

## **INFORMATION TO USERS**

**The most advanced technology has been used to photograph and reproduce this manuscript from the microfilm master. UMI films the text directly from the original or copy submitted. Thus, some thesis and dissertation copies are in typewriter face, while others may be from any type of computer printer.**

**The quality of this reproduction is dependent upon the quality of the copy submitted. Broken or indistinct print, colored or poor quality illustrations and photographs, print bleedthrough, substandard margins, and improper alignment can adversely affect reproduction.**

**In the unlikely event that the author did not send UMI a complete manuscript and there are missing pages, these will be noted. Also, if unauthorized copyright material had to be removed, a note will indicate the deletion.**

**Oversize materials (e.g., maps, drawings, charts) are reproduced by sectioning the original, beginning at the upper left-hand corner and continuing from left to right in photographed in one exposure and is included in reduced form at the back of the book.**

**Photographs included in the original manuscript have been reproduced xerographically in this copy. Higher quality 6" x 9" black and white photographic prints are available for any photographs or illustrations appearing in this copy for an additional charge. Contact UMI directly to order.**

# **U·M·I**

University Microfilms International  
A Bell & Howell Information Company  
300 North Zeeb Road, Ann Arbor, MI 48106-1346 USA  
313/761-4700 800/521-0600



**Order Number 9021322**

**Intentional evidence and deliberation: Effects on mock jurors' perceptions**

**Velin, Robert Alan, Ph.D.**

**University of Montana, 1989**

**U·M·I**  
300 N. Zeeb Rd.  
Ann Arbor, MI 48106



INTENTIONAL EVIDENCE AND DELIBERATION:  
EFFECTS ON MOCK JURORS' PERCEPTIONS

By

Robert A. Velin

M.A., University of Montana, 1986

Presented in partial fulfillment of the requirements  
for the degree of

Doctor of Philosophy

University of Montana

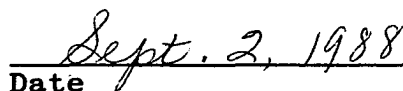
1988

Approved by:

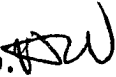


H.A. Walters, Ph.D.  
Chairman, Board of Examiners

  
Dean, Graduate School

  
Date

Intentional Evidence and Deliberation: Effects on Mock-Jurors'  
Perceptions

Director: Herman A. Walters, Ph.D. 

In previous jury outcome research, various investigators have studied factors such as juror and defendant characteristics, factors of evidence such as the validity and reliability of eyewitness testimony, and legal procedural rules. The present study was an attempt to determine the effects of intentional, nonintentional, and mixed-intentional evidence on jurors perceptions of, and suggested treatment for, a defendant in a homicide. Furthermore, the effects of deliberation and its interaction with the various types of evidence was also investigated. An initial exploration of the possible effects of videotaping deliberative procedures was ventured as well.

Male and female subjects were randomly assigned to one of three groups with seven other subjects, and were presented written case material which varied in type of intentional evidence (intentional, nonintentional, mixed). The subjects then individually responded to a questionnaire which asked them to make treatment recommendations for the defendant, and also asked them: a) how violent they believed the defendant was in the act, b) how responsible the defendant was for the act, and c) how likely the defendant was to be involved in future crime. After responding individually the jurors deliberated amongst themselves in order to arrive at collective, unanimous decisions regarding the defendant. Six group deliberations (two of each evidence type) were videotaped to allow some exploratory content analyses, as well as to allow for an analysis of the effects of videotaping the process.

It was found that both evidence type and deliberation had significant effects on juror and jury perceptions of, and recommended treatment for, the defendant. The results support the leniency effect demonstrated by other researchers, and also indicates this effect is influenced by evidence type and deliberation. Mixed evidence of intent tended to make jurors more conservative in their judgments, yet there were some paradoxical results. Specifically, although subjects in the mixed evidence condition viewed the defendant, on the average, as less likely to be involved in future crime and as less responsible, they also saw him as more violent in the act. The various results and their possible implications are discussed.

### Acknowledgements

I would like to express sincere thanks to my chairman and graduate advisor, Dr. Herman A. (Al) Walters, for his sound guidance and encouragement over the past four years. I would also like to thank the members of my committee, Dr. James A. Walsh, Dr. Nabil Haddad, Dr. John Bradley, and Dr. Robert W. Balch, for their time, interest and helpful comments.

Very special thanks go to my parents and family for their continued moral support and motivational interest in me and my various activities.

Finally, my deepest thanks to my wife, Vicky, for her continuous encouragement, love, and companionship throughout the past three years. She gave greatly of her time and finances to assure my goals, and was always there to keep me moving on.

TABLE OF CONTENTS

Abstract . . . . . ii

Acknowledgements . . . . . iii

Table of Contents . . . . . iv

List of Figures . . . . . vi

Introduction . . . . . 1

Evidential Factors . . . . . 10

Research Goals . . . . . 26

Methods . . . . . 29

Results . . . . . 32

    Video and Nonvideo Conditions . . . . . 33

    Nonvideo Condition . . . . . 38

Discussion . . . . . 55

    Qualitative Findings . . . . . 60

Conclusions . . . . . 63

Closing Remarks . . . . . 67

References . . . . . 69

Appendices

    A. Vignette Containing Evidence of Intent . . . . . 74

    B. Vignette Containing Evidence of Nonintent . . . . . 77

    C. Vignette Containing Mixed Evidence of Intent . . . . . 80

    D. Individual Mock-Juror Questionnaire . . . . . 83

    E. Introductory Statement to Subjects . . . . . 86

    F. Montana Homicide Statute (Condensed) . . . . . 88

    G. Jury Questionnaire . . . . . 90



TABLE OF CONTENTS (Continued)

Appendices (Cont.)

H. Pilot Study T-Test Results on Vignettes . . . . .	93
I. ANOVA Tables for Difference Scores . . . . .	95
J. ANOVA Tables for Age and Year in School . . . . .	98
K. ANOVA Tables for Algebraic Difference Scores. . .	100

LIST OF FIGURES

Table

1	ANOVA Summary on Verdict Choice . . . . .	41
2	ANOVA Summary on Sentence Severity . . . . .	44
3	ANOVA Summary on Parole Severity . . . . .	45
4	ANOVA Summary on Responsibility Ratings . . . . .	48
5	ANOVA Summary on Future Crime Ratings . . . . .	51
6	ANOVA Summary on Violence Ratings . . . . .	54

Figure

1	Mean Severity of Sentence Difference Scores . . .	35
2	Mean Future Crime Difference Scores . . . . .	36
3	Mean Sentence Severity Scores (Nonvideo Anal.) . .	42
4	Mean Responsibility Scores by Evidence Type . . .	47
5	Mean Future Crime Scores (Nonvideo Analyses) . . .	49
6	Mean Violence Scores . . . . .	52

## Introduction

Since the early 1970's there has been a growing interest among psychologists about legal concerns and issues. As psychology has become more interested in the law and legal affairs, the law has also become more interested in psychology and as a result an active area of study has begun to mature. An example of the legal system's interest in psychology can be seen in the 1978 jury size case, *Ballew v. Georgia*. In this case, the U.S. Supreme Court cited a number of psychological studies to argue that juries in criminal cases must constitute at least six members. In addition to this, the use of social scientists in systematic jury selection has also been implemented. In a number of highly publicized trials, social scientists have assisted defense attorneys in selecting jurors. These trials include the Harrisburg Seven, the Attica Prison trial, and Wounded Knee, to mention just a few. The process of systematic jury selection has been sharply criticized but it does demonstrate the legal profession's interest in psychological issues. The combination of psychology and law has become so common-place that one-third of all graduate psychology departments in the United States now offer courses on forensic issues (Monahan & Loftus, 1982).

Although the current state of affairs between the psychological and legal communities is fairly productive and

collaborative, this has not always been the case. The history of the merging of the two disciplines, as with other fields, has not been without struggle and dissension.

### History

The interaction between psychology and law is not a new creation as this interest and integration dates back at least to the turn of the century. According to Tapp and Levine (1977), this history unfolds in four intellectual stages which can be characterized as follows. The first of these four stages, the pioneering stage, was witnessed by Muensterberg's book On the Witness Stand (1908) in which he applied experimental psychology and its principles to courtroom procedures. His primary emphasis was on the reliability of witness testimony, which was of great significance, but most importantly this was the first introduction of European psychological research to American psychologists and lawyers. Muensterberg not only summarized and analyzed the literature on the unreliability of perception and memory, but also made gross and sweeping generalizations about the superiority of psychological methods, relative to those utilized within the legal system. Although a gallant attempt at thoroughly reviewing the literature, his attacks on the legal system resulted in merciless criticism by legal scholars of the day. His

caustic remarks served to create a tense relationship between the legal and psychological camps.

The 1930's saw the rise of the realist stage in which attempts were made to revamp the law in light of psychological learning. Interestingly, this renewal of interest in psychology and law was initiated primarily by lawyers. In general, this stage was a reaction to seeing law as a closed, deductive body of logically ordered rules which did not allow for empirical inquiry. One of the greatest contributions of this era was the controversial book by Robinson (Law and Lawyers, 1935), in which he, a law lecturer and psychology professor, insisted that every legal problem was a psychological problem, at its base. Needless to say, this did not enrich nor ameliorate the tattered relationship between lawyers and psychologists which was spawned in the previous stage. Robinson, however, did have a very important insight which was lost during the ensuing debates. He observed that Muensterberg's approach of seeking one-to-one relationships between existing data and legal problems was unproductive. In an attempt to create a proper place for empiricism within jurisprudence he suggested a two-stage approach to the role of psychology and law. First, he suggested psychologists should investigate substantive issues of importance to the law. Second, the procedures of science should be utilized to discover the

behavioral and psychological premises tacit in legal doctrines. Unfortunately, as was mentioned, this proposal was lost in his "impassioned diatribes against the conservatism of the law" (Loh, 1981, p. 319).

In this realist stage the primary thrust was for advocating empirical inquiry into legal issues. The "realists" saw law simply as part of society, and as result judicial decision making was believed to be influenced by extra-legal factors. Although the thrust was for empirical inquiry, little research of importance resulted. Loh, (1981) ultimately concluded: "The bequest of realist jurisprudence was the promise rather than the application of its social-legal approach to law" (p. 322).

The third stage, called the policy making stage, was ushered in by the landmark school desegregation case of Brown v. Board of Education (1954). It witnessed an increased use of clinical and social psychologists testifying in such areas as pretrial publicity, mental disorders, and civil rights. In the Brown v. Board of Education case, for example, social scientists presented evidence suggesting the potential harmful effects of segregation on children, which was integral to the final outcome of the case.

The coming-of-age stage, the fourth stage in this history, was announced by June Tapp's 1977 Law, Justice, and

the Individual in Society: Psychological and Legal Issues

(Loh, 1979). This stage describes the current status of the relationship between psychology and law. Currently, there is a collaborative effort which has been evidenced by an increasing consciousness that psycholegal research requires more sensitivity to the lawyer's point of view (Loh, 1981). In fact, the majority of research during this era has been initiated by specific questions which have been posed to psychologists by lawyers, or which are directly applicable to immediate concerns of the court.

In general, the history of psycholegal research can be described as a succession of interchanges between optimistic individuals attempting to "redeem" the law, and a defensive legal community rejecting the generalization of experimental or laboratory research to "real life" situations (Loh, 1981). This tenuous partnership with its occasional outright hostility has prevailed until recent times, with each side carrying on "as though the other side did not exist" (Fahr, 1961). The coming-of-age stage, however, has seen a collaborative effort as was mentioned above. Additionally, the conflict has been mitigated by the creation and organization of a group of specialists in psycholegal studies. Until recently, the majority of those who were writing on psychology and law did not have the subject as their primary interest (Saks, 1979). Now rather

than the two disciplines working against each other, it is more common to find that scholars are engaging in empirical research which is intended to address specific court issues, as exemplified in jury studies.

Interestingly, recent progress and productivity in psycholegal research seems to have been the result of a strong demand for applied research by the courts. Once again, the legal system has approached psychology with specific questions, as it has in the past, and psychology has responded. This pattern of court-instigated psycholegal research leads one to view psycholegal history in a new light. Although on initial presentation it may appear that psychologists have attempted to "force" their way into the legal system in an attempt to "redeem" the law, this view seems inaccurate, especially of late. On the contrary, it has often been the court or legal system which desires what psychology may have to offer. Lawyers, for example, are going to take advantage of any factor which will potentially strengthen their case, and as a result they often request answers to specific questions. These questions frequently are of a psychological nature, and also often require innovative research in order to be answered.

This applied effort by psychologists has also led to the development of rather substantial data bases, and as a result, the field seems to be ripe for research which is



theoretical as well as applied in nature. That is, now not only can research topics of an obviously applicable nature be examined, but perhaps comprehensive theories of human behavior, within the legal sphere, can begin to be developed. Perhaps no element of the legal system lends itself to such a task quite as well as does the jury.

#### The Importance of the Jury

During the coming-of-age stage the focus of empirical inquiry has stretched into new areas of the legal domain. The majority of contemporary research has been on the criminal trial process and thus, the jury, being at the center of such a process, has come under increasing scrutiny. Although the majority of disputes never reach trial, the influence of the jury is pervasive. Each year an estimated two million individuals function as jurors in roughly 200,000 criminal and civil cases (Abraham, 1980). Cases that reach trial are potentially crucial matters of concern to society and as a result the outcome of any one case may be important to many. That is, the jury has the ability to establish legal precedent and thus the consequences of an individual trial can be far-reaching. They determine, to some degree, what will be brought to trial in the future since plea bargaining and out-of-court settlements are greatly influenced by expectations of what would happen if a matter was settled in court (Monahan &

Loftus, 1982). In short, the jury is an extremely potent force.

### The Jury Process

The American trial by jury system is based on the adversarial process, where both sides of a conflict present their evidence to an impartial body of community representatives who ultimately hand down a decision. Standardly, the jury has been composed of 12 members who deliberate to unanimity. After hearing both sides of a conflict it is the jury's responsibility to distill the facts from the complex and often conflicting testimony which was presented. Since jurors are not necessarily (or usually) familiar with the law, they are also required to apply relevant legal statutes as presented in the judge's instructions. Thus, not only must they make sense of the testimony which was presented, but they must also comprehend and then apply complex judicial instructions.

