THE EFFECTS OF GROUP SIZE ON MOCK JURY DECISION MAKING

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ABSTRACT

The present investigation was a partial replication and extension of Saks' (1977) study on the effects of group size on mock jury decision making. Mock juries of size 4, 6, and 12 were formed by randomly assigning 232 student volunteer subjects to one of 30 groups, or to the condition where subjects worked alone (N=12 individuals). The case used was a written transcript adapted from Saks (1977). After reading the transcript, groups deliberated until they reached a verdict. Overall, it was found that groups of 12 came to the correct verdict more often and deliberated the longest, groups of 6, unexpectedly, produced the most hung juries, and the individuals recalled the least amount of the testimony. Groups of 4 perceived their group as being the most fair and were also the most satisfied with their group's decision. They also rated their influence on the decisions made by other members of the group as the highest. In all groups, there was a shift in the pre- and post-deliberation guilt ratings toward the group verdict, indicating an effect of group polarisation, and discussion also increased individuals' confidence in their rating of guilt, providing some support for the model of group influence proposed by Myers and Lamm (1976). In general, the results support previous findings and add to the growing literature which suggests that the effect of jury size is a complex phenomenon requiring more investigation.

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In 1970, the Supreme Court held that a six member jury was constitutional in Williams vs. Florida as the court claimed that there was no evidence that a jury of a different size would result in a different verdict. In 1973, the Supreme Court again held that six member juries were constitutional in Colgrove vs. Battin and cited four studies in which no differences in verdicts were found. Researchers, however, have disagreed with the Court's decision and have questioned the validity of the studies cited by the Court. Each of the four studies have been shown to have major flaws (Sales, 1981).

More recently, there have been other investigations, some of which have found differences in verdicts between juries of 6 and 12 (e.g. Kerr & MacCoun, 1985; Saks, 1977), and others which have found no differences (e.g. Roper, 1980; Mills, 1973). In addition to jury size, several other variables have been investigated. For instance, deliberation length, likelihood of a hung jury, recall of testimony, and so on. While consistent findings have been obtained for some of these variables, it would seem that the answer to the question: 'What changes occur when the size of a jury is altered?' is by no means fully resolved. There are many contradictory findings concerning jury size reported in the literature for both mock and real jury studies.

The focus of the present study was to examine systematically the effects of mock jury size upon variables such as jury verdict, pre- and post-deliberation guilt, deliberation length, recall of testimony, and some sociometric measures.

THE HISTORY OF THE JURY

In 10th and 11th century England, guilt or innocence was often determined by the powers of the 'supernatural'. The two main 'ordeals' were that of fire and water. The ordeal of fire involved the accused carrying a heated stone for a certain distance and then having the damaged hand bandaged. Several days later the hand was inspected. If after this time, the hand had not become infected, the accused would then be declared innocent. In the ordeal of water, accused people were bound and thrown into a body of water. If they sank, they were declared innocent, but if they floated, they were judged guilty. The reasoning behind this method was that as water was an element of nature, it would only accept pure souls. It was widely believed that God would settle all disputes by intervening on the side of the innocent person (Hans & Vidmar, 1986; Greenberg & Ruback, 1982).

The growing distrust in the ordeals resulted in the emergence of the jury trial. After 1215, an accused could opt for a trial by jury, rather than trial by ordeal. The trial by jury entailed the judge, or some other officer of the King's court, choosing 12 people who knew facts about the case or the parties involved. They were questioned by the court about what they knew. Hence, they only provided information, upon which the court made its verdict (Hans & Vidmar, 1986).

Eventually the role of the jury started to change. The jurors were asked if they believed there was enough evidence for a verdict of guilty or not. Early on, some of those jurors had been part of the 'presenting' jury, which was the group of people who had set in motion the indictment against the accused. However, in 1352, the presenting jury and the trial jury became separate entities (Hans & Vidmar, 1986; Greenberg & Ruback, 1982).

In 1772, *peine forte et dure* (punishment strong and hard until they relented to a jury trial or painfully died by being crushed to death), was replaced with the assumption that if a trial was refused, a guilty plea was entered. This was changed in 1827 so that a refusal indicated a plea of not guilty (Hans & Vidmar, 1986).

By the middle of the 18th century, the structure and functions of the jury had become similar to how we know them today.

> "... juries became finders of the facts rather than providers of the facts, just as are today's juries." (Hans & Vidmar, 1986, p. 28).

So, it would seem that the functioning and general structure of the jury system has remained largely unchanged for the past 150 years or so. However, little is known about the nature of the decision processes that occur within juries as it is both illegal and unethical to observe a real jury trial or question jurors directly during a trial (Kerr & Bray, 1982). Therefore, much of what is known about juror decision processes has been inferred from general studies of the group decision process.