



# Introduction to Psychological Criminology: Jury Verdicts and Jury Research Methodology

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## Overview – Lecture 1

- Historical background
- Democratic impartiality and fairness
- Why juries?
- Selecting jurors and jury characteristics
- Methods for studying juries
- Prelude to lecture 2

For an excellent review see 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, & Law*, vol. 7 (3), pp. 622-727.

# Historical Background

'No Freeman shall be seized, or imprisoned, or disposed or outlawed, or in any way destroyed; nor will we condemn him, nor will we commit him to prison, exception by the lawful judgment of his peers, or by the law of the land'

*(Clause 39, Magna Carta 1215)*

*Cited in Karpardis (1997)*

# Historical Background

- Systems of juries were evident in Egyptian times, but the right to trial by ordinary citizens is an Athenian invention.
- Introduced to Britain in the 11<sup>th</sup> Century, the trial by ordinary citizens evolved into the 12 juror system that we are familiar with today.
- Juror decisions needed not to be unanimous from 1367 onwards but if their verdicts did not agree with the judges they were often fined or themselves imprisoned!
- Only recently have women and minorities been able to serve on juries (e.g., Aborigine people in Australia as late as 1985), ... so over time we see the tension between societal fairness and bias living a life within the jury system...

# Impartiality and Fairness



- Jurors must be legal abiding citizens who are (i) on the electoral role and/or (ii) be a licensed driver and (iii) not being disqualifiable in any way (e.g., have a conviction).
- But the notion of a 12 person layman jury (US, England and Wales) is not cross-culturally accepted (e.g., a combination of laymen and judges is used in Denmark, Germany, and Sweden)...
- The size of the jury varies from one country to another (e.g., in Italy there are six lay assessors and two judges).
- Sometimes jurors are required to reach a unanimous verdict and sometimes they are required to reach a majority verdict...
- Sometimes a jury verdict is final, whereas sometimes it is only a recommendation to the judge (US state systems vary).



# Impartiality and Fairness



- Such differences mean that we cannot generalise the adequacy of jury decision making across all contexts. Each factor may impact certain sorts of decisions in different ways.
- Our attachment may be more related to sentiment than to the reality behind the impartiality and perverse decisions of a jury.
- What about how representative is the jury?
- Are juries capable of objectivity?
- Can we even take that the existence of truth is something objective?
- Despite their importance, Jury systems are one of the least understood part of a governmental system (Krauss, 1995, cited in Karpardis, 1997)...

# Why Juries?

- Decision by a jury of some kind according to social norms is taken to be more objective because more than one person decides.
- The jury is taken to be an antidote to tyranny...
- Juries attend to the evidence and are less swayed by biases... (more on this later).
- A jury is taken to bring a fresh perception to a trial...





# Why Juries?

## Against Juries: Example – ‘To Kill a Mockingbird’

- A jury does not give reason for a verdict and is unaccountable...
- A significant number of jury trials lead to mistrials...
- Hung juries...
- Emotional involvement rather than objective decision making...
- Lack of ability to understand complex cases...
- Juries acquit too readily...responsibility?
- Prejudiced decision making – e.g., Racism, gender bias... conscious and unconscious influences...





# Selecting Jurors and Characteristics of Juries

- *Voir dire* hearings and the rejection of possible jurors in the US...
- Criminal Justice Act (1988) abolished pre-emptory challenge...
- Juror Bias Scale etc., and pre-trial publicity...
- Money gives an undue advantage to certain defendants...
- But! No social factor (e.g., class, age, sex or race) led to a significant bias in the verdicts returned for over 500 non-guilty cases in one of the most classic findings on juries... (Baldwin & McConville, 1979 classic finding)
- The harder the evidence the more likely juries are to convict?

# Methods for Studying Juries

## Archival Research

- Collect data from actual jury verdicts
- Important information may be missing
- Post hoc hypotheses

## Questionnaire Surveys

- Kalven & Zeisel (1966) *The American Jury*
- 3500 judges in the US, 555 responded
- Largely agreement between juries and judges 75%

# Methods for Studying Juries

## Mock Juries

- Experimental simulation
- Sophisticated
- Controlled, but complex interaction effects

## Shadow Juries

- A way of getting around the ban of studying real juries

## Post-trial Juror Interviews

- How they understand judges' directions
- What they remember etc...