At the basis of this process is the tacit assumption that jurors are considering only the facts of the case and not extra-legal factors. This assumption does not appear well founded however. There is evidence suggesting the influence of extra-legal factors such as sex, race, age, physical appearance, the attractiveness of the defendant, the order of presentation of evidence, and the personal style and credibility of the attorneys (Wrightsmann, 1978). As one can

easily see, there is a variety of extra-legal factors which have been demonstrated to affect judicial outcome, and probably more yet to be discovered. The purpose of the current research follows this line of inquiry.

### Psycholegal Research Domains

Over the years there has been an accumulation of a large amount of varied information concerning jury studies and the legal process. Monahan and Loftus in 1982 reviewed and attempted to synthesize the major findings of mainstream psycholegal research. Their overview trifurcates psychology and law into the three functional domains of (1) substantive law, (2) ways in which the law actually disposes of individual cases, and (3) the legal process. Many variables in this third domain have been studied as they relate to jury trial, and include juror and defendant characteristics, factors of evidence such as validity of eyewitness testimony, and legal and procedural rules. (For broader reviews of jury research see Gerbasi, Zuckerman, and Reis, 1977; Saks and Hastie, 1978; Nemeth, 1981; and Monahan and Loftus, 1982.) The current work will focus almost exclusively on this third domain.

## Evidential Factors

### Various Factors

There is a variety of evidential factors which researchers have examined in the past and on which they continue to focus their efforts. These factors include the mode of presentation of the evidence (i.e. live vs. videotaped), and the reliability of evidence garnered by eyewitness testimony. Along this line, research suggests that jurors do not ignore evidence they have heard that is later ruled as inadmissible (Fontes et al, 1977; Martin, 1985). Supporting this is data from research on belief perseverance which shows that people do not necessarily disregard information even after it has been completely discredited (Lord, Ross, & Lepper, 1979).

It has also been shown that jurors give reduced weight to witnesses who qualify their speech (Erickson et al, 1978), and that they are also affected by pretrial publicity (Loftus, 1979a). Thus, the use of videotapes has been suggested as a means of presenting information to the jurors. Research generally has been supportive of this, as it has been found that it is more effective than written transcripts in affecting juror judgments (Farmer et al, 1977) and as effective as live testimony in keeping the juror's interest and motivation and in fostering witness credibility (Miller, 1976). This would also allow control

of the "coat-hanger" effect which is associated with a judge's ruling of inadmissibility of evidence. This ruling by the judge merely makes the evidence more salient, and thus more available for later retrieval and processing.

Research on evidence of eyewitness testimony is perhaps the most systematically and theoretically developed in the forensic psychology field (Wells, 1980). Among the many factors which have been found to affect the reliability of eyewitness identification are age, with adults being more accurate than children or the elderly (Smith & Winograd, 1978), and race, as cross-racial identifications are much poorer than same-race identifications (Goldstein, 1979). Additionally, the manner of questioning used to elicit identification has a great effect on its reliability (Loftus et al, 1978). Quite disturbing is the fact that jurors give great weight to the "confidence" of an eyewitness in assessing his or her credibility, even though research suggests that confidence in recognition is unrelated to accuracy of recognition (Deffenbacher, 1980). Additionally, there are such processes as "weapon focus" which occur to eyewitnesses. This is the tendency to focus on a weapon which is being used in a crime, and not the person holding the weapon (Loftus et al, 1978).

This discrepancy between research findings on the unreliability of eyewitness identification and the

traditions of the legal process that place strong emphasis on eyewitness testimony, has led to the increasing use of researchers as expert witnesses in trials that revolve around issues of perceptual accuracy (Loftus, 1980; Wells et al, 1980).

Many mitigating factors have also been found to influence jurors' perceptions and treatment of defendants (Arenella, 1977; Clucas, 1984). Although psychologists can't solve the court's basic problem in deciding who is guilty, and if so, at what level of responsibility, they can assist fact finders (judges and jurors) by reconstructing and interpreting clinical aspects of past events by assessing current psychological functioning (Hoffman, 1981). The U.S. Supreme Court has given legitimacy to this type of testimony in the 1979 decision of *Addington v. Texas* (Monahan and Loftus, 1982).

Some additional variables which have been examined include the language and timing of instructions (Elwork et al, 1977), the level of severity of the judge's admonishment (Wolf and Montgomery, 1977), as well as different levels of ambiguity in the admissible evidence (Sue, Smith and Caldwell, 1973). When one considers that studies show that juridic instructions are almost wholly incomprehensible to jurors, the language of instructions becomes of prime importance. For example, Strawn and Buchanan (1976)

reported that only half the jurors instructed in the burden of proof in a criminal trial understood that the defendant did not have to prove his or her innocence. Concomitantly, Charrow and Charrow (1979) found that jurors only understood approximately half of what was explained to them. This was primarily the result of statements involving multiple negatives such as, "innocent misrecollection is not uncommon". Fortunately, studies have found that this is easy to overcome when instructions are rewritten with attention to clarity.

Timing of instructions was also mentioned above as being important. The traditional practice has been to present instructions at the end of the trial with preliminary instructions occurring only occasionally, because of the concern that this may affect juror decision making by over-emphasizing the issues raised in the instructions (Penrod & Borgida, 1982). Concerns over the timing of instructions are not a recent development as over 20 years ago they were already a topic of discussion. Along this line, Sales et al (1977) have argued that it is unreasonable to expect jurors to recall and evaluate all of the appropriate evidence after the instructions are explained at the end of the trial. Kassin and Wrightman, in a 1977 study, provided further support for the importance of instructions. College student mock-jurors watched a videotaped reenactment of a trial in

which the defendant was charged with stealing a car and then transporting it across state lines. Judicial instructions on the requirements of proof were presented either at the end of the trial, at the beginning, or for the control, not at all. Kassin and Wrightman found that jurors who heard the instructions at the beginning were less likely to convict relative to those who received no instructions (the control), while those who received the instructions at the end of the trial did not differ in their verdicts from the control group. Interestingly, although all mock jurors showed high recall of case-related facts, jurors who received instructions at the end showed poorer recall than those preinstructed.

When one is concerned with evidential factors and their resulting influences, the topic of memory also becomes critical as the two are inextricably tied. Jurors are not allowed to take notes during trial procedures and thus, memory is the first and last structure/process involved in the decision making process. Tanford and Penrod (in press) found that a defendant was more likely to be convicted on a particular charge in a joined trial rather than on the same charge tried alone. They also found judges' instructions to consider evidence separately for each charge to be ineffective in reducing this conviction rate. Additionally, it has been shown that specific information is recalled in



relation to an overall impression, and as a result Berman, Read, and Kenny (1983) found that information consistent with earlier impressions was more likely to be remembered. Corresponding to this is the finding by Snyder and Horowitz (1978) which suggests that subjects reconstruct events over time to make them more consistent with earlier impressions. This ties in very nicely with the point made above about pretrial publicity and its influences on jurors. It has also been shown by Fiske (1980) and Hodges (1974) that negative information is weighted more heavily than positive information. As a result, negative trial evidence may accumulate in memory faster and be more readily available for recall during deliberation procedures. Up to this point, findings on memory as a variable as it relates to verdict or trial outcome are controversial at best. It does seem to be intimately tied with many aspects previously discussed, however. When one considers the amount of information with which a juror is faced during a "typical" trial this importance becomes even more prominent.

#### Evidence of Intent

A crime consists of two essential elements: actus reus and mens rea. Actus reus refers to the physical act specified in the definition of the crime, while mens rea refers to a culpable mental state, or the mental element of criminal intent. Mens Rea means that the defendant

harbored the intention, design, or purpose to commit the act at the time the act occurred. A culpable mental state is based on the premise that the average adult is a rational being with voluntary control over his or her actions. Because of mens rea requirements the question of intent is paramount in the legal system, and this culpable mental state is something about which psychologists are often requested to testify.

In addition to actus reus and mens rea, an element called "specific" intent is also important for certain crimes. Specific intent is the state of mind needed to commit the criminal act and to accomplish some further consequence (Hopper, 1977). For example, to be convicted of murder the defendant must be shown to possess a culpable mental state, and must have harbored the specific "intent to kill." The culpable mental state indicates only blameworthiness. If specific intent to kill was not present then negligent homicide rather than deliberate homicide is the appropriate verdict.

As one might imagine, it is normally impossible to acquire direct evidence of intent because of the subjective nature of this element of the crime. A person's intentions are known with certainty only to that person. Proving specific intent is a difficult task accomplished by showing facts that circumstantially signify the defendant's intent.

Intent is inferred from any variety of factors, and presenting evidence suggesting an intentional or nonintentional act is the duty of the attorneys. From all of the evidence presented, jurors are expected to rationally and fairly come to a decision regarding the defendant's intent. Based on this judgment of intent, among other things, jurors come to a decision concerning the final disposition of the case. Thus, because of the central nature of intent in a trial, the topic of intent is one worthy of study.

#### Research on Intent

Several investigators have studied the effects of intent on attribution of aggressiveness (Brown and Tedeschi, 1976; Holm, 1982; Nickel, 1974; Rule and Duker, 1973; and Schwartz et al, 1978) and have found that intent did indeed influence jurors' attributions of aggression. For example, Holm (1982) found that the attribution of aggression was influenced by "both intent and reason." The subjects tended to evaluate not the action, but rather its antecedents, and they interpreted a "harmful or potentially harmful act as aggressive if it was intended and/or the actor had a reason, such as revenge, for his action." These studies have not directly assessed the effects of intentional evidence on jury decisions, however.

Other investigators in this area have focussed on the attribution of responsibility for one's actions. Most of the work in this area is based on the work of Heider (1958), who suggested that attribution of responsibility varies with the relative amount of personal versus environmental factors present. He posited five levels or developmental stages through which an individual sequentially passes throughout his or her life. Each level, according to Heider, represents an increasing level of sophistication where there is consideration of new variables, which may affect attribution of responsibility. Level 1 (Association) is the most unsophisticated stage and an individual is held responsible for any outcome with which he or she is associated. At level 2 (Commission) a person is responsible for any outcome he or she produces, even if the consequences are unforeseen. At level 3 (Foreseeability) the individual is held responsible for his or her actions only if they produce foreseeable consequences. At level 4 (Intentionality) the person is held responsible for any outcome that is intended, and at level 5 (Justification) the individual's responsibility for intended outcomes is mitigated if circumstances justify the actions. Although several researchers have empirically tested Heider's levels of responsibility and their relation to outcome intensity (Shaw and Sulzer, 1964; Sulzer and Burglass, 1968; Shaw and

Reitan, 1969), these studies were not intended to represent jury situations. More recently, however, Harvey and Enzle (1978) did consider the effects of perceived justifiability in mock trial situations.

As mentioned earlier, intentionality (or intent), has been shown to affect attributions of aggression, but these studies were not designed as jury or juror outcome studies. Two researchers who have addressed the question of the effects of intent on jury/juror outcome are Joann Horai and Mary Bartek (1978). They were primarily interested in recommended punishment as a function of injurious intent, actual harm done, and intended consequences. It was expected that the greater the injurious intent and the greater the harm actually done, the more severe the actual recommended punishment. Horai suggested that intent, which is a hypothetical construct referring to what an actor has in mind prior to performing an act, consists of "three sequential expectancies having an 'if this, then that' form." This sequential flow begins with an actor intending to perform an act (or acts) in order to cause an intended effect(s) that will result in an intended consequence(s). Horai and Bartek's results did indicate that recommended punishment did vary as a function of injurious intent, actual harm done, and intended consequences. However, intended consequences did not interact with injurious intent

or actual harm done. It was also found that offensive actors were judged more harshly than defensive actors, which is a result consistent with Heider's level of justifiability as a mitigating factor. The results also suggested that recommended punishment was independent of predictions of future behavior. However, whether it has an effect on suggested parole was not addressed. Thus, intent as defined by Horai (Horai, 1977; Horai and Bartek, 1978) does have an effect on recommended punishment.

As shown above, intent is related to perceived aggressiveness and responsibility yet little if anything is known about its direct effects on juror and jury decisions. This is despite the fact that it is an integral factor in discriminating negligent homicide from other forms of criminal homicide, and is at the basis of "mens rea" which is an important aspect of diminished responsibility (although diminished responsibility has been removed from the mens rea requirements of homicide in Montana).

A recent study (Velin, 1988) addressed this area of intent more fully. It was specifically interested in the effects of the presentation of intentional evidence on jurors. In other words, when a juror is presented with evidence of intent, how does that affect 1) perceived responsibility as characterized by a dichotomous choice between two types of homicide (Negligent Homicide vs.

Deliberate Homicide), 2) length of sentence suggested, 3) length of parole suggested, 4) perceived likelihood of future crime, and 5) perceived aggressiveness of the defendant. In the Velin study intent was not conceptualized or manipulated in the same fashion as in the Horai and Bartek study (1978), but rather was defined explicitly as statements made by the defendant prior to the crime or at the time of the crime which referred to his intentions. (The use of the term "his" in this case is not accidental or for sexist purposes, but rather is deliberate since the defendant was male and defendant gender differences have been shown in other research.) Additionally, the Velin study combined Horai's three expectancies (intent, act, and consequences), but the criminal act and consequences to the victim were held constant, which was not done in the Horai and Bartek study.

The results of the Velin study suggested that when presented with evidence concerning a defendant's intentions related to the criminal act, the evidence does indeed affect the juror's perceptions of the defendant. Concomitantly, regardless of juror gender, it also modifies the recommended consequences. Specifically, evidence that the defendant intended the act will result in more severe suggested consequences for the defendant (i.e. guilty of deliberate homicide rather than negligent homicide, a more severe

suggested prison sentence, and longer parole after release from prison), when compared to evidence suggesting the act was not intended. Evidence suggesting an intentional act will also cause both male and female jurors to perceive the defendant as having been more violent in the act, relative to what they would perceive if they were presented with evidence indicative of a nonintentional act. It is important to remember that the physical act and its consequences did not differ, as they were held constant across all experimental groups.

