial occupations (25.5%) and a household income greater than \$75,000 per year (25.9%). Most frequently between the ages of 26 and 35 (28.1%), these participants were also more likely to have previous jury experience (59.3%) and some college education or an undergraduate degree (54.8%).

Correlational analyses. Forepersons tended to have more previous jury experience than the average juror, as depicted in Table 1. Interestingly, household income and religion were both negatively correlated with foreperson status ($r = -.067, p < .001$ and $r = -.040, p < .05$, respectively). Racial differences revealed a significant positive relationship between Black jurors and foreman status ($r = .068, p < .001$), but a significant negative relationship for White jurors ($r = -.060, p = .001$). In other words, Black jurors were elected as foreperson significantly more frequently, and White jurors less frequently, than would be expected by chance. Furthermore, whereas jurors with managerial occupations were significantly more likely to be associated with foremanship

($r = .045, p < .05$), professional or technical/sales occupational categories were less likely ($r = -.045, p < .05$ and $r = -.040, p < .05$, respectively).

Hierarchical Linear Regression Analyses

White, Black, and Hispanic racial groups were included in the following analyses. Inadequate sampling sizes prevented the inclusion of other racial categories, such as Native American or Asian, in the following investigations. As replicating Foley and Pigott's (2002) ANOVA design became impossible with the inclusion of a third racial category, the remaining four hypotheses were analyzed using dummy coded racial variables in a hierarchical linear regression model. Predeliberation verdict voting preference was included as a first-level independent variable for all multiple regression analyses, effectively eliminating variance in verdict voting opinion formation existing prior to deliberations.

Priming-leniency. Overall racial similarity between the foreperson and defendant did not significantly influence the juror's final vote in deliberations ($\beta = -.046$). No priming-leniency effects emerged for any of the three racial groups, as depicted in Table 2. However, a significant negative relationship did emerge for cases in which the foreperson and defendant were both white ($\beta = -.102, p = .001$). This accounted for 1% of the variance in final verdict voting ($\Delta R^2 = .010$).

Similarity-leniency and "black sheep." Racial similarity between the juror and defendant also did not significantly influence the juror's verdict vote during deliberations ($\beta = -.013$). Furthermore, no similarity-leniency effects for any racial groups were detected over the course of deliberations (Table 3). Instead, analyses revealed a "black

sheep” effect for whites only ($\beta = -.081, p < .01$). This accounted for 0.7% of the variance in final verdict voting ($\Delta R^2 = .007$).

Priming-leniency independent of similarity-leniency and “black sheep.”

Eliminating juror-defendant pairs with the same race, only jurors with racial discrepancies with the defendant were reexamined for foreperson-induced priming-leniency effects in deliberations. Again, racial similarity between the foreperson and the defendant did not significantly predict the juror’s verdict vote ($\beta = -.037$). The priming-leniency hypothesis was also not statistically supported for any of the three foreperson-defendant race pairings (Table 4). These analyses did, however, reproduce the findings from the first regression analysis on priming effects, revealing that members of juries with a white foreperson and for a white defendant had significantly harsher final verdict votes than for all other foreperson-defendant racial combinations ($\beta = -.102, p < .01$). This accounted for 1.0% of the variance in final verdict voting ($\Delta R^2 = .010$).

Additive effects. In examining the possible additive effects of similarity (the juror and defendant share the same race) and priming (the foreman and defendant share the same race) on juror final verdict votes, the trend against white defendants continued. As the number of white players involved in the equation increased, the juror became increasingly inclined to submit a final verdict vote of “guilty” ($\beta = -.098, p < .01$). This accounted for 0.9% of the variance in final verdict voting ($\Delta R^2 = .009$). No verdict voting biases were detected for any other racial combination.

Post hoc analysis. Two *post hoc* hierarchical linear regression analyses were conducted (a) to determine if priming-leniency actually occurred with racial minority jurors, or these jurors ubiquitously voted more punitively for a White defendant; and (b)

to eliminate the possible explanation that White jurors were more punitive during deliberations than jurors with other ethnic backgrounds. Examining only racial minority juror (Hispanic or Black) verdict vote preferences, a new variable was added to the original priming-leniency analysis: White defendants and a non-White (racial minority) foreperson. By investigating racial minority juror verdict vote preferences in cases where no “priming” White foreperson was available, racial minority verdict preferences for White defendants could be more accurately determined. For these racial minorities, priming again appeared to affect verdict vote preferences (Table 6), as racial minority jurors involved in cases against a White defendant in which the foreperson was White presented significantly harsher verdict vote preferences after deliberations than racial minority jurors in juries with other racial dynamics ($\beta = -.137, p < .01$). Furthermore, such a difference did not emerge for cases without a White foreperson ($\beta = .014$).

For the second *post hoc* hierarchical linear regression, the similarity-leniency and “black sheep” analysis was conducted with the inclusion of a fourth independent variable identifying White juror and racial minority defendant pairs. By investigating these cases individually, the verdict voting behaviors of White jurors during deliberations could be more accurately determined as either following a BSE trend or a trend that encompassed both a BSE and an outgroup punitiveness trend simultaneously (e.g., a more punitive overall trend). White defendants elicited significantly harsher verdict votes from White jurors than defendants in cases with other racial combinations ($\beta = -.093, p < .01$). White jurors did not, however, present any such significant trend in cases with a racial minority defendant ($\beta = -.033$), suggesting that racial similarity was a key influence on the verdict voting behavior of White jurors.

Discussion

The main goals of present study were to supplement Foley and Pigott's (2002) simulation study findings with a real-jury replication, while expanding research to examine relations between known racial interaction biases during the deliberation phase. The jury deliberation period, as evidenced in previous empirical research, contributes significantly to the ultimate trial outcome. The preliminary frequency analysis on opinion formation indicates that, in this particular sample of 358 state court criminal trials, deliberations also produced the most juror verdict opinion change of any trial segment, including evidentiary phases.