## Prelude to Lecture 2

- Psychological and socio-legal researchers have investigated the effectiveness of juries on making objective decisions... Let's find out more...





## **Introduction to Psychological Criminology: Jury Verdicts and Jury Research Methodology (Lecture 2)**

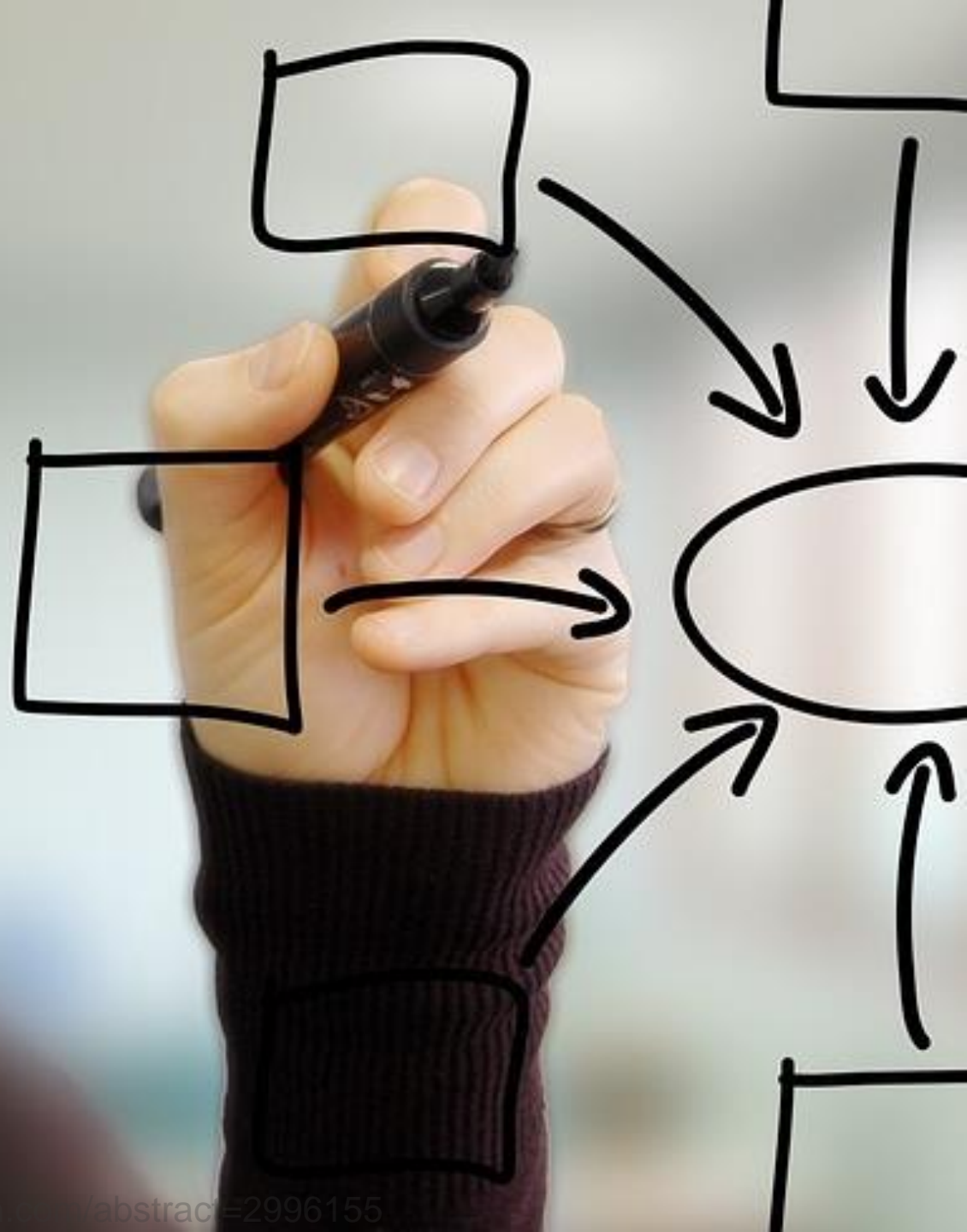
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# Overview – Lecture 2