It was also found that type of evidence significantly interacted with juror gender when it came to perceived likelihood of future crime for the defendant. This interaction demonstrated that different types of evidence influenced males and females differently on how likely they felt the defendant was to be involved in future criminal activity. Specifically, this gender difference showed that when presented with evidence indicating an intended act, female jurors tended to perceive the defendant as more likely to be recidivistic than male or female jurors who were presented with evidence suggesting nonintentionality. In addition, and perhaps more importantly, females who were presented with only factual evidence (i.e. no evidence suggesting intentionality) also tended to believe the defendant was more likely of future crime than were males



presented with nonintentional evidence. Thus, nonintentional evidence appears to have very similar influences on perceptions of future crime for jurors of both sexes, but the effects of evidence suggesting intent or of factual evidence alone, seem to be amplified with female jurors.

Even though there was this difference in perceptions of probability for future crime, it was not manifest in treatment of the defendant. That is, even though there may be the gender mediated increase in judgments of future crime, this was not associated with increased suggested sentence or parole. This finding supports the findings of Horai and Bartek (1978) who also found that recommended punishment was independent of predictions of future behavior. It is important to note that the above statements can only be safely made for situations of homicide where there is a male defendant and a male victim. Numerous other studies show very significant gender effects for defendant treatment, especially with rape cases (see Nemeth, 1981 or Saks & Hastie, 1978).

Although there was a gender and evidence interaction, in general, juror gender did not appear to play a major role in influencing or altering the effects of evidence concerning intent on the suggested consequences of a criminal act in the Velin study, except for the deviation just discussed.

It is interesting to note that type of evidence did not affect judgments of responsibility. That is, regardless of evidence type, subjects considered the defendant to be approximately equally responsible for the act, which indicates they viewed the defendant as mentally culpable. Type of evidence seemed to have its primary influence on specific intent, not mental culpability.

### Conclusions

There are many factors which act and interact to influence jurors' perceptions, and ultimately their decisions. It must be pointed out that most of the evidence currently available on these factors has been gained through analogue research procedures. This is a limiting factor, yet it does not appear to be a major flaw. If nothing else, these studies suggest what may be occurring in actual trial situations. Perhaps even more important is the fact that this approach allows for the discovery of relationships which may not be available for scrutiny in an actual trial. For example, much may be learned about how to improve the comprehension of actual jurors by utilizing this experimental approach with non-juror subjects and presenting them with alternative instructions. Since it is not currently possible to examine actual jurors and deliberative procedures, analogue research is the most feasible alternative for gaining information.

Regardless of methodological concerns in some topic areas, it is a fact that forensic psychology is becoming more and more of a factor within the legal community. The field of psychology of law has burgeoned in both interest and published work during recent years (Monahan and Loftus, 1982). Membership in the American Psychology-Law Society is at record levels, an American Board of Forensic Psychology has been created, and the American Psychological Association has formed Psychology and Law as its forty-first division. Publications of articles on psychology and law have appeared in mainline journals, and several journals have devoted entire issues to legal topics. Thus, this is clearly an extremely active topic area. There is much yet to be learned and there are many challenges (methodological and otherwise) yet to be met.

As one can easily see, the question of intent and its varied effects on jurors is one of these challenging topics. Although initial research has shed some light on the issue, more research will further elucidate unknown aspects.

### Current Research Goals

The current research is an attempt to more fully address the questions which were raised as a result of earlier studies, and is also an attempt to explore new questions of a more specific nature. The first question to be examined is whether jury deliberation substantially moderates the effects of intentional evidence. Initial research conclusively shows the effects of intentional evidence on individual mock-jurors, but whether this influence holds, or changes, after deliberation is unknown. Placing the theoretical questions of intent in a deliberative arena moves research one step closer to what happens in the actual courtroom.

A subsequent question concerns the effects of an amalgamation of different types of intentional evidence. When evidence is presented in true trial situations it is rarely if ever presented in a pure form. That is, a juror is rarely presented evidence suggesting an intended act without also being presented evidence suggesting an unintended act. By the very nature of the adversarial paradigm to which our court system subscribes, whatever one counsel presents, the other counsel attempts to discredit, often by presenting oppositional evidence. The important

consideration in this case concerns the differential value of the evidence to the jurors. Is nonintentional evidence (suggesting a nonintentional act) more prominent and influential relative to intentional evidence (suggesting an intentional act), or is the contrary true? It may, in the future, be valuable to attempt to build mathematical models to represent the different weights assigned to the two types of evidence in the decision making process. This type of procedure is not uncommon to researchers who specifically study the mechanisms of decision making, but it will not be the focus of the present research.

An additional query is directed towards the differential effects of deliberation as they pertain to gender differences. The 1988 Velin study indicated disparate effects of intentional evidence on male and female jurors' perceptions of likelihood of future crime. Although this difference did not appear to be manifest in actual treatment of the defendant (i.e. length of parole or sentence), it is possible that this effect, or its results, may be modified through deliberation. Once again, by examining the results of deliberation this particular question can be addressed.

Of interest as well, is whether the differential effects of evidence on male and female jurors plays a role in creating a hung jury. A careful examination of the effects

of deliberation can provide valuable information regarding this question.

Additionally, information regarding the deliberation process, and the effects of videotaping that process, are also of interest. By examining the content of the deliberations as well as the differences between groups which are and are not videotaped, information on these two areas was gained.

### METHODS

One hundred forty-four volunteers from undergraduate psychology courses were randomly assigned to one of three groups. Subjects reported for the experiment in groups of 8 (4 male and 4 female) and were presented a short narrative concerning a homicide which they were to individually read. Depending upon the group to which a subject was assigned, they and the rest of their 8 person jury read either a narrative containing evidence suggesting an intentional act, a nonintentional act, or mixed evidence of intentionality (see Appendices A, B, & C, respectively). Data from the 1988 Velin study suggested that the narratives were effective manipulations of the dependent variable, intent. Further data for this assumption was gained through pilot work, however, which showed that the vignettes did indeed represent different levels of intent (see Appendix H).

After reading the vignettes the subjects individually responded to the questionnaire provided in Appendix D. All subjects also read a short introductory statement (Appendix E) and a short description of Montana Homicide statutes for Deliberate and Negligent Homicide (Appendix F) prior to completing the questionnaire.

After all subjects had completed the questionnaire they were instructed to agree on a jury foreman and to deliberate

amongst themselves in order to arrive at a collective, unanimous decision regarding the disposition of the case. This selection of a foreman was simply made by allowing the mock-jurors to appoint a group member who would accept the position or who had volunteered. The mock-jury presented its decisions by responding to the questionnaire in Appendix G. Specifically, the subject-jurors suggested a group-determined verdict, sentence, recommended parole, perceived responsibility, likelihood of future crime, and perceived level of violence. A thirty minute time period was allowed for deliberation.

Deliberation procedures were videotaped for 6 of the groups (48 subjects) in order to facilitate some exploratory content analyses. The taping also allowed for preliminary examination of the effects of videotaping on the deliberation process. This has become an important question of late, and thus, any information regarding its effects will be important for future research. Subjects being videotaped signed a form indicating their knowledge of the taping, and the camera in the corner of the room was then started just prior to deliberation.

After completing the final questionnaire the subjects were fully debriefed and asked not to discuss the research with anyone for a period of three weeks. They were informed



that this was to insure that the subject pool not be contaminated by "leaked" information.

Included on the initial questionnaire (Appendix D) were questions regarding subjects' experience with violent crime. If a subject had been the victim of a violent crime, or had been closely associated with a victim of a violent crime, it would possibly produce a deviation of their responses compared to the general population. (Should a substantial number of subjects have experience in this manner it would provide an opportunity to evaluate the effects of such exposure.) Past research shows an insignificant number of subjects having such experiences, however, and thus this problem was expected to be inconsequential.

A possibility, as a result of the deliberation, was the failure of the jury to reach a unanimous decision after a 30 minute time period. When there was a "hung" jury, since they could not make any judgments or recommendations regarding negligent or deliberate homicide, they marked on the jury questionnaire (Appendix G) the choice of "no verdict". When this occurred they could not respond to question 2 (length of prison), but they did attempt to reach unanimous decisions on questions 3 through 6.

## RESULTS

### Data Transformations

Analysis of variance procedures were performed on each measure on the questionnaire. Scores on the suggested length of parole and imprisonment scales were transformed into severity ratings by recording the relative amount of the scale which was used (e.g. a suggested prison sentence of 40 years on the deliberate homicide scale was recorded as 40%, while the same on the negligent homicide scale was recorded as 100%). This allowed for comparisons between the different scales for deliberate and negligent homicide.

### Data Subsets

Since there were 96 subjects in the nonvideo condition and only 48 in the video condition, 48 subjects were randomly dropped from groups within the nonvideo category to allow for analysis of variance procedures between the video and nonvideo conditions. (See Milligan, Wong, and Thompson, 1987, for a discussion on the necessity for equal cell n's when utilizing ANOVA procedures.) Initial analyses were performed on this subset of data to determine if there were any substantial effects due to videotaping the deliberations and further analyses were then performed on the full nonvideo condition sample.

### Analyses Between Video and Nonvideo Conditions

Due to problems with double-precision computing routines on the computer (VAX 8600), and the resulting variance-covariance matrices within the analysis of variance program (Ullrich-Pitz), pre- and post-deliberation scores had to be converted to difference scores on all measures in order to perform ANOVA's between the video and nonvideo conditions. Thus, 2 X 3 X 2 ANOVA's (video vs. nonvideo X evidence type X sex) were performed between the video and nonvideo conditions on measures of " Sentence and Parole Severity, Levels of Perceived Responsibility, Perceived Likelihood of Future Crime, and Perceived Violence." This problem did not occur for the nonvideo condition analyses discussed later, and thus the calculation of difference scores was not necessary for those analyses.

Videotaping deliberations did not have a significant effect on any of the five final outcome measures. The results of the measures which did have statistically significant results are discussed below. See Appendix I for a complete listing of all ANOVA results between the video and nonvideo conditions.

#### Severity of Prison Sentence

Difference scores were computed for this measure by taking the absolute value of the difference between pre- and post-deliberation ratings. A main effect for taping was

nonsignificant,  $F(2,84)=1.868$ ,  $p>.05$ , while a main effect for evidence type was significant beyond the .01 level,  $F(2,84)=13.998$ ,  $p<.01$ . A Newman-Keuls multiple comparison indicated that the intentional group's mean difference score of 56.56 was significantly greater than the mean difference scores for the mixed evidence group (35.16) and the nonintentional group (22.34). The nonintentional and mixed groups did not significantly differ from each. (See Figure 1.)

#### Ratings of Future Crime

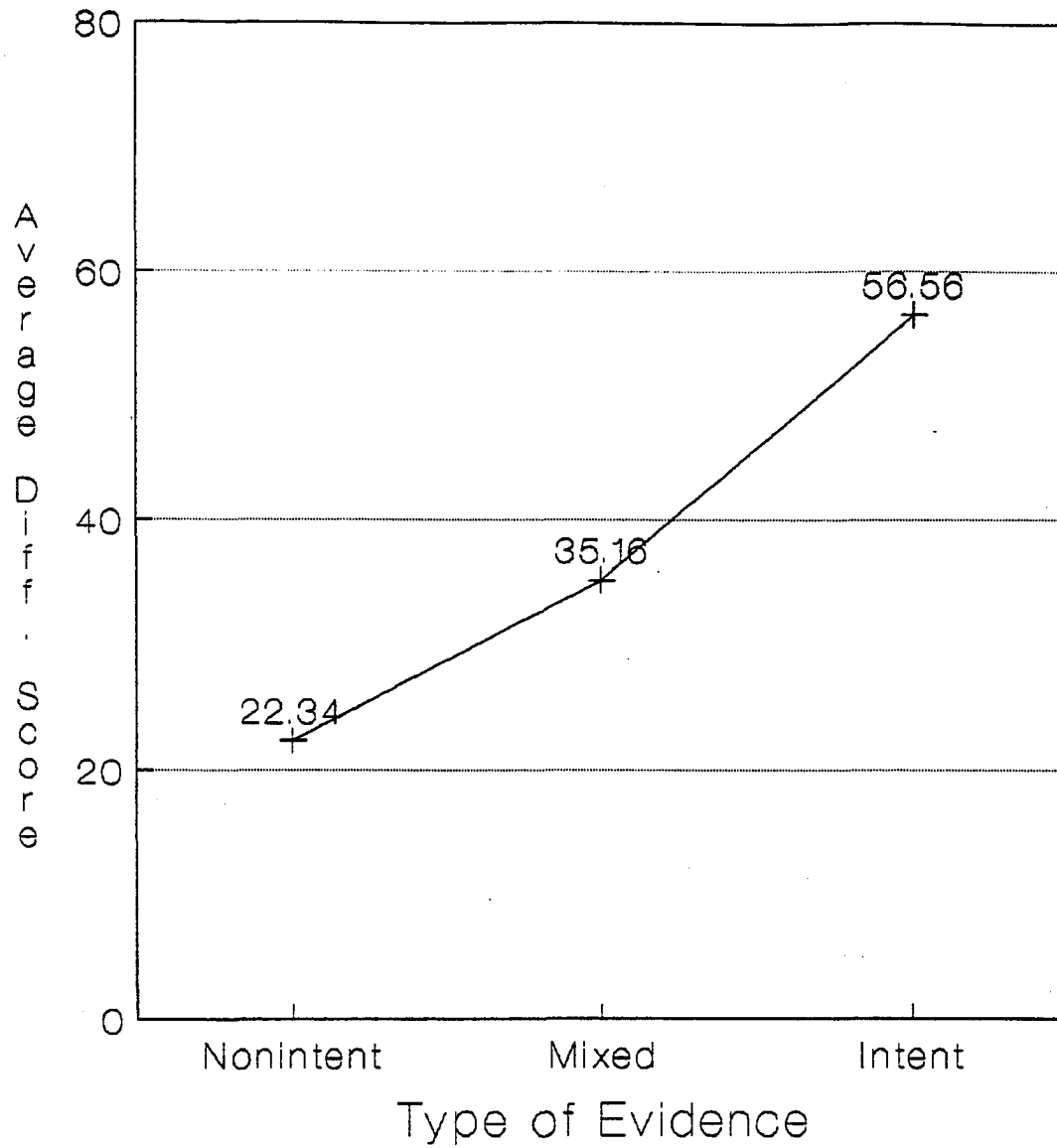
Absolute difference scores were also computed on this measure and were then subjected to a 2 X 3 X 2 analysis of variance procedure. A significant interaction was found between type of evidence and juror gender,  $F(2,84)=7.232$ ,  $p<.01$ . A Newman-Keuls multiple range test indicated that the mean difference score for females in the nonintentional evidence group was significantly greater than the scores for females in the intentional and mixed evidence groups, and males in the nonintentional group (see Figure 2).