Preliminary analyses. The demographic frequency analysis of presiding and non-presiding jurors revealed that the jury foreperson may no longer be the stereotypical high-status male summarized by Hastie, Penrod and Pennington (1983). Although sex differences were not affiliated with foreperson status, this sample contained more female than male presiding jurors. The correlational analysis revealed a few more contradictions with the previously existing foreperson stereotype. Household income, White race and professional occupation in jurors were *negatively* correlated with foremanship. That is, White, higher-income, and/or professionally employed jurors were elected as foreperson during deliberations less than would be expected by chance. Surprisingly, self-reported religiousness was also a significantly negatively correlated variable. This cannot be explained away through higher levels of education, as educational history was not significantly correlated with foreperson status. Finally, Black jurors and jurors with managerial occupations were more likely than chance to be elected as foreperson. Hans's (1992) argument of increased jury diversification seems to also extend to foreperson

status, as juries appear to be electing a more diverse array of individuals into the foreperson position.

Substantive main analyses. In an extension of Foley and Pigott's (2002) simulated study, an analysis of White, Black, and Hispanic foreperson-defendant pairs revealed no priming-leniency bias in juror verdict voting preferences. Contrary to the original study, however, a negative relationship was detected for White defendant and foreperson pairs. This suggests that juror verdict votes were significantly more punitive for White defendants when a White foreperson presided over the jury than for trials with other racial dynamics. Since most jurors in the sample were White, however, this finding may be an artifact of existing juror-defendant racial similarity biases. A second analysis examining juror-defendant racial similarity effects indeed revealed a punitive trend over the course of deliberations between White jurors and White defendants only. This "black sheep" effect could possibly have explained the White priming results of the previous analysis. Therefore, all same-race juror-defendant pairs were removed from the foreperson-defendant priming analysis, eliminating all confounding individual-level "black sheep" effects. Interestingly, the third analysis revealed a persisting White priming-punitiveness trend. Apparently, not only were White juror final verdict votes significantly more punitive during deliberations in trials for White defendants than for jurors experiencing other racial dynamics, but ethnic minority juror verdict preferences were also significantly influenced by out-group punitiveness that exclusively targeted Whites when a White foreperson was elected.

This study also attempted to ascertain the nature of the negative White priming bias and the black sheep effect when combined. An exploratory regression analysis

revealed that these racial interaction biases were additive. With more white key players, juror final verdict votes were increasingly punitive compared to verdict votes produced out of other racial combinations. That is, White jurors (a) serving on juries presided over by a White foreperson and (b) serving in trials for White defendants were most likely to issue a strong guilty verdict; cases in which the juror, foreperson, and defendant were not White were least likely to elicit strong guilty verdicts.

Post hoc analyses. After conducting the original analyses, it became evident that two major possible explanations prevented a clearer understanding of these results. One possible alternative account could have been that priming is irrelevant for this verdict trend to emerge because White defendants could simply receive more overall guilty verdicts. A *post hoc* multiple regression analysis examined this question by investigating racial minority juror verdict voting behavior in trials with the same-race foreperson-defendant pairs used in the previous priming analyses. However, the *post hoc* regression also included a new variable representing racial minority foreperson and White defendant pairs. This analysis failed to reveal a significant effect between racial minority jurors and White defendants in absence of a White foreperson ($\beta = .014$). These results, coupled with the previous finding that the BSE and priming effects are additive, reveal that a selective priming effect, induced by a same-race foreperson, occurs in cases with White defendants that engenders punitive verdict voting behavior from all jurors. This *post hoc* analysis reveals that the priming component of the equation is crucial for the emergence of the bias. Such verdicts are only significantly more punitive than trials with other racial dynamics if both the foreperson and the defendant are White.

A second *post hoc* multiple regression analysis attempted to resolve another possible partial alternative explanation for these results. White jurors were the only racial subtype that appeared to be susceptible to any racial similarity bias during deliberations, though it remained possible that White jurors were simply more likely to present a punitive verdict voting trend over the course of deliberations. To address this issue, juror and defendant racial similarity pairs were again analyzed, with the inclusion of a White juror and racial minority defendant pair variable. Because White jurors did not exhibit a punitive bias towards racial minority defendants as they did with White defendants, these results indicated that the deliberation verdict voting behavior of White jurors was not universally punitive, but rather was directed at same-race defendants. Thus, White juror verdict voting behavior during deliberations can be accurately described as conforming to the BSE.

Summary and theoretical explanation of results. We can reasonably conclude that all racial groupings may be susceptible to a punitive verdict voting trend against White defendants during deliberations. For White jurors, a punitive verdict voting bias (a “black sheep” effect) was evident regardless of foreperson race. Thus, the second hypothesis—that a BSE, not a similarity-leniency effect, would be evident in deliberations—was partially supported. Results suggest that this punitive White juror verdict voting bias was enhanced when the foreperson was also White. For ethnic minority jurors, significantly more punitive verdict votes were detected against White defendants only when the foreperson was also White. This cannot be accounted for by the racial minority – racial majority out-group punitiveness explanation alone, as the White foreperson was

necessary to elicit the bias. No racially related verdict voting trends were detected over the course of deliberations in trials for racial minority defendants.

