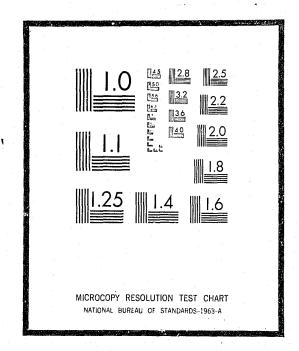# NCJRS

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THE EFFECT ON JURY DELIBERATIONS AND

DECISIONS IN MOCK CRIMINAL CASES

OF SIX- AND TWELVE-MEMBER JURIES

AND OF UNANIMOUS AND NON-UNANIMOUS

VERDICT REQUIREMENTS

by

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ABSTRACT

The effects of jury size and of unanimous vs. non-unanimous verdict requirements were studied through analysis of work juries considering evidence from two criminal cases. At least five juries were tested under each of the eight combinations of conditions. Measures of individual judgment and jury group interaction were obtained. The two cases differed in conviction rate but no effect on conviction rate of jury size or verdict requirement was observed. Juror participation in discussions were least in the non-unanimous, twelve-person jury situation. The mean level of perceived 'guilt' associated with the decision to vote the defendent guilty was 70%, considerably lower than expected. Post-verdict questionnaires indicated that perceived 'guilt' was more closely related to 'responsibility' than to 'causality'.

THE EFFECT ON JURY DELIBERATIONS AND DECISIONS

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Recent Supreme Court decisions in criminal cases author-
izing the use of juries of fewer than twelve members and of
non-unanimous decisions[1] have greatly increased interest in
the question of how such changes would affect jury decision-
making. The paucity of empirical evidence in this area makes
it difficult to estimate the effects of changing either the
size of the jury or the requirements for conviction.[2] One of
the anticipated advantages of a smaller jury is reduction of
the time required for voir dire (provided, of course, that the
average examination time for each potential juror remains essen-
tially the same). In addition, having fewer jury members
deliberating the case might reduce the time needed to reach
a decision. Similarly, removing the unanimity requirement may
facilitate jury deliberations by preventing any single juror
from either having an effective veto or, at the least, being
able to delay the final decision.

To the defendant the speed with which the jury is constitu-
ted or with which it concludes its deliberations is of minor
importance compared to whether or not there will be a _fair_ trial.

With this standard in mind, some of the implications of a non-unanimous criterion for conviction are quite disturbing if the jury is seen as a way of seeking out the 'truth'. A purely statistical analysis, based on a simple mathematical model, suggests that either a smaller jury or a requirement of less than unanimity for conviction will sharply increase the likelihood of conviction of a defendant who has a weak defense and appears to be probably--but not definitely--guilty.[3] The rationale that a defendant should be convicted only if he is guilty beyond a "reasonable doubt' is derived from the need of a free society to protect its citizens. A competing need, also relevant to the welfare of the society, is to have a system which will not let the actually guilty escape justice. Certainly slow and expensive jury trials serve to delay cases and make the proper administration of laws more difficult. However, since juries are involved in fewer than 10% of criminal trials,[4] changing their size and conviction criterion would seem to be an extremely inefficient means for dealing with court backlog. Does this small reduction in trial time compensate for potential sacrifices of fairness and accuracy?

Actual data upon which to make a judgment on optimal jury size and verdict requirement are sparse and difficult to acquire. One approach is the study of actual jury decisions in an attempt to find comparable situations in which both six- and twelve-member juries were used. For example, a comparison of cases in New Jersey where the lawyers for both sides would agree upon

either size jury, the smaller juries did save some time in jury selection and jury deliberation while conviction rates were similar for both sizes of jury.[5] The difficulty with research of this sort is that the cases are not necessarily really similar. Different situations and different courts all raise problems for comparison. Even more critical is the likelihood that the contending lawyers will be more deligent during the jury selection process when the jury is smaller since each juror would be more critical. There is also evidence that the cases selected for larger juries differed from those for smaller juries. At best, while such comparisons may be suggestive, they cannot provide a definitive answer to the question.