#### Difference Scores

Absolute difference scores were used on the primary analyses where difference scores were necessary. This provided general information regarding change from pre- to post-deliberation, and not information on the direction of that change. Additional analyses were then performed on the

# Figure 1

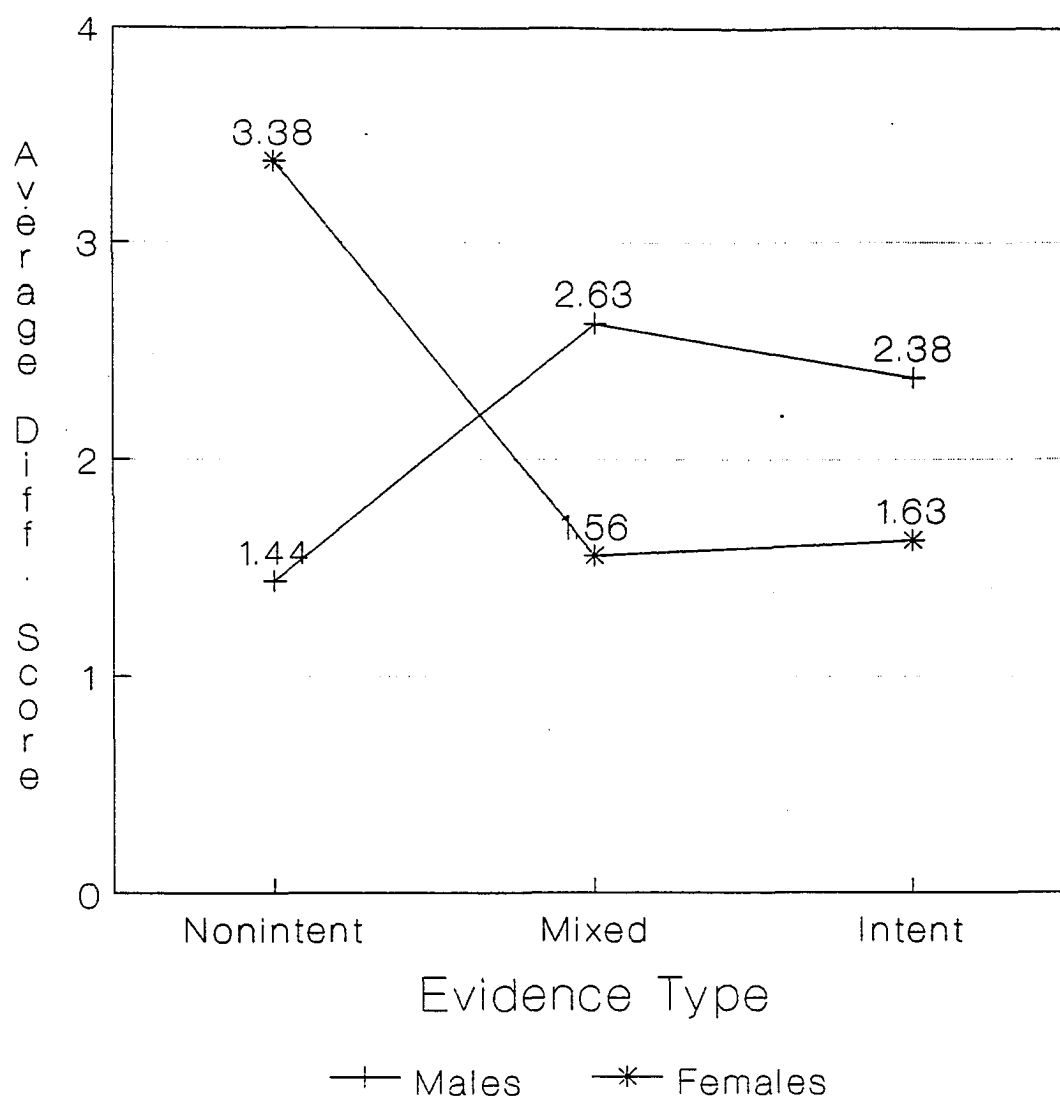
## Severity of Sentence Scores



Video and Nonvideo Analyses

# Figure 2

## Future Crime Difference Score



Intent X Gender Interaction

data using algebraic difference scores. These results are provided in Appendix K as they may be helpful for researchers who wish to develop theories regarding the direction of this change.

#### Subject Demographics

The mean age of subjects in the above analyses was 23.49 years ( $SD=7.041$ ), and the average year in college was 2.022 years with a standard deviation of 1.196. An analysis of variance on age showed a significant interaction between video condition and evidence type,  $F(2,84)=3.998$ ,  $p=.0214$ . A multiple comparison indicated that subjects in the videotaped-intentional evidence condition were older (28.81 years) than subjects in the other conditions whose average ages ranged from 20.81 years in the nonvideo-intent cell, to 23.63 in the taped-nonintent cell.

There was also a significant difference on year in college,  $F(2,84)=7.292$ ,  $p=.0083$ , between the video and nonvideo groups. Individuals in the video conditions tended to be slightly higher in school year (2.33 years vs. 1.71 years). A significant interaction between videotaping and juror gender,  $F(2,84)=7.292$ ,  $p<.0083$ , was also found on year in school. Females in the nonvideo condition were significantly lower in school year (1.25 years) than females in the video groups (2.50 years). See Appendix J for a tabular summary of these ANOVA results.

### Results of Analyses on Nonvideo Conditions

Since the above analyses suggested negligible effects due to videotaping of the deliberations, additional analyses were performed on all subjects in the nonvideo condition, which had the largest total population. Analyses were performed on a total of 96 subjects, which represents 16 subjects per cell. This larger N allows for greater confidence in interpreting the results and is also more likely to indicate "true" differences because of the increase in statistical power and sample size.

The initial analyses between the video and nonvideo groups were performed primarily to see if videotaping the deliberative procedures for exploratory content analyses would substantially change the deliberative process. There was no evidence suggesting that videotaping did significantly affect the process, and thus the current research assumes that the deliberations videotaped for content analyses are basically equivalent to those not taped. This assumption is somewhat limited because of the lack of subjects in the taped condition (n=48), however, and thus collapsing across video conditions was not attempted. A total N of 96 within the nonvideo condition allows for confident interpretation of the data, without the need for adding subjects from the video group, which could conceivably increase error due to process changes.



### Subject Demographics

The mean age for subjects in the nonvideo condition was 24.29 years (SD=7.432) and an analysis of variance indicated there was no significant difference between males (23.17) and females (25.42),  $F(1,84)=2.238$ ,  $p>.05$ , or between subjects in the nonintentional (24.84), mixed (25.53) or intentional evidence (22.50) groups,  $F(2,84)=1.489$ ,  $p>.05$ . The interaction between evidence type and juror gender was also nonsignificant for age,  $F(2,84)=0.726$ ,  $p>.05$ .

The average year in college was 2.22 years for all subjects. There were no significant differences between males and females,  $F(1,84)=1.681$ ,  $p>.05$ , or between evidence groups,  $F(2,84)=1.378$ ,  $p>.05$ , with respect to year in college.

The results of the 3 X 2 X 2 ANOVA'S performed on all questionnaire measures are presented below.

### Verdict Choice

An analysis of variance on "choice of verdict" indicated a main effect for type of evidence,  $F(2,90)=36.689$ ,  $p<.00001$ , and a main effect for pre- post-deliberation,  $F(1,90)=50.281$ ,  $p<.00001$ . The interaction between the above two factors was also highly significant,  $F(2,90)=25.562$ ,  $p<.00001$ , indicating that exposure to mixed evidence led to a much greater chance of having a "hung" jury after deliberation. In fact, three

out of the four groups in the mixed evidence condition were unable to reach a unanimous decision regarding a final verdict. Gender was not significant alone,  $F(1,90)=2.689$ ,  $p=.1006$ , nor did it interact with evidence type,  $F(2,90)=0.156$ ,  $p=.8567$ , or deliberation,  $F(2,90)=2.754$ ,  $p=.0966$ . (See Table 1 for a tabular summary.)

#### Severity of Prison Sentence

Significant main effects for type of evidence, and pre-post deliberation were found on the severity of prison sentence scale,  $F(2,90)=3.331$ ,  $p=.0390$ , and  $F(1,90)=9.941$ ,  $p=.0026$ , respectively. The main effect for gender was not significant,  $F(1,90)=0.107$ ,  $p=.7431$ , nor did it interact with evidence,  $F(2,90)=0.424$ ,  $p=.6614$ , or deliberation,  $F(1,90)=0.155$ ,  $p=.6968$ . A significant interaction was also found on this scale for evidence type and pre-post deliberation,  $F(2,90)=11.037$ ,  $p=.0002$ . A Newman-Keuls multiple comparison procedure indicated that post-deliberation ratings of sentence severity, for groups exposed to mixed evidence of intent, were significantly less than those group's pre-deliberation ratings, the post-deliberation ratings of the nonintentional evidence groups, and the pre-deliberation ratings of the intentional evidence groups (see Figure 3). Thus, not only was there an overall change in severity ratings from pre- to post-deliberation

# Table 1

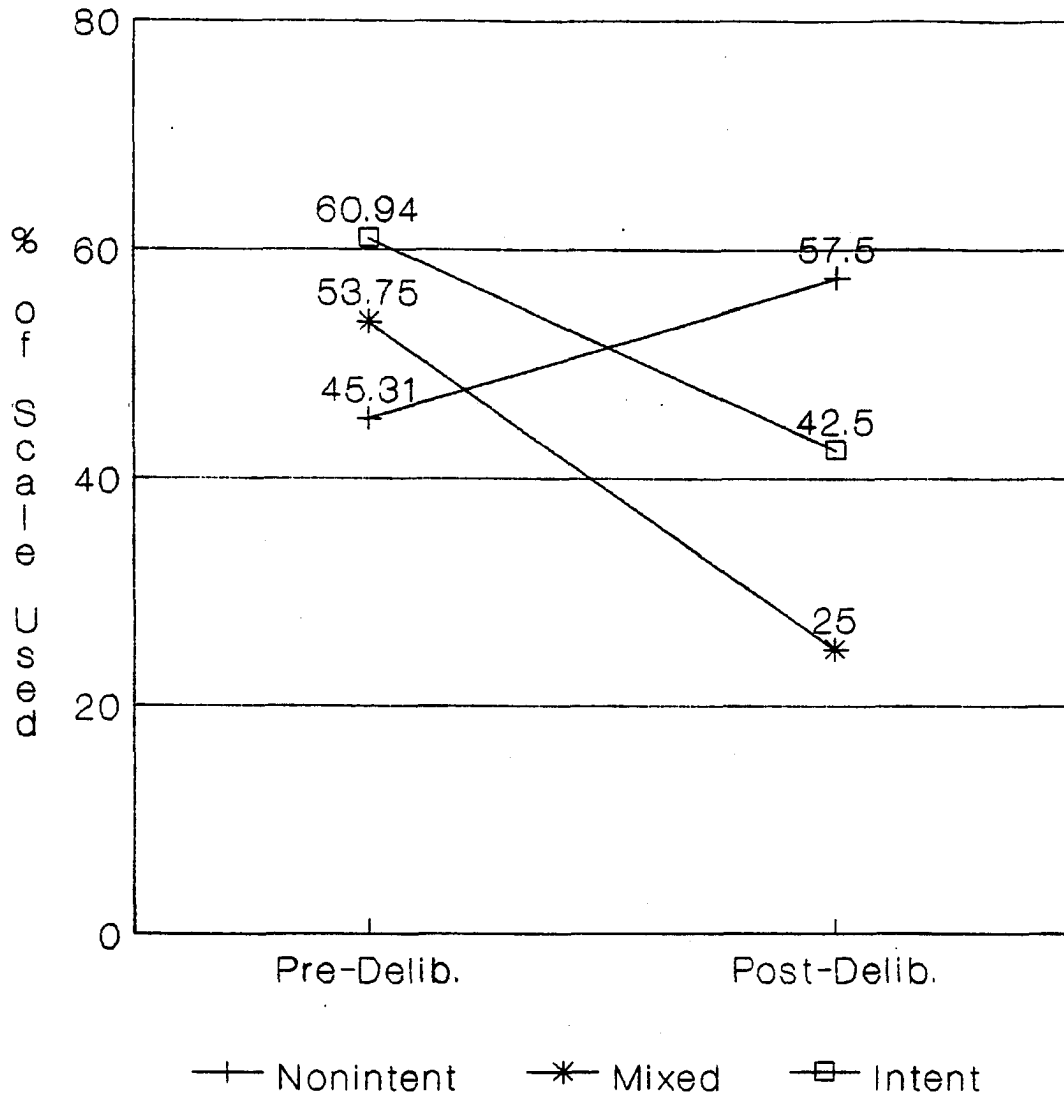
## ANOVA Summary

<u>Source</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>Error</u> <u>DF</u>	<u>F</u>	<u>Prob.</u>
Evidence	17.1979	8.5990	2	90	36.689	.0001***
Gender	0.6302	0.6302	1	90	2.689	.1006 NS
E x G	0.0729	0.0365	2	90	0.156	.8567 NS
Delib.	11.5052	11.5052	1	90	50.261	.0001***
E x D	11.6979	5.8490	2	90	25.562	.0001***
G x D	0.6302	0.6302	1	90	2.754	.0966 NS
E x G x D	0.0729	0.0365	2	90	0.156	.8538 NS
<u>**Error Terms</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>			
Between	21.0938	0.2344	90			
Within	20.5937	0.2288	90			

**Verdict Choice**

# Figure 3

## Sentence Severity Scores



for all groups, but this change was particularly attenuated for groups exposed to mixed evidence.

The possible three-way interaction between evidence type, gender, and pre-post deliberation was nonsignificant,  $F(2,90)=0.614$ ,  $p=.5483$ . (See Table 2 for a tabular summary.)

#### Severity of Parole

A significant main effect for pre-post deliberation was found for severity of suggested parole as well,  $F(1,90)=14.595$ ,  $p=.0005$ . Post-deliberation recommendations of parole were significantly less severe than pre-deliberation recommendations across all groups. Thus, deliberation tended to reduce the severity (length) of parole regardless of type of evidence presented.