Evidently, this negative White priming bias is a novel phenomenon. Priming-leniency, similarity-leniency, “black sheep,” and out-group punitiveness hypotheses cannot fully explain the trends that have been identified in this study. Interestingly, jurors of all racial subtypes appear to be affected by this deliberation period bias in the same manner. When a White foreperson is elected during deliberations, s/he creates a racially salient atmosphere that induces a behavioral trend in each juror’s verdict voting that reflects a more punitive evaluation of the White defendant than cases with any other racial dynamic. A reasonable reinterpretation of this study could rephrase the results to state that cases with other racial combinations resulted in more lenient verdicts than cases with a White juror and defendant or a White foreperson and defendant. That is, juror-foreperson racial combinations in trials for non-White defendants would result in more not-guilty verdicts. Of course, this is still not evident in any same-race Black or Hispanic pair in isolation, and White jurors were not more punitive towards racial minority jurors overall. Ultimately, this explanation is far too selective, making a logical justification far too difficult, to be a rational line of reasoning. Additive White punitive-priming and “black sheep” effect explanations are the most parsimonious accounts of the results of this study.

Several theories may explain the punitive verdict voting trends against White defendants. First, Foley and Pigott’s (2002) main argument, that White jurors are motivated to appear unprejudiced, may still have merit. These authors proposed and supported their hypothesis that minority defendants are treated more leniently when

White jurors are racially primed by minority forepersons in their simulated jury study. Instead, the present evaluation of actual state court felony trial deliberations in several major jurisdictions in the United States of America revealed that jurors react more punitively towards White defendants when the foreperson was also White, and White jurors exhibited a BSE in their verdict voting behaviors. Using Foley and Pigott's (2002) rationale for the present results, White jurors may, in actuality, become more sensitive to the racist implications of leniency between members of the "White majority" as the number of key White individuals increase and as the number of key ethnic minority individuals decrease. A more punitive verdict voting trend here may reflect White jurors' recognition of negative historical stereotypes and desire to avoid being perceived as fulfilling such a stereotype.

Along these same lines, a "regression to the mean" explanation may also have merit. Perhaps jurors are inclined to exhibit leniency towards White defendants during the trial, influenced by irrepressible, media-induced positive associations with the "White majority" (Gladwell, 2005). Discussion with other jurors may serve to attenuate this pre-existing pro-White bias in White jurors, resulting in a more punitive reevaluation of the defendant during the deliberation period.

Alternatively, White jurors may present a punitive deliberation verdict voting trend for White defendants out of the classic "black sheep" motivation. When a White foreperson is elected, White jurors may subconsciously recognize the contrast not only between themselves and the defendant, but also the foreperson and defendant. This additional comparison may lend credence to the White juror's progressively negative evaluation of the defendant, bolstered by a potentially BSE-influenced White foreperson

who may also be voicing a punitive verdict preference. The White priming-punitiveness effect in ethnic minority jurors may be caused by a corresponding process: an elected White foreperson may subconsciously provide racial minority jurors with a positive comparison that contrasts with the defendant, which may again be particularly influential if that foreperson presents a guilty verdict.

An alternative explanation for the punitive verdict voting trends of racial minority jurors may parallel the anti-racism motivation suggested by Foley and Pigott (2002). That is, the implications of the “White majority” may become more salient to racial minority jurors when the elected presiding juror is White. This racial salience may prompt the emergence of a case-specific out-group punitiveness effect. That is, when a White juror is elected as foreperson, the historical stereotype of the advantaged White individual may be primed, resulting in a detectable, punitive verdict voting trend.

Any, all, or none of these explanations could underlie the punitive deliberation period verdict voting trends identified against White defendants in this study. As a note of caution, however, this study is not to be interpreted as evidence for or against a similarity-leniency, black sheep, or out-group punitiveness hypothesis prior to the deliberation period. With the exception of the black sheep effect, which requires exposure to evidentiary issues to surface, these racial interaction biases would intuitively occur prior to deliberations. Because similarity-leniency and out-group punitiveness biases operate primarily from a standpoint of racial similarity, these “first impression” effects would create the most impact early in the trial and in subsequent interpretation of trial evidence. Thus, most of the influence such biases will have over juror final verdicts will likely have already taken place prior to deliberations. Indeed, this study demonstrated that

racial similarity no longer influenced verdict voting trends towards leniency during the deliberation period.

Furthermore, racial priming could occur in a variety of other ways not included in the present analyses. Aside from foreperson race, as operationalized by Foley and Pigott (2002), an outspoken fellow member of the jury could also prompt similar racial awareness. Jury composition, judge and/or attorney racial similarity to the defendant, case factors, and personal events and experiences are other possible variables that could increase racial salience. Foreperson and defendant racial similarity is simply one of many methods for capturing this phenomenon and, in light of so many other unmeasured factors that could potentially increase racial salience, should be regarded as a rough estimate used to demonstrate the effect.

Study limitations and future directions. Admittedly, hindsight biases, as previously discussed and as noted in Kapardis (2003), may have been problematic for this study. Because post-trial questionnaires rely on retrospective judgment, memory shifts and cognitive dissonance may corrupt reported voting preferences. Hans (1992) asserts that the existence of hindsight bias suggests that studies based on juror recollections alone to understand the jury decision-making process should be interpreted with caution. With this in mind, the effects detected in this study should indeed be interpreted carefully, as they may not accurately reflect the actual nature of verdict opinion shifts during deliberations. Further investigation and replications are necessary before any firm conclusions can be made.

Finally, although this study expanded the racial investigation to encompass White, Black, and Hispanic ethnicities, more effort should be made to identify and evaluate

interactions involving other racial minorities. While Native American and Asian ethnic categories were originally included in the data collection phase of this study, the lack of such cases made the inclusion of such an analysis in the present study impossible and tremendously unreliable. However, interaction effects may occur differentially with other minority groups, particularly for those with dramatically dissimilar cultural backgrounds. For example, the historically collectivistic nature of most Asian populations—and the accompanying stereotypical perception of them—may distinctively affect juror judgments and verdict behaviors. For this reason, future studies may wish to target additional state court jurisdictions that serve diverse communities. Furthermore, a comparative analysis between diverse state court jurisdictions and more isolated, homogeneous jurisdictions may reveal differential implicit and explicit racial attitudes and dynamics.

