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# Jury Psychology

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## WHAT IS JURY PSYCHOLOGY?

Whilst jury trials are widely considered a fairer way of deciding whether an accused person is guilty of a crime than a judge deciding on their own, numerous psychological phenomena have been shown to affect juror behaviour and the decisions they make. As such, Jury Psychology can be described as the study of psychological factors that impact the behaviour, deliberations, and decisions of jurors during trial. The domain of Cognitive Psychology has sought to understand how information is processed by jurors in an attempt to uncover how decisions are reached and what schematic mechanisms are triggered when hearing evidence in a given case. The field of Social Psychology has focused instead upon group processes that occur during deliberation, examining the impact of majority and minority influence, as well as conformity to figures of authority, upon reaching a verdict. More broadly, Forensic Psychology has applied principles from varying approaches in order to display the extent that bias from factors, such as pre-trial publicity and inadmissible evidence, can have upon the fairness of jury decisions. The application of psychological principles have undoubtedly led to great leaps in our understanding of individual juror behaviour and collective jury decisions, as well as the impact of bias upon verdicts. However, secrecy surrounding deliberations, which attempts to protect the integrity of decisions made, has led justice systems around the world to question the reliability of experimental findings that have emerged from artificial trial simulations.

## ORIGINS

In spite of the long tradition of trial by jury, the scientific study of the process is a more modern enterprise. Beginning in the 1950's, the Chicago jury project constituted the earliest empirical examination of jury psychology (Kalven & Zeisel, 1966). Despite being considered somewhat revolutionary at the time in its attempt to better understand the

functionality of jury trials using social science methodologies, the secret recording of the deliberation process without jurors' prior knowledge ultimately resulted in American federal and state law heavily restricting research access into the jury room ever since (Devine et al; 2001). Similar restrictions remain enshrined within legislation today including, Canada's 1985 Criminal Code and England's 1981 Contempt of Court Act, which for the most part prohibits jurors from disclosing any element of their deliberations publically. Whilst these restrictions undoubtedly hindered research in the field, they have also led researchers to develop a number of alternative approaches in which jurors can be studied.

## STUDY METHODOLOGIES

Today, there are four principal methods used by researchers to investigate jury psychology; field studies, examination of archival records, post-deliberation interviews, and mock jury simulations (Devine et al; 2001). **Field Studies** involve natural observations of real jurors during trial and ensure high ecological validity. However, field studies are infrequently used, as access to jurors is heavily restricted so as not to interfere with trial outcomes. **Archival Records** are a form of secondary data initially recorded for another purpose, such as courtroom transcriptions of a trial. Although archived materials can be difficult and expensive to access, they do provide a rich source of information surrounding jury trials. One major limitation with this method of investigating jury psychology is that researchers have no control over what data has been recorded and, therefore, important information that is missing is hard to obtain. **Post-Deliberation Interviews** are a highly rich source of information, allowing researchers to ask real jurors specific questions about their decisions and what occurred during deliberations. However, this method is not permitted in most countries throughout Europe and generally only takes place within America. Even then, research suggests such interviews are likely to be affected by inaccuracies and biases in juror memories (Schuller &

Yarmey, 2001). **Mock Jury Simulations** are by far the most common method used and typically involve the recruitment of mock jurors who partake in some form of simulated trial. Whilst undoubtedly the farthest removed from a real trial environment, mock simulations allow researchers to experimentally test and control important aspects of the jury trial process, thereby offering greater insight into the psychological mechanisms underlying juror thinking.

## FUTURE OF THE SCIENCE

To date, jury psychology research has led to advancements in understanding; what effect different information can have on the opinions jurors form (CSI effect, Pre-trial publicity, Inadmissible evidence, Judges instructions), how group behaviour can impact verdict outcomes (social conformity, minority vs majority influence, group think), and how exactly jurors arrive at their final decision (Bayesian modelling, Story Model, Heuristics) (see Lieberman & Krauss, 2009). Although these understandings are rooted in sound scientific principles, legislative restrictions and experimental methods far removed from real trial procedures continue to result in research findings having little practical uptake (Daftary-Kapur et al; 2010). The future of jury psychology as a science needs to adopt new and advanced methods, higher in ecological validity, so that research findings, which display the impact of external and implicit bias upon juror impartiality and trial fairness, can be tackled. Only then will criminal justice systems throughout the world more readily adopt jury research findings into practice.

## CONCLUSIONS

Clear developments in the field of jury psychology have been made, but concerns continue to surround the ecological validity of research findings, which in turn results in little implementation by criminal justice personnel. Within the confines of legislative restrictions, researchers have developed a number of useful means of examining jury psychology. However, the need to improve upon methodological limitations, typically surrounding unrealistic mock simulations that are far removed from the circumstances in which real jurors make their decisions, continues to exist. Where new and seminal findings are replicated under circumstances which criminal justice systems are unable to refute, the field of jury psychology may then have the impact upon trial fairness and justice that is long overdue.

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## QUICK SUMMARY

- Jury Psychology can be described as the study of psychological factors that impact juror behaviour, deliberations and decisions during trial.
- The 1950's Chicago jury project was the earliest empirical examination of jury psychology.
- There are four principal methods used by researchers to study jury psychology.
- Jury research often lacks ecological validity which impacts the uptake of findings by criminal justice systems around the world. More realistic research designs and methods are required within future research to improve the impact of jury psychology as a discipline.