A main effect for evidence,  $F(2,90)=0.518$ ,  $p=.6033$ , was nonsignificant, as was the main effect for gender,  $F(1,90)=0.003$ ,  $p=.9556$ . The interaction between evidence type and gender was also nonsignificant,  $F(2,90)=1.042$ ,  $p=.3581$ .

Neither evidence,  $F(2,90)=0.266$ ,  $p=.7706$ , or gender,  $F(1,90)=0.004$ ,  $p=.9515$ , significantly interacted with deliberation. The possible three-way interaction was also nonsignificant,  $F(2,90)=1.242$ ,  $p=.2932$ . (See Table 3 for a tabular summary.)

## Table 2

### ANOVA Summary

<u>Source</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>Error</u> <u>DF</u>	<u>F</u>	<u>Prob.</u>
Evidence	6343.63	3170.31	2	90	3.331	.0390 *
Gender	102.08	102.08	1	90	0.107	.7431 NS
E x G	807.29	403.64	2	90	0.424	.6614 NS
Delib.	6533.33	6533.33	1	90	9.941	.0026 **
E x D	14507.30	7253.65	2	90	11.037	.0002***
G x D	102.83	102.83	1	90	0.155	.6968 NS
E x G x D	807.29	403.646	2	90	0.614	.5483 NS
<u>**Error Terms</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>			
Between	85650.0	951.667	90			
Within	59150.0	657.222	90			

### Sentence Severity

# Table 3

## ANOVA Summary

<u>Source</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>Error</u> <u>DF</u>	<u>F</u>	<u>Prob.</u>
Evidence	410.156	205.078	2	90	0.518	.6033 NS
Gender	1.17188	1.17188	1	90	0.003	.9556 NS
E x G	825.781	412.891	2	90	1.042	.3681 NS
Delib.	4850.130	6533.33	1	90	14.595	.0005***
E x D	176.823	88.4114	2	90	0.266	.7706 NS
G x D	1.17163	1.17863	1	90	0.004	.9515 NS
E x G x D	825.78	412.891	2	90	1.242	.2932 NS
<b>**Error Terms</b>	<b>SS</b>	<b>MS</b>	<b>DF</b>			
Between	35658.6	396.206	90			
Within	29908.6	332.318	90			

Parole Severity

### Ratings of Responsibility

A main effect for type of evidence was found on ratings of responsibility,  $F(2,90)=4.378$ ,  $p=.0150$ . A Newman-Keuls procedure indicated there were significant differences between all three group's means (see Figure 4). The average responsibility ratings for the nonintentional, mixed, and intentional evidence groups were 8.41, 7.84, and 8.67, respectively. Based on these results, mixed evidence also appears to act as a moderating variable for perceived responsibility.

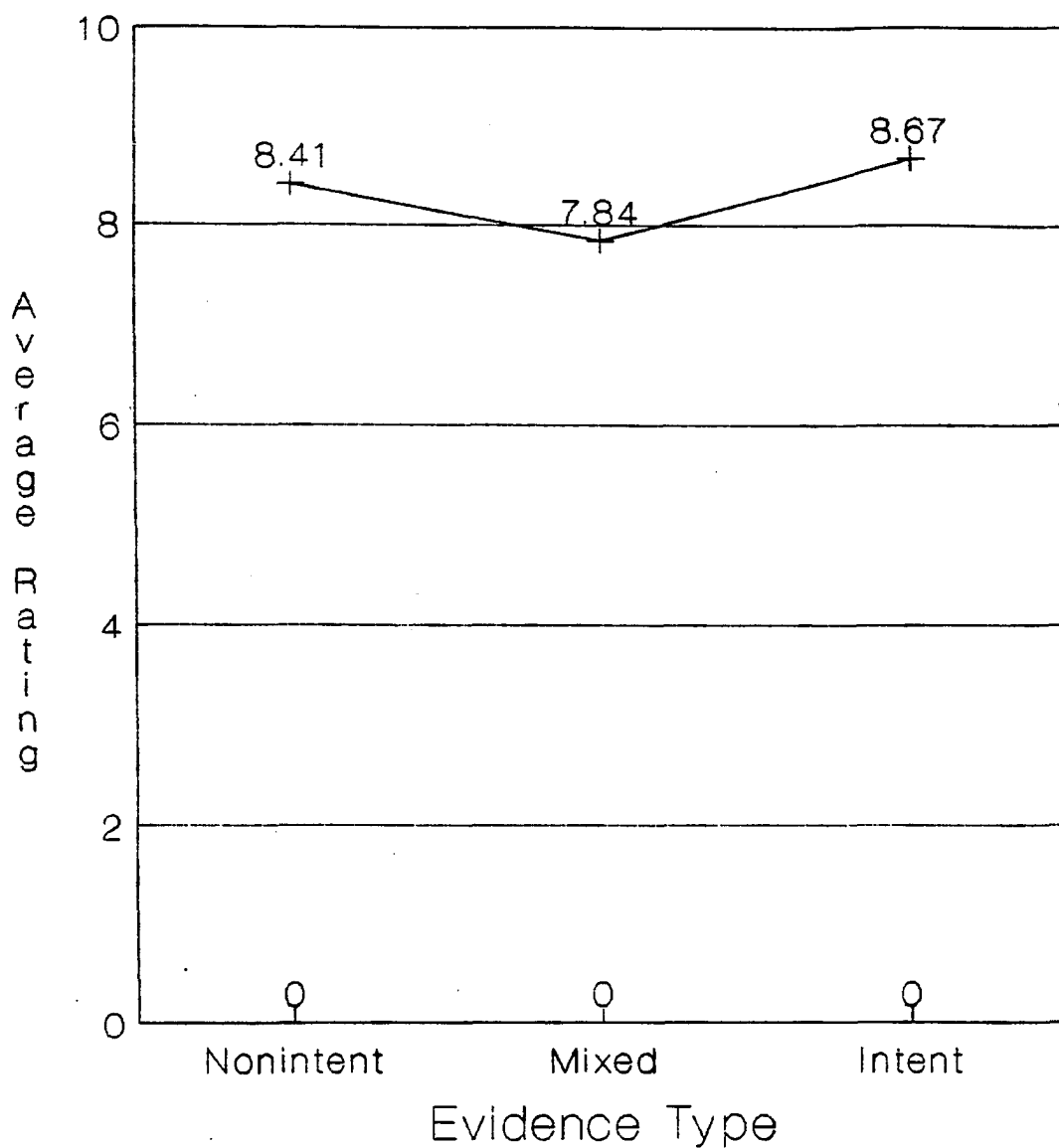
Neither gender,  $F(1,90)=0.161$ ,  $p=.6915$ , or deliberation  $F(1,90)=2.901$ ,  $p=.0881$ , were significant alone, nor did they interact with each other or with evidence type (see Table 4).

### Likelihood of Future Crime

An analysis of ratings on the "likelihood of future crime" scale resulted in a significant main effect for evidence type,  $F(2,90)=22.231$ ,  $p<.00001$ , and a significant interaction between evidence type and pre-post deliberation ratings,  $f,(2,90)=3.124$ ,  $p=.04755$ . Thus, not only are there differences between the average "likelihood" ratings of the three groups, (nonintentional group mean = 4.38, mixed group mean = 3.11, and intentional group mean = 5.41), but this difference is differentially altered for the groups through deliberation (see Figure 5). A mulitple comparison



# Figure 4 Responsibility Scores



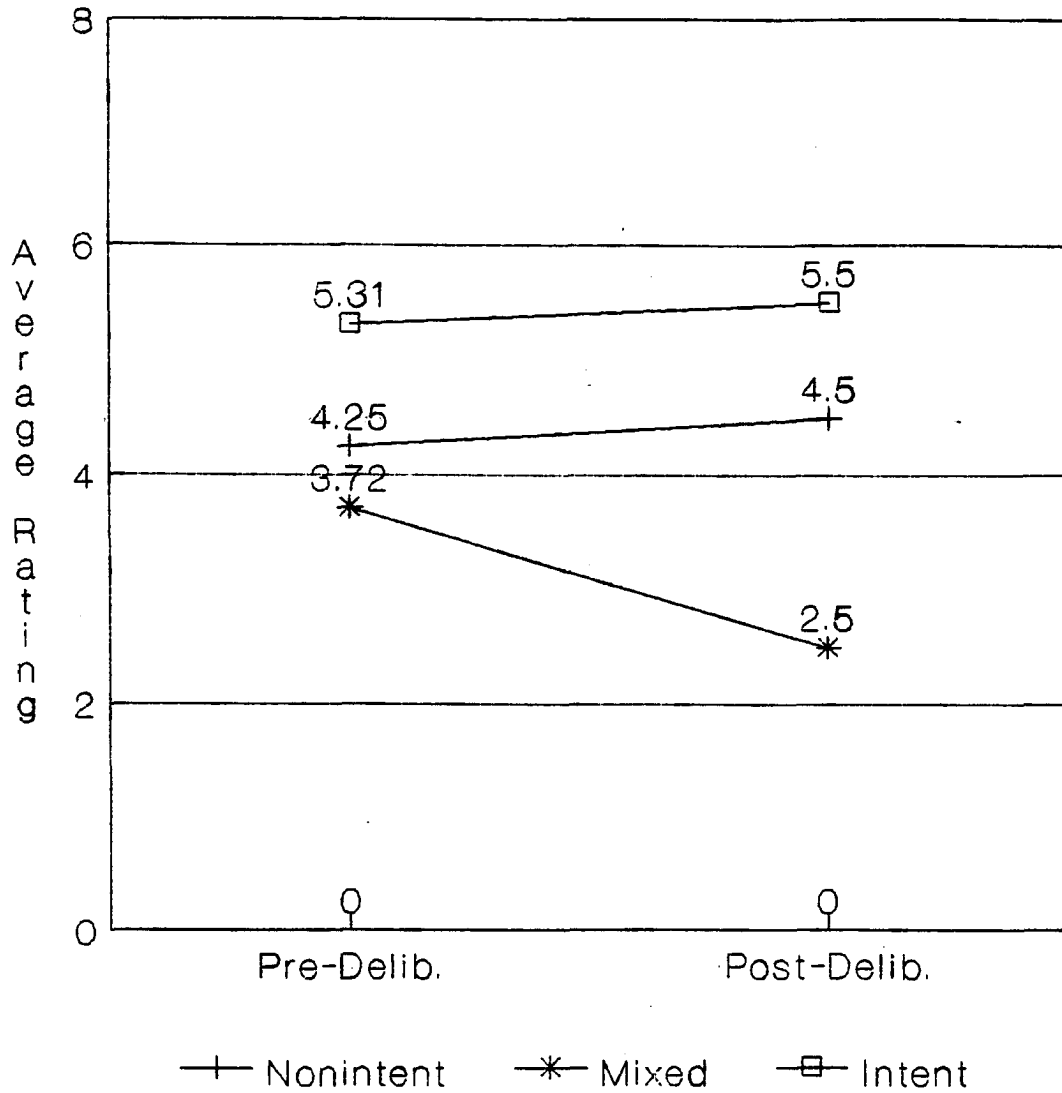
# Table 4

## ANOVA Summary

<u>Source</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>Error</u> <u>DF</u>	<u>E</u>	<u>Prob.</u>
Evidence	22.8854	11.4427	2	90	4.378	.0151 *
Gender	0.42188	0.42188	1	90	0.161	.6915 NS
E x G	2.84375	1.42188	2	90	0.544	.5878 NS
Delib.	7.13021	7.13021	1	90	2.901	.0881 NS
E x D	7.88542	3.94271	2	90	1.604	.2051 NS
G x D	0.42188	0.42188	1	90	0.172	.6829 NS
E x G x D	2.84374	1.42187	2	90	0.578	.5681 NS
<b>**Error Terms</b>	<b>SS</b>	<b>MS</b>	<b>DF</b>			
Between	235.219	2.61354	90			
Within	221.219	2.45799	90			

### Responsibility Scores

# Figure 5 Future Crime Scores



indicated that the average post-deliberation score from the mixed evidence group was significantly less than all group scores except for the mixed evidence pre-deliberation cell (see Table 5 for a tabular summary of the ANOVA results on this measure).

#### Ratings of Perceived Violence

Perceived "level of violence" scores also showed a main effect for evidence,  $F(2,90)=5.618$ ,  $p=.0053$ , and a significant interaction between type of evidence and pre-post deliberation ratings,  $F(2,90)=5.112$ ,  $p=.0081$ . Neuman-kuels results indicated that the significant difference in the interaction was between the mixed evidence-post deliberation average and the nonintentional-post deliberation average ratings (see Figure 6). Thus, not only are there significant differences between the group's average ratings of "perceived violence", but these ratings are once again differentially affected by deliberation. Ratings in the mixed groups actually increased, while ratings in the nonintentional groups decreased, as did those in the intentional evidence condition.