TABLE 1
 INTERCORRELATIONS BETWEEN FOREPERSON STATUS AND
 DEMOGRAPHIC VARIABLES

Demographics	Foreperson Status
(N = 3016)	
Sex	-.031
Age	-.018
Race	
Black/African American	.068**
White/Caucasian	-.060**
Hispanic	.031
Education	-.027
Previous Jury Experience	.049**
Religiousness	-.040*
Occupation	
Managerial Specialties	.045*
Professional	-.045*
Technical/Sales	-.040*
Service	.003
Agricultural	.030
Mechanic/Craftsman	-.010
Operator, Laborer, Transportation Worker	.009
Other	.057**
Income	-.067**

Note. * $p < .05$ and ** $p < .01$, two-tailed.

TABLE 2

SUMMARY OF HIERARCHICAL LINEAR REGRESSION ANALYSIS FOR
FOREPERSON AND DEFENDANT RACE VARIABLES PREDICTING JUROR
FINAL VERDICT VOTING PREFERENCE (n = 954)

Variable	<i>B</i>	<i>SE B</i>	β
Step 1			
Pre-deliberation Verdict Vote Preference	.231	.014	.503*
Step 2			
Pre-deliberation Verdict Vote Preference	.233	.013	.506*
Foreperson and Defendant: Both Black	.026	.073	.011
Foreperson and Defendant: Both White	-.305	.093	-.102*
Foreperson and Defendant: Both Hispanic	-.090	.124	-.022

Note. $R^2 = .253$ for Step 1; $\Delta R^2 = .009$ for Step 2 ($ps < .05$).

* $p < .05$, two-tailed.

TABLE 3

SUMMARY OF HIERARCHICAL LINEAR REGRESSION ANALYSIS FOR JUROR
AND DEFENDANT RACE VARIABLES PREDICTING JUROR FINAL VERDICT
VOTING PREFERENCE (n = 954)

Variable	<i>B</i>	<i>SE B</i>	β
Step 1			
Pre-deliberation Verdict Vote Preference	.234	.018	.493*
Step 2			
Pre-deliberation Verdict Vote Preference	.234	.018	.493*
Juror and Defendant: Both Black	.004	.092	.020
Juror and Defendant: Both White	-.470	.175	-.102*
Juror and Defendant: Both Hispanic	-.190	.149	-.048

Note. $R^2 = .243$ for Step 1; $\Delta R^2 = .013$ for Step 2 ($ps < .05$).

* $p < .05$, two-tailed.

TABLE 4

SUMMARY OF HIERARCHICAL LINEAR REGRESSION ANALYSIS FOR
FOREPERSON AND DEFENDANT RACE VARIABLES PREDICTING JUROR
FINAL VERDICT VOTING PREFERENCE WITH NO JUROR AND DEFENDANT
RACIAL SIMILARITY (n = 609)

Variable	<i>B</i>	<i>SE B</i>	β
Step 1			
Pre-deliberation Verdict Vote Preference	.227	.023	.520*
Step 2			
Pre-deliberation Verdict Vote Preference	.225	.023	.515*
Foreperson and Defendant: Both Black	-.017	.127	-.008
Foreperson and Defendant: Both White	-.258	.124	-.117*
Foreperson and Defendant: Both Hispanic	-.142	.227	.034

Note. $R^2 = .270$ for Step 1; $\Delta R^2 = .016$ for Step 2 ($ps < .05$).

* $p < .05$, two-tailed.

TABLE 5

SUMMARY OF HIERARCHICAL LINEAR REGRESSION ANALYSIS FOR
FOREPERSON, DEFENDANT, AND JUROR RACE SIMILARITY VARIABLES
PREDICTING JUROR FINAL VERDICT VOTING PREFERENCE (n = 954)

Variable	<i>B</i>	<i>SE B</i>	β
Step 1			
Pre-deliberation Verdict Vote Preference	.231	.014	.503*
Step 2			
Pre-deliberation Verdict Vote Preference	.232	.014	.506*
Foreperson, Defendant, and Juror: Black	.008	.048	.005
Foreperson, Defendant, and Juror: White	-.161	.052	-.098*
Foreperson, Defendant, and Juror: Hispanic	-.076	.085	-.028

Note. $R^2 = .253$ for Step 1; $\Delta R^2 = .010$ for Step 2 ($ps < .05$).

* $p < .05$, two-tailed.

TABLE 6

SUMMARY OF POST HOC HIERARCHICAL LINEAR REGRESSION ANALYSIS
FOR FOREPERSON AND DEFENDANT RACE VARIABLES PREDICTING
RACIAL MINORITY JUROR FINAL VERDICT VOTING PREFERENCE (n = 427)

Variable	<i>B</i>	<i>SE B</i>	β
Step 1			
Pre-deliberation Verdict Vote Preference	.234	.021	.521*
Step 2			
Pre-deliberation Verdict Vote Preference	.233	.021	.519*
Foreperson and Defendant: Both Black	-.003	.108	-.001
Foreperson and Defendant: Both White	-.518	.179	-.137*
Foreperson and Defendant: Both Hispanic	.007	.190	.002
Racial Minority Foreperson and White	.143	.484	.014
Defendant			

Note. $R^2 = .271$ for Step 1; $\Delta R^2 = .019$ for Step 2 ($ps < .05$).

* $p < .05$, two-tailed.