The entire area of jury research would be greatly facilitated if investigators could assign subjects in some scientific fashion to actual juries; control who the defendant is; control the details of the case and evidence; and, finally, observe and record in detail all deliberations of the jury. In practice such research faces two important problems: First, to control all critical factors would require the manipulation of elements of an actual jury which would result in serious and unacceptable interference with the jury process and the rights of the defendants. Second, a controlled and manipulated situation cannot duplicate reality -- there is no actual crime, no victim and no justice to be served or penalty to be suffered. Nevertheless, if the experiment has import on the subject (what Aronson and Carlsmith[6] call "experimental realism"), the

inherent artificiality of the laboratory setting is less of a restriction. Jury research has a particular advantage in this respect; subjects typically see the practical applications of the research and as a consequence take their participation quite seriously. Although no research in this area can be problem-free, it is our contention that sufficiently valid and useful information can be obtained from a simple artificial situation to make the effort worthwhile. In line with this approach, a recent study using mock jurors and a videotaped murder trial found higher conviction rates with majority compared to unanimous decision rules.[7]

The origin of the project was an interest in testing the statistical analysis referred to above. A second consideration was an interest in extending research on responsibility attribution[8] to the deliberations of simulated juries. Our major concern was whether or not the subjects (most of whom would necessarily be students) would take their roles as jurors seriously. Another problem was to provide the juries with the details of the case in a consistent fashion which would be of sufficient detail to allow the jury members to debate the material realistically.

The present study was directed at the following psychological (rather than legal) questions concerning jury behavior:

    a) Will smaller juries discuss the evidence less than larger juries (since there are fewer members to contribute) or discuss the evidence more thoroughly

(since each juror is relatively more important, more conspicuous and less able to hide in the crowd or be overlooked)?

b) Will smaller juries be more likely than larger juries to convict the defendant (as suggested by the statistical analysis and reflecting the smaller likelihood of dissenting individuals)?

c) Will removing the need for unanimity lead to more convictions (in line with the statistical analysis and reflecting the inability of dissenting jurors to block a conviction)?

d) Will the juries with a non-unanimous criterion pay less attention to the views of dissenting jurors (since the conviction could be obtained without changing the dissenting viewpoint)?

e) Do smaller and/or non-unanimous juries take less time to reach a decision (which is a function of the degree of discussion and tolerance for dissenting views)?

f) How 'guilty' does the defendant have to appear before a given juror would vote him guilty? And how is the verdict of guilty related to the attributions of causality and responsibility that jurors make to the defendant?

Method

Subjects:

A total of 426 unpaid, volunteer subjects were utilized
in the main study. In addition several dozen subjects were
employed in various pretests. Nearly all subjects were under-
graduate students taking summer session courses. It was
generally necessary to sign up extra subjects in order to be
able to constitute a jury. Several scheduled juries had to
be cancelled for lack of subjects. The subjects were usually
very interested in the project and they turned out to be well
motivated and highly satisfactory in all respects. The general
rationale of the study was carefully explained to the subjects
and their questions were answered as fully as possible.

Materials:

The stimulus material was a written summary of the important
details of the incident and of the prosecution and defense
evidence. Two different incidents were employed which
were based on actual court cases - a criminal negligence case
(Binus) and a premeditated murder case (Dowd). These materials
may be found in Appendix B. A fair amount of pretesting was
required to adjust the details to achieve cases which would not
appear cut and dried at first consideration and had roughly
equal chances of the defendant being found guilty or not guilty.
Pretesting showed that there was sufficient information for
the jury actively to debate and eventually to arrive at a
decision.

Procedure:

The main part of the project was run in the summer of 1974 in the Social Psychology Laboratory. Student assistants helped with recruiting of subjects, telephone call reminders and collection of data. The laboratory was well suited for this sort of work, having a waiting room and "Jury Room" capable of holding 6 or 12 people about a large table. The jury room had one-way mirrors which allowed direct observation and recording of the jurors during the sessions.