Once again, neither gender,  $F(1,90)=0.115$ ,  $p=.7351$ , or deliberation,  $F(1,90)=0.158$ ,  $p=.6943$ , alone were significant. Concomitantly, gender and deliberation did not significantly interact,  $F(2,90)=0.158$ ,  $p=.6943$ . The three-way interaction between evidence, gender and deliberation

# Table 5

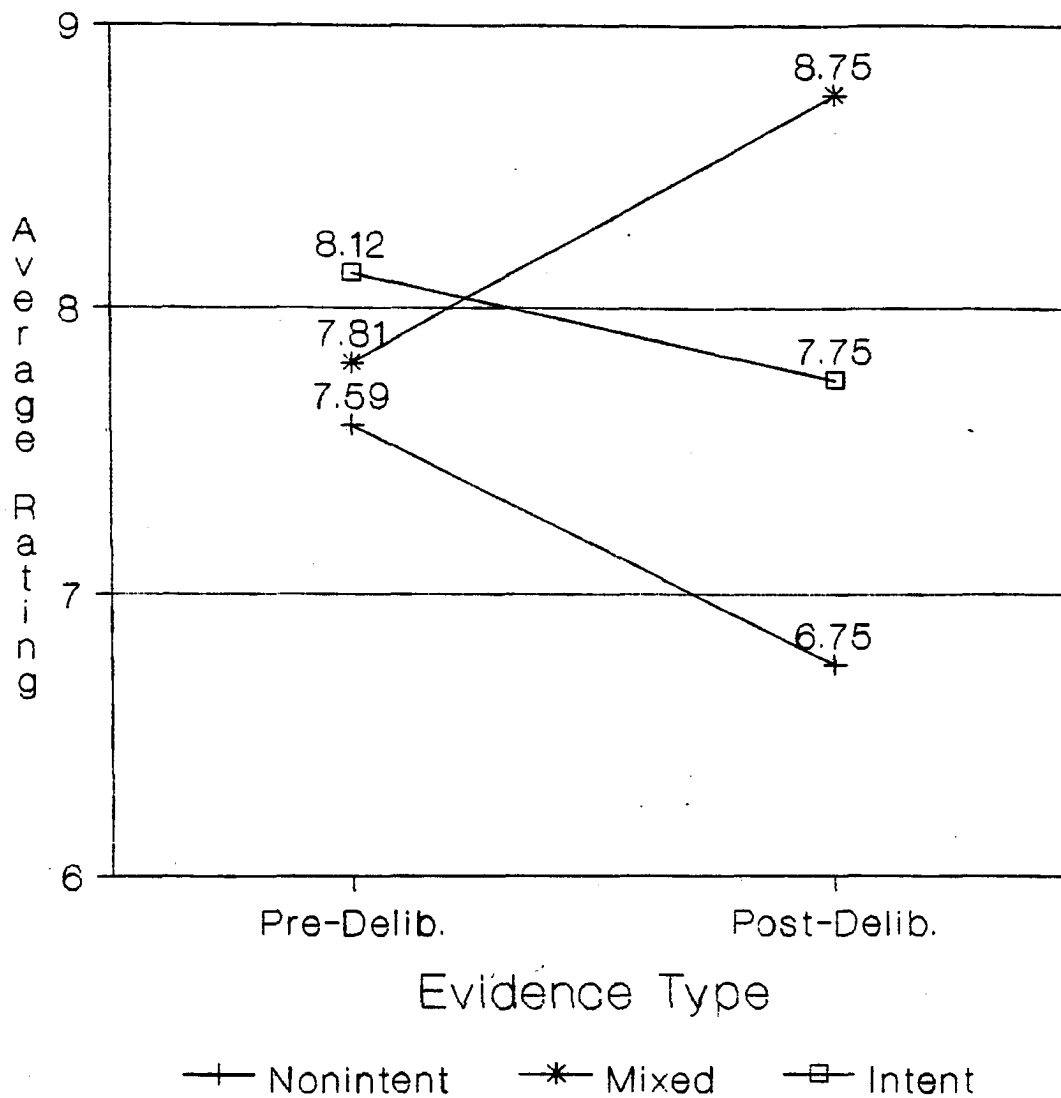
## ANOVA Summary

<u>Source</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>Error</u> <u>DF</u>	<u>F</u>	<u>Prob.</u>
Evidence	169.406	84.7031	2	90	22.231	.0001***
Gender	7.13021	7.13021	1	90	1.871	.1713 NS
E x G	3.13542	1.56771	2	90	0.411	.6696 NS
Delib.	3.25621	3.25621	1	90	0.922	.6586 NS
E x D	22.0729	11.0365	2	90	3.124	.0474 *
G x D	7.13021	7.13021	1	90	2.019	.1552 NS
ExGxD	3.13542	1.56771	2	90	0.444	.6488 NS
<u>**Error Terms</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>			
Between	342.906	3.81007	90			
Within	317.906	3.53229	90			

### Future Crime Scores

# Figure 6

## Violence Scores



was also nonsignificant,  $F(2,90)=0.228$ ,  $p=.7989$ . (See Table 6 for a tabular ANOVA summary.)

# Table 6

## ANOVA Summary

<u>Source</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>Error</u> <u>DF</u>	<u>F</u>	<u>Prob.</u>
Evidence	41.2813	20.6406	2	90	5.618	.0053 **
Gender	0.42188	0.42188	1	90	0.115	.7351 NS
E x G	1.21875	0.60938	2	90	0.166	.8483 NS
Delib.	0.42188	0.42188	1	90	0.158	.6943 NS
E x D	27.2813	13.6406	2	90	5.112	.0081 *
G x D	0.42188	0.42188	1	90	0.158	.6943 NS
ExGxD	1.21875	0.60938	2	90	0.228	.7989 NS
<u>**Error Terms</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>			
Between	330.656	3.67396	90			
Within	240.156	2.66840	90			

### Violence Scores



### Discussion

The results of the present study indicate not only that different types of evidence lead to different perceptions and treatments of the defendant, but also that deliberation has varying effects depending upon the type of evidence one has been exposed to. In general, both perceptions of, and recommended treatment for the defendant were tempered as a result of deliberative procedures. The only exception to this generalization in the present study was on ratings of perceived responsibility. Deliberation did not appear to significantly influence perceptions of responsibility, and when there was change in pre- to post-deliberation ratings the change usually reflected an increase rather than a decrease in level of responsibility assigned.

Perceived responsibility depended primarily on the type of evidence presented. Those exposed to mixed evidence believed the defendant was less responsible for his act, when compared to perceptions from the other two groups, both prior to and after deliberation. Jurors who read nonintentional evidence perceived the defendant as less responsible relative to those in the intentional evidence condition, and more responsible relative to the mixed condition. These results suggest that contradictory evidence (i.e. mixed) leads to more conservative views of

responsibility. The most noteworthy fact is that this holds true even when compared to an act which seemed completely nonintentional.

Interestingly, mixed evidence of intent (i.e. contradictory evidence regarding the defendant's intentions) also resulted in the jury perceiving the defendant as less likely of being involved in future crime, relative to other types of evidence. All other group's ratings for likelihood of future crime were roughly equivalent, but the deliberated result of those exposed to mixed evidence was significantly lower than all other evidence groups. For some reason mixed evidence, especially after deliberation, led the jury toward seeing the defendant as less likely to commit future crime, even relative to cases where only nonintentional evidence was presented. This may be related to the notion that the mixed groups also viewed the defendant as less responsible for the act.

Seemingly in contrast to the above results is the fact that deliberation led to reduced ratings of perceived level of violence for juries exposed to nonintentional evidence, relative to post-deliberation perceived levels of violence for juries exposed to mixed evidence. Thus, even though the mixed evidence groups viewed the defendant as less likely of being involved in future crime relative to other groups, they also believed the defendant was more violent in the

act. Based on this information, one could suggest that perceived violence is minimally related to predictions of future similar behavior or responsibility for the act. Another possible interpretation might espouse that mock-juror's in the mixed evidence groups saw the act as more impulsive, or as an act of rage, which may be viewed as unlikely to occur again. When reviewing the videotapes of deliberation for the mixed groups, it is obvious that the contradictory evidence led to much more speculation than in the other groups. This speculation was usually regarding possible mitigating circumstances which might lead a person to "lose control". For example, several people in the mixed evidence groups postulated that the victim was involved in the breakup between the defendant and his wife, and this led to an "act of rage." The standard result of these speculations was that the mock-juror's believed a similar act was extremely unlikely, even if deadly and violent.

Parenthetically, it is interesting to note that ratings of perceived violence actually increased for the mixed evidence group on the pre-post measure, although this increase was not statistically significant. Both the intentional and nonintentional ratings decreased from pre- to post.

The moderating nature of the deliberative process seems particularly straight-forward for suggestions of parole, as

all groups had significantly lower severity of parole scores on post-deliberation ratings, relative to pre-deliberation. Interestingly, even though there were varying perceptions of violence, likelihood of future crime, and responsibility among the groups, these were not differently manifest in suggested parole. All subjects recommended roughly the same severity of parole, and all reduced their severity of parole suggestions after deliberation. Perhaps when mock-jurors reflect on all the evidence, and are reminded of the "true" cost of spending time in prison, this results in an alteration of suggested treatments.

One possible conclusion that can be drawn from this, is that mock-jurors don't necessarily base parole recommendations on perceptions regarding likelihood of future crime. Thus, parole must be being viewed as something other than a manner of decreasing recidivism. Logically, one would think that if an individual is perceived as being fairly likely of recidivism, that person should be "watched" more closely.

It may also be possible that mock-jurors simply don't believe parole is an effective or important procedure, or that any behavior change which is going to occur is viewed as occurring while in prison. The present research doesn't provide information on how mock-jurors actually perceive parole, but it does suggest that it is not related to the

probability of future crime. It also suggests the need for research on this particular facet of judicial treatment.

Severity of prison sentence was greatly influenced both by type of evidence and deliberation. Although recommendations for sentence length were roughly equal for all three evidence conditions prior to deliberation, there were significant differences after the juries deliberated. The mixed group's post-deliberation ratings were significantly lower than their pre-ratings, were significantly lower than pre-ratings for the intent group, and were (most importantly) also lower than the post-ratings for the nonintentional groups. Interestingly, post-ratings dropped in the intent and mixed evidence groups, but they increased for the nonintentional group. This increase, along with the concomitant decrease in ratings within the mixed groups led to a statistically significant difference.

One must interpret this data on prison severity very cautiously, however, because of the effects of the large number of "hung" juries in the mixed evidence condition. Some might argue that the inability to reach a verdict and the resulting inability to suggest a prison sentence is different from suggesting a prison sentence of 0 years. To some degree this is true. Functionally, however, a hung jury results in no prison sentence for the short-term, even

though this may be changed upon re-trial. Many cases that end with a "hung" jury, though, may not even be re-tried because of the great expense or trouble.

It is also quite likely that the charge may be lowered to a less serious one if the case is re-tried. It is certainly understandable why a prosecutor might be hesitant about spending immense amounts of time and energy in re-preparing for a case which he or she did not win on the first go-around. The provided evidence obviously was not substantial enough to convince all of the jurors of the merits of the initial charge. As a result, it is arguable that the occurrence of a "hung" jury actually does result in certain treatments for the defendant and should not be underestimated.

Even if one takes the position that the severity of sentence scale is less valid because of the "hung" juries, the rest of the data still stands on its own. The differing perceptions between the various conditions are of primary interest, and are well supported.

#### Leniency Effects

The general moderating effects of deliberation in the present study nicely parallel and extend the leniency bias for mock-jurors as noted by several investigators (MacCoun and Kerr, 1988). That is, research suggests that mock-jurors' tend to be lenient after deliberation, yet the

present results suggest the leniency effect is dependant not only on judicial instructions, as suggested by MacCoun and Kerr, but is also dependent on the type of evidence juror's have been exposed to. This finding merits further research.

### Qualitative Results

Upon review of the various videotaped deliberations, several noteworthy elements became apparent. As was mentioned earlier, the deliberations of mixed evidence groups contained much more speculation and conjecture than did the other group deliberations. More generally, however, is the occurrence of what might be called the "human" element which became manifest during all group deliberations. This human element might best be described as a process of increasing the mock-jurors' reality contact. In other words, deliberation moved the case from simply being a task for the jurors to complete, to one of making serious decisions regarding another human.

The deliberations contained discussions regarding the worth of a human life (both the defendant's and the victim's), and the serious nature of "killing" someone. Likewise, discussion also tended to center on the effects of, and serious nature regarding, the placing of a person in prison for a set amount of years. The overall effect was an increase in the consideration the mock-jurors gave to their suggestions and answers. It became clear that the mock-

jurors took the case seriously and became involved in arriving at ultimate decisions regarding the defendant.

The importance of the jury-foreman also became apparent during the deliberations, as this individual was important in maintaining order and directing the discussions. Most notably, the process seemed highly influenced by personal characteristics of the foreman. For example, extroverted and confident foremen were quite able at skewing others in their direction by controlling the discussion in a manner favorable to their position. Less assertive foremen were less effective at this task and the discussions tended to be much more varied in content (and results). The important conclusion regarding these observations is the need for a systematic inquiry into the nature of the foreman position. A study in this area would no doubt provide very interesting information.

Two interesting patterns of discussion and decision making appeared within the various groups, which seemed to depend more on the characteristics of the foreman than on any other factor. For example, some groups tended to approach deliberation in a very free-form manner, rather than in a direct, highly-organized way. The mock-jurors would talk about the case in a holistic or gestalt-like fashion, and discussion was not necessarily directed at answering the questions in any particular order. Thus, the



mock-jurors, at times, arrived at decisions regarding responsibility, likelihood of future crime, or violence, prior to determining a verdict or sentence.

Other groups approached the deliberation in a more step-oriented fashion. These mock-jurors began by attempting to agree on a specific verdict and then moved down the questionnaire, handling each question in the order presented. Groups utilizing this pattern generally had the more assertive and vocal foremen. As might be expected, the more assertive foremen were very active in their attempts to keep the discussion focussed and moving, and thus this well defined pattern tended to develop.

Another important observation was that discussion did not tend to fall along gender lines. That is, differences of opinions did not appear to depend on juror gender. This is also demonstrated by the lack of gender effects in the ANOVA's.

The final conclusion from the qualitative aspects of the present study is the need for further research into the actual decision processes of the jury. Current researchers are attempting to clarify this process (MacCoun and Kerr, 1988) but continued process research is indicated.

### Conclusions

When the above information is considered in its entirety it seems obvious that deliberation plays a significant role in determining both the perceptions of jurors, and the ultimate suggested treatment. It tends to attenuate information which leads to important juror shifts. Whether these shifts are simply the result of some jurors acquiescing to group pressure, or whether they reflect individual shifts in beliefs and perceptions is unclear. Future research could help clarify this issue by having jurors individually re-rate the defendant on the questionnaire, and/or by interviewing the mock-jurors after deliberation.

Even though obvious sex/gender differences were not apparent in this study, generalizations cannot be safely made regarding gender effects in other situations. Obvious gender effects have been found in cases where there were gender differences for the defendant and the victim, and in situations involving sexual charges. The absence of the gender effect for perceived likelihood of future crime, which was found in the 1988 Velin study, suggests that either this effect was not robust or somehow it was minimal in its influence. A closer examination of the individual means provides some indication that the effect may have been

found with a larger sample size. This seems particularly possible since the initial analyses between the video and nonvideo conditions showed an evidence type by gender interaction. Future research should continue to examine this difference.