TABLE 7

SUMMARY OF POST HOC HIERARCHICAL LINEAR REGRESSION ANALYSIS
FOR JUROR AND DEFENDANT RACE VARIABLES PREDICTING JUROR FINAL
VERDICT VOTING PREFERENCE (n = 954)

Variable	<i>B</i>	<i>SE B</i>	β
Step 1			
Pre-deliberation Verdict Vote Preference	.231	.014	.503*
Step 2			
Pre-deliberation Verdict Vote Preference	.232	.014	.502*
Juror and Defendant: Both Black	-.036	.098	-.013
Juror and Defendant: Both White	-.302	.111	-.093*
Juror and Defendant: Both Hispanic	-.158	.168	-.030
White Juror and Racial Minority Defendant	-.063	.074	-.033

Note. $R^2 = .253$ for Step 1; $\Delta R^2 = .007$ for Step 2 ($ps < .05$).

* $p < .05$, two-tailed.

APPENDIX A

Case Data Survey

For each charge submitted to the jury, please describe the charge (e.g., first-degree murder, aggravated assault, felony auto theft) and any lesser included charges on which the jury was instructed. Then indicate the jury's decision for those charges (C = Conviction, A = Acquittal, H = Hung Jury).

If it is more convenient for you to do so, you may attach copies of the jury's completed verdict forms instead of completing the table below.

Count	Description	Jury Decision		
		C	A	H
Count 1				
Lesser Included Charge				
Lesser Included Charge				
Lesser Included Charge				
Count 2				
Lesser Included Charge				
Lesser Included Charge				
Lesser Included Charge				
Count 3				
Lesser Included Charge				
Lesser Included Charge				
Lesser Included Charge				
Count 4				
Lesser Included Charge				
Lesser Included Charge				
Lesser Included Charge				
Count 5				
Lesser Included Charge				
Lesser Included Charge				
Lesser Included Charge				
Count 6				
Lesser Included Charge				
Lesser Included Charge				
Lesser Included Charge				

Based on the jury's decision on all counts, what is the recommended sentence or range of sentences according to state sentencing guidelines, if any?

- Less than 1 year imprisonment
- 1 to 5 years imprisonment
- 5 to 10 years imprisonment
- 10 to 20 years imprisonment
- 20 or more years imprisonment
- Life imprisonment
- Not Applicable / No convictions



27796

Case Data Survey

5	143
---	-----

If multiple defendants are being tried together, or testimony or evidence about multiple victims is presented at trial, please complete the Supplemental Defendant and Victim Characteristics on pages 4 and 5 of this survey.

Defendant Characteristics

Number of defendants

Defendant 1

Gender: Male Female

Race/Ethnicity

- White - not Hispanic
 White - Hispanic
 Black - not Hispanic
 Black - Hispanic
 Asian
 Other (please specify): _____

Defendant Legal Representation

- Private
 Court appointed - private
 Court appointed - Public Defender
 Pro se/pro per

Victim Characteristics

Number of victims

Victim 1

Gender: Male Female

Race/Ethnicity

- White - not Hispanic
 White - Hispanic
 Black - not Hispanic
 Black - Hispanic
 Asian
 Other (please specify): _____

Victim Relationship to Defendant

- Spouse / Domestic partner
 Other family
 Employee/employer
 Other acquaintance
 None
 Unknown

VOIR DIRE (Jury Selection)

How large was the panel from which the jury was selected? (Number of people)

Length of voir dire process? hours

Who conducted the voir dire?

- Questioning by judge with little or no participation by lawyers
 Questioning by judge with questions submitted by lawyers
 Questioning by judge and lawyers
 Questioning by lawyers with little or no participation by judge

Was a jury questionnaire used for conducting voir dire in this case? Yes No

If yes, please provide a copy of the jury questionnaire.

Number of prospective jurors struck for cause or by stipulation?

Number of prospective jurors the prosecution struck using peremptory challenges?

Number of prospective jurors the defendant struck using peremptory challenges?

Were *Batson* objections raised during voir dire? Yes No

Was this an anonymous jury? Yes No



Case Data Survey

143

TRIAL EVIDENCE AND PROCEDURES

Trial Length Days

Prosecution Evidence

of Witnesses (including experts)
 # of Expert witnesses
 # of Exhibits

Defense Evidence

of Witnesses (including experts)
 # of Expert witnesses
 # of Exhibits

What procedures were employed at trial? (please check all that apply)

- Juror notetaking permitted
 Juror notebooks provided
 Written copies of jury instructions provided to jurors
 Juror permitted to submit questions to witnesses (please attach copies of questions)

If jurors were permitted to submit questions to witnesses, how many did the jury submit during the trial?

How many were answered?

Jury instructions given (please check all that apply)

- Before evidentiary phase of trial
 After closing arguments
 Before closing arguments
 Other (please specify)

During the trial, did the jury become aware of the defendant's criminal history (if any)?

- Yes No Not applicable (no known arrests/convictions)

During trial, did the jury become aware of sentencing possibilities if the defendant was convicted?

- Yes No

Was this case a retrial from a previous trial in which the jury deadlocked?

- Yes No

JURY DELIBERATIONS

Deliberation Length hours minutes # of Deliberating Jurors

How was the jury foreperson/presiding juror selected?

- Appointed by trial judge
 Randomly selected by trial judge
 Appointed/elected by jurors
 Other selection process (please specify): _____

Was the jury given any guidance about how to conduct its deliberations (e.g., selection of presiding juror, timing of first vote)? Yes No

Was the jury sequestered overnight during deliberations? Yes No

How many questions did the jury submit during deliberations?



Case Data Survey

143

How many questions were answered?

Please answer the following questions if the jury indicated during the deliberations that it was having difficulty reaching a verdict.

How many times, if any, did the jury indicate that it was having difficulty reaching a verdict? How many times, if any, did the trial judge send the jury back to deliberations to try to resolve the difficulty?

What assistance, if any, was provided to the jury to resolve the difficulty?