- Illustrative example
- Models of jury decision making
- Jury bias
- Juror competence
- Jury deliberation
- Alternatives to trial by jury
- Evaluation

# Illustrative Example

- A man smoked a cigar and was killed because an explosive was hidden inside it. The police find that the cigars in the man's cigar box have been skilfully rewrapped with explosive hidden inside them. Several strands of long hair are found underneath the cigars.
- Inspector Cramer believes that the murderer is the man's wife Martha
- If Martha's hair is in the box, then she is the murderer...  
Martha's hair is in the box,...
- But Inspector Wolfe has a hunch that Martha is innocent  
(From *Instead of Evidence*, Stout, 1949; cited in Byrne, 2005)
- Martha is actually guilty... Let's discuss...



# Judicial Background

Judicial aspiration is that verdicts should be as close to the truth as possible...

## *5 foundational principles of criminal evidence*

- **Principle 1:** accurate fact finding
- **Principle 2:** to protect innocent people from conviction
- **Principle 3:** liberty (minimum state intervention, e.g. PACE 1984)
- **Principle 4:** humane treatment
- **Principle 5:** 'maintaining high standards of propriety in the criminal process' (e.g. the legitimacy of a self confession; see Roberts & Zuckerman, 2004, p. 19)





# Jury Deliberation

- 'A reliable way to establish the truth in a contentious matter' (Stephenson, 1992, p. 179, cited in Karpardis, 1997)
- Let's find out... Empirical research on mock and shadow juries...
- Kalven and Zeisel's (1966) classic work 'liberation hypothesis' showed that 90% of the time the deliberation process involves the majority convincing the minority to accept their preconceived verdict.
- **Verdict-driven vs Evidence driven**



# Jury Deliberation

- Reluctance to convict due to the responsibility (e.g., Hastie, 1993)
- Unanimous vs majority verdict (10 of 12 in UK)
- The longer the time the more likely acquittal will result... but time may mean complexity (e.g., Baldwin & McConville, 1979, classic study)
- Also, if the reasonable doubt standard of proof is emphasised... (Cowley, 2017)



# Models of Jury Decision Making

## Does objective truth exist? Epistemology...

- No: Bayesian probability models (e.g., Hastie, 1993...)
- Yes: Propositional logic models (e.g., Cowley & Byrne, 2005; Cowley & Colyer, 2010)

## The burden of proof (and reasonable doubt)

- Cognitive Story Model (Pennington & Hastie, 1990)
- Explanatory Coherence Models (Thagard, 2003)
- Anchored Narratives (Crombag & Wagenaar, 1994)
- Lenses of Evidence (Cowley & Colyer, 2010)

# Jury Deliberation and Social Psychology

## Leadership and the Foreperson Effects

- (e.g., Pennington & Hastie, 1990)

## Social Influence and Conformity Effects

- (e.g., Asch, 1956)

## Minority Influence Effects

- Moscovici et al. (1969)

## Attractiveness & Race Effects

- Attractiveness (e.g., Downs & Lyons, 1991)
- Race (e.g., harsher punishments, including death penalty, Henderson & Taylor, 1995)



# Alternatives to Trial by Jury

- Trial by a single judge (e.g., US on occasion)...
- Combination of judge and laypersons jury (e.g., Germany)
  - Would the laypersons outvote the judge with confidence?
  - Higher number of laypersons
- Bench of judges
  - Complex cases of fraud...



# Evaluation

- We need to test alternative models of how people reason with evidence more thoroughly (i.e., Probabilistic vs Logical models); we still do not have a comprehensive model of juror decision-making on which a majority of experts agree...
- Procedures to improve the 'representative-ness' of the jury need much work and logistic facilitation within the justice system... Gender balance remains a fractious area for fruitful prospective research...
- Need to understand the sorts of cases in which it is beneficial to have an expert on the panel... These laymen + expert dynamics require much more context-specific research...
- We need to develop a programme of research to investigate the sorts of evidence that are salient to jurors and to evaluate whether jurors understand important logical distinctions and procedural instructions in evidence interpretation... In other words we need to look at how laws work in context, biases can be a result of system imbalances rather than juror ones...

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