One of the most important results of this research is its bearing on the importance of the jury process. The group decision making environment of the jury seems to have very particular and important effects, and thus anything that changes this process could have substantial effects on outcome. Thus, as our system proposes changes to the jury and its associated processes, these should not be taken lightly. Changes should be made carefully and with much consideration of the possible consequences.

Obviously, research with mock-jurors is far removed from what is actually occurring in the courtroom. At this point, however, researchers do not have the true jury available for direct scrutiny so analogue research seems warranted and necessary. This may actually be a fortunate situation given the demonstrated importance of the deliberative process. Even though the present data suggest that videotaping the process did not have any substantial effects, additional research with other populations should be attempted to support this assumption. Since the present study looked at only limited, circumscribed aspects of mock-juror

perceptions and behavior, it is plausible that videotaping could have effects on other important behavioral or perceptual domains. Since deliberation is such an integral and powerful aspect of the trial-by-jury system, perhaps the general rule should state that it should not be randomly or thoughtlessly altered.

### Summary

In summary, it appears that the greatest contribution of the present study is its definite demonstration of the effects of deliberation (and its interaction with evidence type) on mock-juror/jury perceptions and suggested treatment. Since it has been shown that deliberation and evidence type have specific effects on jurors' perceptions and suggested treatment, the initial perceptions that prospective jurors hold regarding the defendant appear particularly vital. There is tremendous opportunity for initial biases, be they positive or negative, to significantly effect final outcome. An example might best illustrate this point.

Current evidence suggests that there is a significant decrease in suggestions of length of imprisonment from pre-deliberation to post-deliberation for mock-jurors exposed to mixed evidence of intent. There also is a strong tendency for having a hung jury. Extrapolating,

it is possible to envision a situation where a significant number of jurors hearing a case have a proacquittal bias (perhaps from media reports). When this proacquittal bias is combined with the leniency effects of deliberation it is conceivable that it would be very difficult to achieve a deliberate homicide verdict or a substantial prison sentence.

Whether or not the effects described above would be positive or negative in nature, is ultimately a moral issue and obviously depends upon which side of the case one is supporting. This is particularly important since Kalven and Zeisel (1966) have shown that jury trials, in their sample, "resulted in twice as many acquittals as might have occurred had these cases been tried by the bench."

The leniency effect is very strong and is significantly attenuated by different types of evidence. Even in juries with initial splits (e.g., 3 for guilty : 3 for not guilty), and with equal-ratio, weak-majority initial splits (e.g., 4:2 vs. 2:4), movement in the direction of acquittal is more likely to occur than movement in the direction of conviction (MacCoun and Kerr, 1988). This tendency was also shown to hold true in situations where there was no clear, predominant individual preferences for acquittal or conviction.

Closing Remarks

The importance of deliberation seems obvious and well-founded. The present study has provided insight into the specific nature of some of the mock-jurors'/juries' perception shifts which seem to parallel the general leniency effect which results from deliberation. Perhaps most important, are the data which suggest that different types of evidence differentially effect this leniency effect, and the resulting implications for initial juror perceptions regarding the defendant.

The fact that suggestions for parole do not seem related to perceptions of likelihood for future crime also seems notable. A very intriguing finding is that mock-jurors who viewed the defendant as being most violent in the act, also saw him as less responsible and least likely to be involved in future crime. Although some possible reasons for this relationship were offered, this relationship also seems logically paradoxical. Given the recent concern and public interest in the granting of probation, this result seems particularly thought-provoking. If those viewed as most violent are also viewed as in less need for parole, could the same occur for probation? This seems to be an interesting area for future research.

Throughout this paper, several suggestions for future research were extended, and it is hoped that these might be

beneficial in their ultimate contribution to the science of Forensic Psychology. Likewise, it is hoped that the results of the present study will spur other investigators to extend the present design and provide additional evidence regarding deliberation and evidence types. In many ways, this vein of research is in its infancy, yet its implications seem far-reaching, and thus further research appears essential.

### References

- Arenella, P. (1977). The diminished capacity and diminished responsibility defenses: Two children of a doomed marriage. Columbia Law Review, 77, 827-865.
- Berkowitz, M. W., Mueller, C. W., Schnell, W. V., & Padberg, M. T. (1986). Moral reasoning and judgments of aggression. Journal of Personality and Social Psychology, 51, 885-891.
- Berman, J. S., Read, S., & Kenny, D. A. (1983). Processing inconsistent social information. Journal of Personality and Social Psychology, 45, 1211-1224.
- Brown et al. v. Board of Education of Topeka et al. (1954). United States Reports, 347, 483-496.
- Brown, R. C., & Tedeschi, J. T. (1976). Determinants of perceived aggression. Journal of Social Psychology, 100, 77-87.
- Charrow, R. P., Charrow, V.R. (1979). Making legal language understandable: A psycholinguistic study of jury instructions. Columbia Law Review 79, 1306-74.
- Clucas, T. J. (1984). Unpublished Master's Thesis.
- Erickson, B., Lind, E.A., Johnson, B.C., O'Barr, W.M. (1978). Speech style and impression formation in a court setting: The effects of 'powerful' and 'powerless' speech. Journal of Experimental Social Psychology, 14, 266-279.
- Fahr, S. M. (1961). Why lawyers are dissatisfied with the social sciences. Woodburn Law Journal, 1, 161-175.
- Farmer, L.C., Williams, G.R., Gundick, B.P., Howell, R.J., Lee, R.E., Rooker, C.K. (1977). The effect of the method of presenting trial testimony on juror decisional processes. See Berman 1977, pp. 59-76.
- Fiske, S. T. (1980). Attention and weight in person perception: The impact of negative and extreme behavior. Journal of Personality and Social Psychology, 38, 889-906.
- Hodges, B. F. (1974). Effect of valence on relative



- weighting in impression formation. Journal of Personality and Social Psychology, 120, 237-253.
- Fontes, N.E., Miller, G.R., Bender, D.C. (1977). Deletion of inadmissible materials from courtroom trials: Merit or myth? Detroit Coll. Law Review 67-81.
- Gerbas, K. C., Zuckerman, M., & Reis, H. T. (1977). Justice needs and new blindfold: A review of mock jury research. Psychological Bulletin, 84, 323-345.
- Goldstein, A.G. (1979). Race-related variation of facial features: Anthropometric data. Bull. Psychon. Soc., 13, 187-90.
- Harvey, M. D., & Enzle, M. E. (1978). Effects of retaliation latency and provocation level on judged blameworthiness for retaliatory aggression. Personality and Social Psychology Bulletin, 4, 579-587.
- Heider, F. (1958). The psychology of interpersonal relations. New York: Wiley.
- Henshel, R.L. (1980). The purposes of laboratory experimentation and the virtues of deliberate artificiality. Journal of Experimental Social Psychology, 16, 466-478.
- Hoffman, P.B. (1981). Mental health professionals in the legal process: A plea for rational applications of the clinical method. Law and Psychology Review, 21, 21-48.
- Holm, O. (1982). The effects of intent, reason, and harm on attribution of aggressiveness. Journal of Psychology, 110, 49-52.
- Horai, J. (1977). Attributional conflict. Journal of Social Issues, 33, 88-100.
- Horai, J., & Bartek, M. (1978). Recommended punishment as a function of injurious intent, actual harm done, and intended consequences. Personality and Social Psychology Bulletin, 4, 575-578.
- Kalven, H. & Zeisel, H. (1966). The American Jury. Boston: Little, Brown.
- Loftus, E.A. (1979). Insurance advertising and jury awards. American Bar Association Journal, 65, 68-70.

- Loftus, E.F. (1980). Impact of expert psychological testimony on the unreliability of eyewitness identification. Journal of Applied Psychology, 65, 9-15.
- Loftus, E.F., Miller, D.G., Burns, H.J. (1978). Semantic integration of verbal information into visual memory. Journal of Experimental Psychology: Human Learning and Memory, 4, 19-31.
- Loh, W. D. (1979). Psychology and law: A coming of age. Contemporary Psychology, 24, 164-166.
- Loh, W. D. (1981). Perspectives on psychology and law. Journal of Applied Social Psychology, 11, 314-355.
- Lord, C. G., Ross, L., & Lepper, M. R. (1979). Biased assimilation and attitude polarization: The effects of prior theories on subsequently considered evidence. Journal of Personality and Social Psychology, 37, 2098-2109.
- MacCoun, R. J. and Kerr, N. L. (1988). Asymmetric influence in mock jury deliberation: Jurors' bias for leniency. Journal of Personality and Social Psychology, 54, 21-33.
- Martin, M. J. (1985). Effects of judges' instructions in court proceedings on juror memory for facts. Unpublished Thesis.
- Miller, G.R. (1976). The effects of videotaped trial materials on juror response. In Psychology and the Law: Research Frontiers, ed. G. Bermant, C. Nemeth, N. Vidmar, pp. 185-208. Lexington, Mass: Lexington Books.
- Milligan, G.W., Wong, D.S., and Thompson, P.A. (1987). Robustness properties of nonorthogonal analysis of variance. Psychological Bulletin, 101(3), 464-470.
- Monahan J., & Loftus, E. F. (1982). Psychology of Law. Annual Review of Psychology, 33, 441-475.
- Muensterberg, H. (1908). On the witness stand: Essays on psychology and crime. New York: Clark, Boardman.
- Nemeth, C. (1981). Jury trials: Psychology and law.

Advances in Experimental Social Psychology, 14, 309-367.

- Nickel, T. W. (1974). The attribution of intent as a critical factor in the relation between frustration and aggression. Journal of Personality, 42, 482-492.
- Penrod, S., & Borgida, E. (1982). Social cognition and the laws of evidence. Paper presented at the International Conference on Psychology and Law, Swansea, Wales.
- Robinson, D. N. (1935). Law and lawyers.
- Rule, B. G., & Duker, P. (1973). Effects of intentions and consequences on childrens evaluations of aggressors. Journal of Personality and Social Psychology, 27, 184-189.
- Saks, M. J. (1979). On Tapp (and Levine). Michigan Law Review, 77, 892.
- Saks, M. J., & Hastie, R. (1978). Social Psychology in Court. New York: Van Nostrand, Reinhold.
- Sales, B.D. (1977). The Criminal Justice System. New York: Plenum.
- Schwartz, G. S., Kane, T. R., Joseph, J. M., & Tedeschi, J. T. (1978). The effects of post-transgression remorse on perceived aggression, attribution of intent and level of punishment. British Journal of Social and Clinical Psychology, 17, 293-298.
- Shaw, M. E., & Reitan H. T. (1969). Attribution of responsibility as a basis for sanctioning behaviour. British Journal of Social and Clinical Psychology, 8, 217-226.
- Shaw, M. E., & Sulzer, J. L. (1964). An empirical test of Heider's levels in attribution of responsibility. Journal of Abnormal and Social Psychology, 69, 39-46.
- Smith, A.D., Winograd, A. (1978). Adult age differences in remembering faces. Developmental Psychology, 14, 443-444.
- Snyder, M., & Uranowitz, W. (1978). Reconstructing the past: Some cognitive consequences of person perception. Journal of Personality and Social Psychology, 36, 941-950.

- Strawn, D.V., Buchanan, R.W. (1976). Jury confusion: A threat to justice. Judicature, 59, 478-83.
- Sue, S., Smith, R. E., & Caldwell, C. (1973). Effects of inadmissible evidence on the decisions of simulated jurors: A moral dilemma. Journal of Applied Social Psychology, 3, 345-353.
- Sulzer, J. L., & Burglass, R. K. (1968). Responsibility attribution, empathy, and punitiveness. Journal of Personality, 36, 272-282.
- Velin, R. A. and Walters, H. A. (1988). Intentional evidence: Effects on mock-jurors' perceptions. Psychological Reports, 1988, 62(1).
- Wells, G.L. (1980). Eyewitness behavior: The Alberta Conference. Law and Human Behavior, 4, 237-394.
- Wolf, S., & Montgomery, D. A. (1977). Effects of inadmissible evidence and level of judicial admonishment to disregard on the judgments of mock jurors. Journal of Applied Social Psychology, 7, 205-219.

Appendix A

On October 2, 1982, Richard Allen and Mark Williams had been playing pool in a downtown bar. That night they had argued and Mark left the bar after the bartender threatened to call the police. Approximately two weeks later, on October 15, Mark returned to the bar, saw Richard sitting alone at a table and sat down by him. The two appeared to be talking, with no apparent signs of trouble between the two men. A short while later, however, Richard and Mark began arguing again and were soon yelling and pushing each other. When the police arrived, Richard lay bleeding on the floor and Mark was standing over him. Mark's hunting knife was laying on the floor between them. Richard died of a stab wound on his way to the hospital.

Relevant Testimony

James Lee, a bartender working the night of the crime, testified that Richard and Mark were regular customers and played pool there quite often. He told the court that he had seen them argue on other occasions and had threatened to call the police during an argument two weeks prior to the fatal argument. On the night of Richard's death he called the police as soon as he noticed the men arguing because he had already warned them.

Jim Cummings, a mutual friend of both Richard and Mark testified as to events prior to the night of October 15<sup>th</sup>. He told the court that Mark had recently separated from his

wife and she had threatened divorce. During that time Mark had turned to Richard for support and they had been spending a lot of time together. After the argument on October 2, Mark had told Jim that his friendship with Richard was over and that Richard would "pay" for the trouble he had caused. Mr. Cummings stated that Mark would not tell him any details, only that he and Richard had a major blowup and Richard was going to pay for it.

Appendix B



On October 2, 1982, Richard Allen and Mark Williams had been playing pool in a downtown bar. That night they had argued and Mark left the bar after the bartender threatened to call the police. Approximately two weeks later, on October 15, Mark returned to the bar, saw Richard sitting alone at a table and sat down by him. The two appeared to be talking, with no apparent signs of trouble between the two men. A short while later, however, Richard and Mark began arguing again and were soon yelling and pushing each other. When the police arrived, Richard lay bleeding on the floor and Mark was standing over him. Mark's hunting knife was laying on the floor between them. Richard died of a stab wound on his way to the hospital.

Relevant Testimony

James Lee, a bartender working the night of the crime, testified that Richard and Mark were regular customers and played pool there quite often. He told the court that he had seen them argue on other occasions and had threatened to call the police during an argument two weeks prior to the fatal argument. On the night of Richard's death he called the police as soon as he noticed the men arguing because he had already warned them. Mr. Lee testified that he saw Richard laying on the floor and he heard Mark say, "Oh, my God. I never thought it would go this far. I didn't mean to hurt him...quick someone call an ambulance.