- No assistance given
 Allen-type charge read to jury (please attach the instructions used)
 Additional jury instructions provided
 Case reopened for additional evidence
 Case reopened for additional argument by counsel
 Other assistance (please specify) _____

SUPPLEMENTAL DEFENDANT AND VICTIM CHARACTERISTICS

For each additional defendant tried, please indicate the following:

Defendant 2Gender: Male Female

Race/Ethnicity

- White - not Hispanic
 White - Hispanic
 Black - not Hispanic
 Black - Hispanic
 Asian
 Other (please specify): _____

Legal Representation

- Private
 Court appointed - private
 Court appointed - Pub Def
 Pro se

Defendant 3Gender: Male Female

Race/Ethnicity

- White - not Hispanic
 White - Hispanic
 Black - not Hispanic
 Black - Hispanic
 Asian
 Other (please specify): _____

Legal Representation

- Private
 Court appointed - private
 Court appointed - Pub Def
 Pro se

Defendant 4Gender: Male Female

Race/Ethnicity

- White - not Hispanic
 White - Hispanic
 Black - not Hispanic
 Black - Hispanic
 Asian
 Other (please specify): _____

Legal Representation

- Private
 Court appointed - private
 Court appointed - Pub Def
 Pro se



Case Data Survey

143

For each additional victim that testified or about whom evidence was admitted, please indicate the following:

<u>Victim 2</u>	<u>Victim 3</u>	<u>Victim 4</u>
Gender: <input type="radio"/> Male <input type="radio"/> Female	Gender: <input type="radio"/> Male <input type="radio"/> Female	Gender: <input type="radio"/> Male <input type="radio"/> Female
Race/Ethnicity	Race/Ethnicity	Race/Ethnicity
<input type="radio"/> White - not Hispanic	<input type="radio"/> White - not Hispanic	<input type="radio"/> White - not Hispanic
<input type="radio"/> White - Hispanic	<input type="radio"/> White - Hispanic	<input type="radio"/> White - Hispanic
<input type="radio"/> Black - not Hispanic	<input type="radio"/> Black - not Hispanic	<input type="radio"/> Black - not Hispanic
<input type="radio"/> Black - Hispanic	<input type="radio"/> Black - Hispanic	<input type="radio"/> Black - Hispanic
<input type="radio"/> Asian	<input type="radio"/> Asian	<input type="radio"/> Asian
<input type="radio"/> Other (please specify):	<input type="radio"/> Other (please specify):	<input type="radio"/> Other (please specify):
Relationship to Defendant	Relationship to Defendant	Relationship to Defendant
<input type="radio"/> Spouse / Domestic partner	<input type="radio"/> Spouse / Domestic partner	<input type="radio"/> Spouse / Domestic partner
<input type="radio"/> Other family	<input type="radio"/> Other family	<input type="radio"/> Other family
<input type="radio"/> Employee/employer	<input type="radio"/> Employee/employer	<input type="radio"/> Employee/employer
<input type="radio"/> Other acquaintance	<input type="radio"/> Other acquaintance	<input type="radio"/> Other acquaintance
<input type="radio"/> None	<input type="radio"/> None	<input type="radio"/> None
<input type="radio"/> Unknown	<input type="radio"/> Unknown	<input type="radio"/> Unknown

Please make copies of this page or the preceding one (if necessary) to describe additional defendants or victims.

THANK YOU FOR YOUR PARTICIPATION IN THIS STUDY.

APPENDIX B

Juror Questionnaire

Your participation in this study is entirely voluntary. Your responses will be kept strictly confidential. Please record your answers on the attached answer sheet

General Questions about the Trial

1. Do you agree or disagree that the attorneys presented all the relevant evidence in this trial?
2. How complex was this trial?
3. Overall, how easy or difficult was it for your jury to understand the evidence in this trial?
4. How easy or difficult was it for your jury to understand the expert testimony in this case?
5. How easy or difficult was it for the jury to understand the judge's instructions about the law in this case?
6. Do you agree or disagree with the following statement: "Some of the other jurors did not understand key evidence in this case."
7. How important was police testimony to the prosecution's case?
8. How believable was the police testimony in this case?
9. In some criminal cases, the victims of the crime testify. How believable was the testimony of the victim(s) in this case?
10. In some criminal cases, the defendant testifies. How believable was the testimony of the defendant(s) in this case?
11. Overall, how much sympathy did you feel for the defendant(s) in this case?
12. Overall, how much sympathy did you feel for the victim(s) in this case?
13. How skillful was (were) the prosecutor(s) during the trial?
14. How skillful was (were) the defense attorney(s) during the trial?
15. Overall, how satisfied were you with the manner in which the trial was conducted?
16. How strong was the prosecution's case?
17. How strong was the defense's case?
18. All things considered, how close was this case?

Your Opinions about the Case.

19. Thinking back over the trial and jury deliberations, when would you say that you started leaning toward one side or the other in this case? (please check one box only)
20. Did you find yourself changing your mind about the direction you were leaning during any of the following stages of the trial? (check all that apply)
21. Before you began deliberating with your fellow jurors at the end of the trial (after all of the evidence and the judge's instructions had been presented), which side did you favor?

22. How easy or difficult was it for you personally to decide what the verdict should be in this case?
23. Do you agree or disagree with the following statement: "Because of my religious beliefs, I found it difficult to judge another person."

Your Jury Deliberations.

The next set of questions asks about your experiences during the jury deliberations that took place at the end of the trial, after all the evidence and the judge's instructions were presented.

