

Research Note: A Pilot Study of
Individual Behavior as Mediated by the Group Context:
Three- and Five-member Mock Juries

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Recently, many social scientists have become interested in juror and jury decision making. Some have focused on juries because of an interest in criminal justice, others because of a theoretical interest in individual behavior in the group context which can be explored using jury data. The present investigation uses three- and five-person mock juries to explore the extent to which a juror's predeliberation verdict preference and his certainty as to his expected verdict choice can be used to predict actual verdict choice when the juror is confronted with opposing arguments and/or group pressures.

Group decision-making

The classic Asch (1956) line-matching experiments suggest the view that when an individual's views are reinforced by the support of at least one other group member, he will be able to withstand group pressure to change his view. However, the Asch experiments do not provide the sort of sustained intensive

social pressure that can be found in jury deliberations when jurors disagree as to verdict. Thus, while in the Asch experiments minorities of one are sometimes able to withstand majority pressure; in the jury context, available evidence suggests that as an initial minority of one will never be able to resist majority persuasion/pressure and that even a minority of two may not be sufficient to withstand majority pressure.

In a sample of over 200 criminal cases in Chicago and Brooklyn courts studied by the Chicago Jury Project (Kalven and Zeisel, 1966) all of the hung juries observed possessed a minority on the first ballot of at least three. In most of them the initial majority was four or five. (Likewise an initial minority almost never prevailed in persuading the initial majority unless it, too, numbered at least three). Thus, although the final ballot often showed one lone juror holding out for acquittal, it is only after several others had previously shared that opinion. Thus, the "hanging juror" rarely exists except as one who tenaciously refuses to desert an unpopular view after others have fallen away. (Rosenblatt and Rosenblatt, 1973: 631, emphasis ours.)

These assertions are buttressed by data from other studies. For example Padawer-Singer and Barton (1975) found that, for twelve-member juries, no reversal of the initial majority occurred unless the initial minority was at least four. For six-member juries, they found no reversal of the initial majority unless the initial minority was at least two in number. (See also Davis et al, 1975, 1976, 1977; Saks, 1977; Grofman, 1978.)

If three-person and five-person juries exhibited the same pattern of group conformity observed in larger sized juries then the initial (pre-deliberation) majority view should

predominate. In particular, if an initial minority of one always bowed to group persuasion and pressure (a finding true in six-person and twelve-person jury research); then we would expect that in five-member juries, four votes would be sufficient to reach a (unanimous) verdict, while in three-member juries, we would expect that no juries would ever hang.

Little work has been done on decision processes in mock juries with fewer than six members, largely because such small juries are never used for trial purposes. Indeed, juries of less than six have recently been declared unconstitutional for felony trials in Ballew v Georgia (1978). Even though juries of less than six are not used as trial juries, there are various groups often as small as three to five members which must reach decisions comparable in many ways to those reached by juries, eg., zoning boards, tax boards, selective service boards, three judge panels in Federal Appellate Courts, etc. Moreover, examining decision processes in a mock jury setting may provide insight into more general issues of the influence of group context on individual behavior e.g., the susceptibility of a minority of one to majority persuasion. In a jury setting, we can also explore whether a person's initial individual verdict, his/her certainty about that verdict, or his/her own behavioral prediction concerning his/her vote in the group accurately predict his/her behavior (initial and final public verdict) within the mock jury. While there is

ample evidence that immediate social pressures can produce behavior incongruent with attitude, the question remains whether subjects might possibly be able to anticipate their commitment in the face of situational social pressures.

A mock jury setting thus enables us to test hypotheses concerning both group decision processes and congruence between individual attitudes and group decisions.

Subjects

Subjects were 105 college undergraduates recruited as part of course obligations in introductory political science courses at the State University of New York at Stony Brook. With three exceptions (two in their late 20's, one in his late 30's), subjects were between the ages of 18 and 24. Sixty-seven percent (70/105) were male; thirty-three percent (35/105) were female.

Procedure and experimental design

Subjects were asked to read a 25-page typewritten transcript of a court-martial involving an incident during the Korean War. Subjects were informed that this was an edited transcript of a real trial. The defendant, a U.S. army corporal, was accused of premeditated murder for killing Korean prisoners under orders from his superior (See Hamilton, 1975 for a fuller description of the case). Subjects were randomly assigned to deliberate on the case in three-person and five-person mock juries. Three-person juries were assigned either a unanimity or a majority rule. Five-person juries were assigned either a simple

majority, a unanimity less one, or a unanimity rule. Each condition was to have had five juries in it. Inadvertently, one five-member jury under simple majority verdict was converted to a unanimous verdict condition. Also, one jury was deleted from the data base because the jury foreman failed to carry out experimental instructions. Under all five conditions, the only verdict options were "guilty of premeditated murder," and "not guilty of premeditated murder."