Jim Cummings, a mutual friend of both Richard and Mark testified as to events prior to the night of October 15<sup>th</sup>. He told the court that Mark had recently separated from his wife and she had threatened divorce. During that time Mark had turned to Richard for support and they had been spending a lot of time together. After the argument on October 2, Mark had told Jim that his friendship with Richard was over. Mr. Cummings stated that Mark would not tell him any details, only that he and Richard had a major blowup.

Appendix C

On October 2, 1982, Richard Allen and Mark Williams had been playing pool in a downtown bar. That night they had argued and Mark left the bar after the bartender threatened to call the police. Approximately two weeks later, on October 15, Mark returned to the bar, saw Richard sitting alone at a table and sat down by him. The two appeared to be talking, with no apparent signs of trouble between the two men. A short while later, however, Richard and Mark began arguing again and were soon yelling and pushing each other. When the police arrived, Richard lay bleeding on the floor and Mark was standing over him. Mark's hunting knife was laying on the floor between them. Richard died of a stab wound on his way to the hospital.

Relevant Testimony

James Lee, a bartender working the night of the crime, testified that Richard and Mark were regular customers and played pool there quite often. He told the court that he had seen them argue on other occasions and had threatened to call the police during an argument two weeks prior to the fatal argument. On the night of Richard's death he called the police as soon as he noticed the men arguing because he had already warned them. Mr. Lee told the court that he saw Richard laying on the floor and he heard Mark say, "Oh, my God. I never thought it would go this far. I didn't mean to hurt him...quick someone call an ambulance."

Jim Cummings, a mutual friend of both Richard and Mark testified as to events prior to the night of October 15<sup>th</sup>. He told the court that Mark had recently separated from his wife and she had threatened divorce. During that time Mark had turned to Richard for support and they had been spending a lot of time together. After the argument on October 2, Mark had told Jim that his friendship with Richard was over and that Richard would "pay" for the trouble he had caused. Mr. Cummings stated that Mark would not tell him any details, only that he and Richard had a major blowup and Richard was going to pay for it.

Appendix D



5.) How likely do you believe this person is to commit a similar crime in the future?

0---1---2---3---4---5---6---7---8---9---10  
Very Very  
unlikely likely

6.) How physically violent was the defendant in this act?

0---1---2---3---4---5---6---7---8---9---10  
Not at all Very  
violent violent



Appendix E

Thank you for being here today. To begin this study you are first going to read the legal definitions concerning homicide in the state of Montana, and then you will read information about an actual homicide. You will then be asked to determine a verdict just as you would in a jury trial, and in addition, you will be asked other questions about the case. Please consider your answers very carefully, as your answers will be compared to verdicts returned by jurors in similar cases.

After responding individually to the provided questionnaire, you will be combined into a mock-jury with 7 other individuals. In this group you shall consider the same case and attempt to reach unanimous decisions regarding the questions provided on an additional questionnaire. You will be given further verbal instructions before forming a jury group.

Appendix F

Montana Homicide Statute

Under current Montana Law a person is charged with criminal homicide if he purposely, knowingly, or negligently causes the death of another human being. The following definitions are taken from existing Montana Code.

Deliberate Homicide:

Criminal homicide constitutes deliberate homicide if it is committed purposely or knowingly;...

Negligent Homicide:

Criminal homicide constitutes negligent homicide when it is committed negligently. A person acts negligently when he should have been aware of, but disregards a risk, that the result will occur or that a circumstance exists.

Appendix G

- 1.) We, the members of the jury, find the defendant, Mark Williams, guilty of:  
(circle one verdict only)

Deliberate Homicide	Negligent Homicide	Unanimous Verdict not reached
---------------------	--------------------	-------------------------------

Note: If you could not reach a unanimous verdict please proceed to question 3.

- 2.) The maximum sentence for Deliberate Homicide in Montana is 100 years in prison. The maximum sentence for Negligent Homicide is 40 years in prison. Please indicate the sentence that you feel would be most appropriate. (Use the scale corresponding to your verdict and circle a whole number. The death penalty is not an option in this case.)

2a.) If you chose Deliberate Homicide:

0---	10---	20---	30---	40---	50---	60---	70---	80---	90---	100
No time served				Years						Maximum Sentence

2b.) If you chose Negligent Homicide:

0---	4---	8---	12---	16---	20---	24---	28---	32---	36---	40
No time served					Years					Maximum Sentence

- 3.) How long should the defendant be placed on parole after being released from prison? (Regardless of length of prison sentence.) Please note that the term "No parole suggested", means you do not feel parole is necessary after release. That is, you believe supervision is not necessary once the defendant is released from prison.

0---	4---	8---	12---	16---	20---	24---	28---	32---	36---	40
No parole suggested					Years					Long Parole suggested
					after release from prison					

- 4.) How responsible was the defendant for his actions?

0---	1---	2---	3---	4---	5---	6---	7---	8---	9---	10
Not at all responsible										Completely responsible

5.) How likely do you believe this person is to commit a similar crime in the future?

0---1---2---3---4---5---6---7---8---9---10  
Very Very  
unlikely likely

6.) How physically violent was the defendant in this act?

0---1---2---3---4---5---6---7---8---9---10  
Not at all Very  
violent violent

Appendix H



t-Test Results from Pilot Study

Subjects rated the vignettes on a scale of 1 to 10 to signify how intentional they believed the described act was.

Variable	Mean	SD	t-Value	DF	2-Tail Prob.
-----	----	--	-----	--	-----
Intent	7.44	2.18	4.24	24	.000
Mixed	5.28	2.17			
Intent	7.44	2.18	5.11	24	.000
Nonintent	4.48	2.45			
Mixed	5.28	2.17	1.41	24	.170
Nonintent	4.48	2.45			

Appendix I

ANOVA TABLES FOR DIFFERENCE SCORESSENTENCE SEVERITY SCORES

<u>SOURCE</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>ERROR DF</u>	<u>F RATIO</u>	<u>PROB.</u>
TAPING	1276.04	1276.04	1	84	1.868	.17201
EVIDENCE	19128.6	9564.32	2	84	13.998	.00004***
T x E	2322.40	1161.20	2	84	1.699	.18715
GENDER	301.042	301.042	1	84	0.441	.51574
T x G	651.042	651.042	1	84	0.953	.66687
E x G	128.645	64.3225	2	84	0.094	.90977
T x E x G	1272.40	636.199	2	84	0.931	.59954

	<u>SS</u>	<u>MS</u>
BETWEEN GRP	57393.7	683.259

FUTURE CRIME SCORES

<u>SOURCE</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>ERROR DF</u>	<u>F RATIO</u>	<u>PROB.</u>
TAPING	3.37500	3.37500	1	84	1.122	.29271
EVIDENCE	2.89583	1.47792	2	84	0.481	.62549
T x E	5.68750	2.84375	2	84	0.945	.60510
GENDER	0.04166	0.04166	1	84	0.014	.90428
T x G	0.16667	0.16667	1	84	0.055	.80953
E x G	43.5208	21.7604	2	84	7.232	.00163**
T x E x G	0.89583	0.44791	2	84	0.149	.86232

	<u>SS</u>	<u>MS</u>
BETWEEN GRP	252.750	3.00893

RESPONSIBILITY DIFFERENCE SCORES

<u>SOURCE</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>ERROR DF</u>	<u>F RATIO</u>	<u>PROB.</u>
TAPING	0.04167	0.04167	1	84	0.016	.89660
EVIDENCE	1.08333	0.54167	2	84	0.202	.81917
T x E	4.08333	2.04167	2	84	0.762	.52604
GENDER	2.04167	2.04167	1	84	0.762	.61085
T x G	0.66667	0.66667	1	84	0.249	.62507
E x G	3.58333	2.66667	2	84	0.996	.62456

	<u>SS</u>	<u>MS</u>
BETWEEN GRP	225.0	2.67857

PAROLE DIFFERENCE SCORES

<u>SOURCE</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>ERROR DF</u>	<u>F RATIO</u>	<u>PROB.</u>
TAPING	1276.04	1276.04	1	84	1.868	.17201
EVIDENCE	19128.6	9564.32	2	84	13.998	.00004***
T x E	2322.40	1161.20	2	84	1.699	.18715
GENDER	301.042	301.042	1	84	0.441	.51574
T x G	651.042	651.042	1	84	0.953	.66687
E x G	128.645	64.3225	2	84	0.094	.90977
T x E x G	1272.40	636.199	2	84	0.931	.59954

	<u>SS</u>	<u>MS</u>
BETWEEN GRP	42868.8	510.342

VIOLENCE DIFFERENCE SCORES

<u>SOURCE</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>ERROR DF</u>	<u>F RATIO</u>	<u>PROB.</u>
TAPING	3.37500	3.37500	1	84	1.680	.19556
EVIDENCE	1.08333	0.54167	2	84	0.270	.76799
T x E	10.7500	5.37500	2	84	2.676	.07292
GENDER	0.16667	0.16667	1	84	0.083	.77113
T x G	0.66667	0.66667	1	84	0.332	.57309
E x G	2.08333	1.04167	2	84	0.519	.60291
T x E x G	1.08333	0.54167	2	84	0.270	.76799

	<u>SS</u>	<u>MS</u>
BETWEEN GRP	168.750	2.00893

APPENDIX J

ANOVA SUMMARY TABLES  
(Subjects from Video and Nonvideo Subset)

AGE

<u>SOURCE</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>ERROR DF</u>	<u>F RATIO</u>	<u>PROB.</u>
TAPING	162.760	162.760	1	84	3.531	.06037
EVIDENCE	89.6458	44.8229	2	84	0.973	.61581
T x E	368.521	184.260	2	84	3.998	.02139*
GENDER	1.26042	1.26042	1	84	0.027	.86341
T x G	29.2604	29.2604	1	84	0.635	.56643
E x G	175.646	87.8229	2	84	1.906	.15309
T x E x G	11.5208	5.76039	2	84	0.125	.88256

	<u>SS</u>	<u>MS</u>
BETWEEN GRP	3871.37	46.0878

Year in School

<u>SOURCE</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>ERROR DF</u>	<u>F RATIO</u>	<u>PROB.</u>
TAPING	9.37500	9.37500	1	84	7.292	.00828**
EVIDENCE	3.27083	1.63542	2	84	1.272	.28503
T x E	0.43750	0.21875	2	84	0.170	.84479
GENDER	2.04167	2.04167	1	84	1.588	.20850
T x G	9.37500	9.37500	1	84	7.292	.00828**
E x G	1.02083	0.51042	2	84	0.397	.67922
T x E x G	2.43750	1.21875	2	84	0.948	.60621

	<u>SS</u>	<u>MS</u>
BETWEEN GRP	108.000	1.28571

Appendix K

ANOVA SUMMARY TABLES  
Algebraic Difference Scores

## Sentence Severity - Algebraic Differences

<u>Source</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>F</u>	<u>Prob.</u>
Taping	30459.4	30459.4	1	24.848	.00004***
Evidence	21978.6	10989.3	2	8.965	.00053***
T x E	18014.1	9007.03	2	7.348	.00150**
Gender	301.042	301.042	1	0.246	.62733
T x G	651.042	651.042	1	0.531	.52499
E x G	2878.65	1439.32	2	1.174	.31413
T x E x G	222.398	111.199	2	0.091	.91287

Error Term

<u>SS</u>	<u>MS</u>	<u>DF</u>
102969.0	1225.82	84

Total SS = 177474

## Ratings of Violence - Algebraic Differences

<u>Source</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>F</u>	<u>Prob.</u>
Taping	2.66667	2.66667	1	0.697	.58900
Evidence	50.7708	25.3854	2	6.638	.00249**
T x E	43.3958	21.6979	2	5.674	.00519**
Gender	5.04167	5.04167	1	1.318	.25285
T x G	.166667	.166667	1	0.044	.82956
E x G	8.89583	4.44791	2	1.163	.31763
T x E x G	12.7708	6.38542	2	1.670	.19269

Error Term

<u>SS</u>	<u>MS</u>	<u>DF</u>
321.2500	3.82441	84

Total SS = 444.958



ANOVA SUMMARY TABLES  
Algebraic Difference Scores

## Ratings of Responsibility - Algebraic Differences

<u>Source</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>F</u>	<u>Prob.</u>
Taping	1.76042	1.76042	1	0.386	.54336
Evidence	8.31250	4.15625	2	0.911	.59125
T x E	4.52083	2.26042	2	0.495	.61689
Gender	.510417	.510417	1	0.112	.73829
T x G	10.0104	10.0104	1	2.193	.13851
E x G	16.0208	8.01042	2	1.755	.17725
T x E x G	21.3958	10.6979	2	2.344	.10018

Error Term

<u>SS</u>	<u>MS</u>	<u>DF</u>
383.375	4.56399	84

Total SS = 445.906

## Ratings of Future Crime - Algebraic Differences

<u>Source</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>F</u>	<u>Prob.</u>
Taping	3.37500	3.37500	1	0.394	.53909
Evidence	14.6458	7.32292	2	0.855	.56769
T x E	3.93750	1.96875	2	0.230	.79786
Gender	.375000	.375000	1	0.044	.82922
T x G	8.16667	8.16667	1	0.953	.66694
E x G	1.93750	0.96875	2	0.113	.89293
T x E x G	7.64583	3.82292	2	0.446	.64739

Error Term

<u>SS</u>	<u>MS</u>	<u>DF</u>
719.750	8.56845	84

Total SS = 759.833

ANOVA SUMMARY TABLES  
Algebraic Differences Scores

## Ratings of Parole - Algebraic Differences

<u>Source</u>	<u>SS</u>	<u>MS</u>	<u>DF</u>	<u>F</u>	<u>Prob.</u>
Taping	16.6667	16.6667	1	0.022	.87692
Evidence	375.521	187.760	2	0.249	.78343
T x E	328.646	164.323	2	0.218	.80706
Gender	876.042	876.042	1	1.161	.28413
T x G	937.500	937.500	1	1.242	.26763
E x G	944.271	472.135	2	0.626	.54220
T x E x G	1614.06	807.031	2	1.070	.34867

Error Term

<u>SS</u>	<u>MS</u>	<u>DF</u>
63381.2	754.539	84

Total SS = 68474.0