24. When was the jury's first vote?
25. Was the first vote a secret ballot?
26. On the jury's first vote, how did you vote on the most serious charge?
27. How certain were you in your first vote?
28. On the jury's first vote on the most serious charge, how many jurors voted guilty, not guilty, or were undecided?
29. On the jury's final vote, how did you vote on the most serious charge?
30. On the jury's final vote on the most serious charge, how many jurors voted guilty, not guilty, or were undecided?
31. When deliberations began at the end of the trial, how surprised were you personally at the verdict preferences expressed by the other members of the jury?
32. How open-minded were the members of the jury to the ideas of other jurors?
33. How much did you participate in the jury deliberations?
34. How influential were you in the jury deliberations?
35. How much would you say that one or two jurors dominated the deliberations?
36. Do you agree or disagree with the following statement: "There were some very unreasonable people on this jury."
37. How much trouble did the jury have recalling the trial evidence during the jury deliberations?
38. How much trouble did the jury have recalling the judge's instructions on the law during the jury deliberations?
39. How thoroughly was each juror's point of view considered in the jury's deliberations?
40. How personally close and friendly would you say the jury was?
41. How much conflict was there on the jury?
42. Do you feel that you had enough time to express your views during jury deliberations?
43. How much time and effort did jurors spend trying to convince people to agree?

44. How easy or difficult was it for the jury to reach a decision?
45. How satisfied were you with the jury's deliberations?
46. How satisfied were you with the jury's decision (guilty, not guilty, hung)?
47. How fair do you think the law was in this case?
48. To what extent were you worried about the consequences to the defendant of a conviction by this jury?
49. In some trials, a strict application of the law might not seem to produce the fairest possible outcome. In this trial, how fair would you say the legally correct outcome was?
50. In some trials, the consequences of a conviction might seem either too harsh or too lenient for the particular case and defendant. How lenient or harsh do you think the consequences of a conviction were likely to be in this case?
51. If it were entirely up to you as a one-person jury, what would your verdict have been in this case?
52. How much trust and confidence do you have in the police in your community?
53. How much trust and confidence do you have in the courts in your community?
54. To what extent do you believe that crime is a serious problem in your community?

Our final set of questions asks about you and your household, and will help us analyze the information you and other jurors have given us. Again, all of this information is completely confidential and will only be used to help us study and improve the jury system.

55. Were you the jury foreman or presiding juror?
56. Have you ever served as a juror before this trial?
57. If yes, was your jury service in a civil or criminal case?
58. Gender:
59. Age:
60. How many years of school have you completed?
61. Race/Ethnicity:
62. How would you describe your religious beliefs?
63. What was your total household income last year?
64. Job status:
65. If you are presently employed, please select the occupational category below that best fits your occupation:

**THANK YOU VERY MUCH FOR YOUR HELP WITH THIS
IMPORTANT PROJECT!**

REFERENCES

- Abwender, D. A., & Hough, K. (2001). Interactive effects of characteristics of defendant and mock jurors on U. S. participants' judgment and sentencing recommendations. *Journal of Social Psychology, 141*, 603-615.
- Adler, F. (1973). Socioeconomic factors influencing jury verdicts. *New York University Review of Law and Social Change, 3*, 1-10.
- Alker, H. R., Hosticka, C., & Mitchell, M. (1976). Jury selection as a biased social process. *Law and Society, 11*, 9-41.
- Amato, P. R. (1981). Juror-defendant similarity and the assessment of guilt in politically motivated crimes. *Australian Journal of Psychology, 31*, 79-88.
- Beckham, B., & Aronson, H. (1978). Selection of jury foremen as a measure of the social status of women. *Psychological Reports, 43*, 475-478.
- Biernat, M., & Vescio, T. K. (2002). Categorization and stereotyping: Effects of group context on memory and social judgment. *Journal of Experimental Social Psychology, 29*, 166-202.
- Bornstein, B. H. (1999). The ecological validity of jury simulations: Is the jury still out? *Law and Human Behavior, 23*, 75-91.
- Boster, F. J., Hunter, J. E., & Hale, J. L. (1991). An information-processing model of jury decision making. *Communication Research, 18*, 524-547.
- Byrne, D., Clore, G. L., & Smeaton, G. (1996). The attraction hypothesis: Do similar attitudes affect anything? *Journal of Personality and Social Psychology, 53*, 1167-1170.

- Chadee, D. (1996). Race, trial evidence and jury decision making. *Caribbean Journal of Criminology and Social Psychology, 1*, 59-86.
- Constantini, E., & King, J. (1981). The partial juror: Correlates and causes of prejudice. *Law and Society, 15*, 9-39.
- Davis, J. H., Bray, R. M., & Holt, R. (1977). The empirical study of decision processes in juries: A critical review. In J. Tapp & F. Levine (Eds.), *Law, Justice, and the Individual in Society* (pp. 326-361). New York: Holt.
- 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.
- Diamond, S. S. (1997). Illuminations and shadows from jury simulations. *Law and Human Behavior, 21*, 561-571.
- Diamond, S. S., & Zeisel, H. (1974). A courtroom experiment on juror selection and decision-making. *Personality and Social Psychology Bulletin, 1*, 276-277.
- Dillehay, R. C. & Nietzel, M. T. (1985). Juror experience and jury verdicts. *Law and Human Behavior, 9*, 179-191.
- Foley, L. A., & Chamblin, M. H. (1982). The effect of race and personality on mock jurors' decisions. *Journal of Psychology: Interdisciplinary & Applied. Vol 112(1)*, 47-51.
- Foley, L. A., & Pigott, M. A. (2002). Race, self presentation and reverse discrimination in jury decisions. *American Journal of Forensic Psychology, 20*, 37-52.
- Foley, L. A., & Pigott, M. A. (1997). The influence of forepersons and nonforepersons on mock jury decisions. *American Journal of Forensic Psychology, 15*, 5-17.