Subjects were administered predeliberation and post-deliberation questionnaires which included questions about verdict preference and verdict certainty and behavioral expectations as to final verdict choice in the jury setting measured on a seven-point Likert scale. ("Given how certain you are about the verdict, we would like to know how likely you are to vote for that verdict in your jury at the conclusion of your deliberations...(definitely yes, very likely, likely, so-so, unlikely, very unlikely, near zero).") Reading of the trial manuscript took approximately 30 minutes; filling out predeliberation questionnaires less than 5 minutes. Mock juries deliberated for up to one hour or until a verdict was reached. Jury foremen were randomly selected by the experimenters. Jury foremen were told that their responsibilities included:

1. to moderate any discussion of the case that the jurors wish to conduct
2. to tally any straw ballots that the jurors wish to have taken

3. to poll the jurors to determine the verdict
4. to announce to the other jurors the number of votes required for conviction and for acquittal

The nature of the balloting process was, as is true for real juries, left up to each jury to decide for itself.

Results

Thus results of prior empirical investigations suggest a number of hypotheses to test in the three- and five-member groups.

Hypothesis 1: Whenever a group member's ultimate choice differs from his predeliberation preference, the shift will be in the direction of the initial (predeliberation) majority view in his group.

In fourteen of fifteen cases where there is a difference between a juror's predeliberation verdict preference and his final verdict choice the vote shift is in the direction predicted by Hypothesis 1. (See Table 1) Strictly speaking, Hypothesis 1 is not confirmed. Clearly confirmed, however, would be the weaker hypothesis that most juror shifts will be in the direction of the majority viewpoint.

The impact of the verdict shifts is to magnify the importance of predeliberation majorities. Prior to deliberation, 64% of the jurors had a verdict preference of not

TABLE 1
 Jury Pre deliberation
 and
 Final Ballot Verdict Preferences
 by
 Jury Size and Decision Rule*

Jury Size and Decision Rule

| | 3/3 | 3/2 | 5/3 | 5/4 | 5/5 |
|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| 2N, 1G → 3N | 2N, 1G → 2N, 1G | 3N, 2G → 4N, 1G | 4N, 1G → 5N | 4N, 1G → 5N | 4N, 1G → 5N |
| 2N, 1G → 3N | 3G → 3G | 5N → 5N | 2N, 3G → 3N, 2G | 4N, 1G → 5N | 4N, 1G → 5N |
| 1N, 2G → 1N, 2G | 2N, 1G → 3N | 3N, 2G → 4N, 1G | 2N, 3G → 2N, 3G | 4N, 1G → 5N | 4N, 1G → 5N |
| 3N → 3N | 1N, 2G → 3G | 3N, 2G → 3N, 2G | 3N, 2G → 3N, 2G | 4N, 1G → 5N | 4N, 1G → 5N |
| 3N → 3N | 3N → 3N | 2N, 3G | 2N, 3G → 2N, 3G | 2N, 3G → 2N, 3G | 2N, 3G → 2N, 3G |

*Values to the left of the arrow indicate pre deliberation preferences; values to the right of the arrow indicate final ballot votes. G = guilty N = not guilty

guilty. On the final ballot, 77% of the jurors voted for acquittal. Of the 18 juries that reached a verdict, 87% of them reached a verdict of acquittal.

One further point: in administering a post-deliberation questionnaire, we found that in only 2 of the 15 cases of vote switching did the juror indicate that his/her (changed) final ballot verdict was not his preferred verdict choice. Thus, in most cases of verdict switching, the group deliberations appear to have effected jurors' beliefs about correct verdict choice and not merely to have generated "conformity" behavior.

The Asch (1956) experiments suggest the following hypothesis:

Hypothesis 2: In groups in which there is a one person minority in terms of the predeliberation preferences of his/her fellows; after deliberation, that member's final choice will be in accord with the predeliberation majority view.

We test Hypothesis 2 for those juries requiring unanimous verdict and for those juries requiring nonunanimous verdicts which do not begin with a predeliberation accord as to verdict sufficient to cut off jury deliberation. For such juries, hypothesis 2 is confirmed; one person minorities bow to majority argument/persuasion in all of the six juries which meet our requirements (See Table 1). Despite the small sample size this result is significant at the .02 level.

Our next hypothesis is also suggested by the Asch experiments.