- Gladwell, M. (2005). *Blink: The power of thinking without thinking*. New York: Little, Brown.
- Greene, E., Chopra, S. R., Kovera, M., Penrod, S. D., Rose, V., Schuller, R., et al. (2002). Jurors and juries: A review of the field. In J. P. Ogloff (Ed.), *Perspectives in law and psychology: Vol. 14. Taking psychology and law into the 21st century* (pp. 225-283). New York: Kluwer Academic/Plenum Publishers.
- Hannaford, P. L., Hans, V. P., Mott, N. L., & Munsterman, G. T. (2002). Are hung juries a problem? Retrieved 05/06/04 from http://www.ncsconline.org/WC/Publications/Res_Juries_HungJuriesPub.pdf.
- Hannaford, P. L., Hans, V. P., Mott, N. L., & Munsterman, G. T. (2000). The timing of opinion formation by jurors in civil cases: An empirical examination. *Tennessee Law Review*, 67, 627-652.
- Hans, V. P. (1992). Jury decision making. In D. K. Kagehiro & W. S. Laufer (Eds.), *Handbook of psychology and law*. New York: Springer-Verlag Inc.
- Hastie, R., Penrod, S. D., & Pennington, N. (1983). *Inside the jury*. Cambridge, MA: Harvard University Press.
- Howard, W. G., & Redfering, D. (1983). The dynamics of jury decision-making: A case study. *Social Behavior and Personality*, 11, 83-89.
- Kalven, H., & Zeisel, H. (1966). *The American jury*. Boston: Little, Brown.
- Kapardis, A. (2003). Chapter 5: The Jury. In A. Kapardis (Ed.), *Psychology and law: A critical introduction* (2nd ed., pp. 126-161) New York: Cambridge University Press.

- Kerr, N., Hymes, R. W., Anderson, A. B., & Weathers, J. E. (1995). Defendant-juror similarity and mock juror judgments. *Law and Human Behavior, 19*, 545-567.
- Kerr, N. L., MacCoun, R. J., & Kramer, G. P. (1996). Bias in judgment: Comparing individuals and groups. *Psychological Review, 103*, 687-719.
- Klein, K. S., & Klastorin, T. D. (1999). Do diverse juries aid or impede justice? *Wisconsin Law Review, No. 3 Special Issue*, 553-569.
- Loh, W. D. (1981). Perspectives on psychology and law. *Journal of Applied Social Psychology, 11*, 314-355.
- MacCoun, R. J., & Kerr, N. L. (1988). Asymmetric influence in mock jury deliberation: Jurors' bias for leniency. *Journal of Personality and Social Psychology, 54*, 21-33.
- Marques, J. M., Robalo, E. M., & Rocha, S. A. (1992). Ingroup bias and the "Black sheep" effect: Assessing the impact of social identification and perceived variability on group judgments. *European Journal of Social Psychology, 22*, 331-352.
- Mills, C. J., & Bohannon, W. E. (1981). Juror characteristics: To what extent are they related to jury verdicts? *Judicature, 64*, 22-31.
- Monteith, M. J., Deneen, N. E., & Tooman, G. D. (1996). The effect of social norm activation on the expression of opinions concerning gay men and blacks. *Basic and Applied Social Psychology, 18*, 267-288.
- Neitzel, M. T., McCarthy, D. M., & Kern, M. J. (1999). Juries: The current state of the empirical literature. In R. Roesch, S. D. Hart, & J. R. P. Ogloff (eds.),

Psychology and law: The state of the discipline (pp.23-52). New York: Kluwer Academic/Plenum Publishers.

Niedermeier, K. E., Horowitz, I. A., & Kerr, N. L. (2001). Exceptions to the Rule: The effects of remorse, status, and gender on decision-making. *Journal of Applied Social Psychology, 31*, 604-623

Perez, D. A., Hosch, H. M., Ponder, B., & Trejo, G. C. (1993). Ethnicity of defendants and jurors as influences on jury decisions. *Journal of Applied Social Psychology, 23*, 1249-1262.

Rumsey, M. G. (1979). Effects of defendant background and remorse on sentencing judgments. *Journal of Applied Social Psychology, 6*, 64-68.

Sears, D. (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.

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*, 997-1031.

Sommers, S. R., & Ellsworth, P. C. (2001). White juror bias: An investigation of racial prejudice against Black defendants in the American courtroom. *Psychology, Public Policy, and Law, 7*, 201-229.

Sommers, S. R., & Ellsworth, P. C. (2000). Race in the courtroom: Perceptions of guilt and dispositional attributions. *Personality and Social Psychology Bulletin, 26*, 1367-1379.

- Strodtbeck, F. L., James, R. M., & Hawkins, C. (1957). Social status in jury deliberations. *American Sociological Review*, 22, 713-719.
- Strodtbeck, F. L., & Lipinski, R. M. (1985). Becoming first among equals: Moral considerations in jury foreman selection. *Journal of Personality and Social Psychology*, 49, 927-936.
- Tajfel, H. and Turner, J. C. (1986). The social identity theory of inter-group behavior. In S. Worchel and L. W. Austin (Eds.), *Psychology of Intergroup Relations* (pp. 7-24). Chicago: Nelson-Hall.
- Tanford, S., & Penrod, S. (1986) Jury deliberations: Discussion content and influence processes in jury decision making. *Journal of Applied Social Psychology*, 16, 322-347.
- Taylor, T. M. & 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.
- Ugwuegbu, D. C. (1979). Racial and evidential factors in juror attribution of legal responsibility. *Journal of Experimental Social Psychology*, 15, 133-146.
- Visher, C. A. (1987). Juror decision making: The importance of evidence. *Law and Human Behavior*, 11, 1-17.

VITA

Jennifer K. Elek

Jennifer K. Elek was born in Syracuse, New York on January 10, 1981. She graduated from Twinsburg High School in Twinsburg, Ohio in June 1999. Jennifer earned her B.A. in Psychology with a correlate sequence in Classical Studies from Vassar College in May 2003. In August of 2003, she entered the College of William and Mary as a graduate student in Experimental Psychology. Jennifer served as a research assistant for the National Center for State Courts from August 2003 to July 2005 and as a teaching assistant for the Psychology Department during the 2003 fall semester. She earned her Masters of Arts in July 2005.