Hypothesis 3: An individual's predeliberation outcome preferences will be a nearly perfect predictor of his ultimate choice in those groups where the individual's preferences are shared by a majority of his/her fellows. However, in those groups in which an individual finds himself in a minority, neither certain-
ty as to the correctness of his preference anticipated nor likelihood of intended final ballot choice will successfully predict ability to withstand group persuasion/pressure.

Pre-deliberation verdict choice was a virtually perfect predictor of first ballot votes. On the first ballot, only 4% of the jurors deviated from their predeliberation choice. Pre-deliberation verdict choice was also a virtually perfect predictor of final verdict choices when a juror's initial views were reinforced by his/her being in the majority. For jurors in the majority, only one juror shifted verdict preferences from his/her pre-deliberation choice. However, for jurors initially in the minority neither predeliberation preferences, nor verdict certainty, nor behavioral intention as to final ballot vote, were useful predictors of the likelihood of final ballot vote switches from predeliberation preferences, or of the likelihood that postverdict and predeliberation verdict preference would

coincide.* The majority of switchers came from the higher certainty categories (see Tables 2 and 3). However, relationships are in the predicted direction in that (with one minor exception) the higher the certainty as to verdict or as to expected final ballot choice, the higher the rate of non-switchers to switchers in that category.

We might also note that certainty as to verdict was strongly but far from perfectly correlated with behavioral expectations as to voting on the final ballot in accord with predeliberation verdict choice--a Kendall's tau-beta of .52. Some individuals with high belief certainties still had relatively low certainties of acting on their beliefs.

*However, the small sample on which this conclusion is based (only 15 jurors) renders this finding at best suggestive. Furthermore, it may be true that in larger juries which have an even number of members (unlike the ones we studied), juror certainty as to verdict may be influential in "tipping" outcomes in juries which begin evenly split as to verdict preferences. Padawer-Singer and Barton (1975, Chap. 12, pp. 4-5) find both cumulative juror certainty and the existence of individuals with particularly high verdict certainties to have an impact on outcomes in evenly (3-3 or 6-6) or closely (7-5 or 5-7) split juries.

TABLE 2

Certainty as to Verdict vs. Congruity Between Predeliberation
and Post deliberation preference^{1a}

| Verdict Certainty | Predeliberation Verdict and Postdeliberation Verdict Preference | | | |
|-------------------|--|----|----|----|
| | GG | NN | GN | NG |
| 0 - 25 | 1 | 0 | 1 | 0 |
| 26 - 50 | 1 | 4 | 1 | 0 |
| 51 - 75 | 6 | 13 | 3 | 0 |
| 76 - 100 | 18 | 48 | 7 | 1 |

^{1a} G = guilty, N = not guilty ; 1 = observations missing, n = 104.

^{1b} The scale for belief in the correctness of one's judgment as to verdict ranges from 0 - 100% certainty.

TABLE 3

Expected Behavior vs. Congruity Between Predeliberation and
Postdeliberation Verdict^{1a}

| Expected Behavior | Predeliberation Verdict and Postdeliberation Verdict Preference | | | |
|-------------------|--|----|----|----|
| | GG | NN | GN | NG |
| 4+ | 4 | 2 | 2 | 0 |
| 3 | 8 | 12 | 3 | 0 |
| 2 | 12 | 32 | 7 | 1 |
| 1 | 3 | 18 | 0 | 0 |

1a G = guilty, N = not guilty, 3 observations missing, n = 102

1b Belief that one will vote in accord with one's predeliberation verdict judgment was assessed on a seven point Likert scale: 1-definitely, 2-very likely, 3-likely, 4-50/50, 5-unlikely, 6-very unlikely, 7-definitely not. Only 2 of the 102 responses were in categories 5-7; thus we have compressed the last four categories of the scale into a single category, labeled 4⁺.

Discussion

Our findings support the assertion that jury deliberation and decision processes accentuate the predominance of the majority viewpoints, although our limited sample size made it impossible to look at the magnitude of effects separately across experimental conditions of jury size/unanimity requirement. Our investigation of initial verdict preference and certainty, behavioral expectations as to vote, and actual group vote supported the following additional conclusions: (a) jurors' certainty of the defendant's guilty and their self-expectations of how they will actually vote are strongly but imperfectly correlated with each other; (b) neither verdict certainty nor self-expectation are useful predictors of a juror's final verdict choice in a jury in which he/she is in the minority.

Our work reinforces the view of Fishbein et al (1972, 1975) that choices, attitudes toward the choices, and behavioral expectations about the choices are not simply substitutable for one another, and that contextual factors such as peer group pressure must be taken into account in attempting to explicate the link between intentions and behavior.

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