With two sizes of juries and two standards for conviction, the experiment took the following form for each of the cases:

Verdict Requirement

		Unanimous	Non-unanimous
Jury Size	6		
	12		

Five or more juries were run for each of the eight conditions of the experimental design. At the start of each session each juror was provided with a folder containing material relevant to the case, ballots and ballot questionnaires (described below), and a sharpened pencil. The experimenter described the project briefly to the jury and gave instructions on procedure. It was emphasized that the jury was suppose to come to the best possible decision and that there was no predetermined 'right' or 'wrong' decision. A tape-recorder description of the case and the relevant issues was presented and then the jury was left

to select a foreman and discuss the case. Jurors were encouraged to take several written ballots of their views during the discussion. The jury remained in session until agreement was reached or they decided that they were deadlocked. In addition to each ballot of 'guilty' or 'not guilty' (which was read by the foreman) the jurors at the time of each vote indicated on another printed form (not read during the session) their division of the total 'guilt' among victim, the situation, and chance or bad luck. For example, in the criminal negligence case, the jurors may assign some guilt to the driver (for not slowing down), to the boys on the bicycle (for not pulling over), to the road (for being too narrow) and to chance (for the car to be passing just as the bike swerved). After the jury deliberations were over, the jurors were asked to fill out a questionnaire (shown in Appendix B) giving their assessment of the evidence as well as their views on the procedure, the deciding issues in the case and how the other jurors contributed to the discussion. Additional measures of the jury were taken: total time of discussion; how long and how many times each juror spoke; the time and count of each vote; and, finally, a detailed recording by trained observers of each verbal interchange, the speaker, and the type of statement (fact, agreement, question, etc.). An audio-tape recording was also made of the entire jury deliberation. After the session, appreciation was expressed to the jurors for their participation. Once data collection was completed a brief summary of the study was sent to those subjects who indicated interest.

Results

The post-verdict questionnaire provided evidence on how the subjects attributed guilt, responsibility and causality to the various elements in the situation and how they viewed the trial material and their own participation. Tables 1 through 15, reproduced in Appendix A, summarize the statistical analysis.

In general jurors on the juries operating under the unanimity requirement, regardless of jury size, had more definite opinions about the case, attributing more of the guilt to the defendant and less to the victim and situation, as shown in Tables 1, 2 and 3. Basically the same pattern was shown with regard to responsibility attribution, as shown in Tables 7, 8 and 9. Bad luck (Tables 4 and 10) did not seem to be a factor in either case with regard to guilt and responsibility. In general the attribution of causality showed a pattern similar to that found of guilt and responsibility with the unanimous juries attaching more responsibility to the defendant and less to the victim and other factors. However, this effect was less for responsibility than for guilt and causality, as shown in Tables 12 and 13. Essentially no causality was attributed to either the situation or to bad luck.

Table 5 shows the self-ranking of the jurors' contributions to the discussion. Taking into account that the mean ranking for a six-person jury would be about 3 and for a twelve-person jury about 6, the obtained means indicate that the average

contribution was essentially the same under all conditions with no effect from the two main experimental variables. With regard to the measure of realism of the trial material shown in Table 11, the means indicate that the perceived realism was suitably high (about 3 on a 5 point scale) and that neither experimental variable had any effect. Another item on the questionnaire asked the subjects to rate the degree of seriousness of the jury and the mean score was 4- representing a good to high degree of seriousness. Most juries required between 45 and 90 minutes to reach their decision and were not hasty in their deliberation.

The two cases differed sharply in the proportion of juries voting to convict; the dangerous driving and negligence case (involving the death of two small boys) led to conviction with 17 of 25 juries; the first degree murder case (pawn broker) led to conviction in only 5 of 25 juries ($p < .01$). The very few convictions in the murder case make it difficult to test for the influence of the size of the jury or of the criterion for conviction. In the driving case neither variable showed an appreciable effect on the likelihood of conviction.

With regard to the time required to reach a decision, the non-unanimous and the smaller juries tended to be somewhat faster than the larger, unanimous juries. However, the differences among conditions were not large compared to the large differences found among juries tested under the same condition. Some juries under each condition were able to reach agreement

quickly and others never were able to agree on either a guilty or not guilty verdict.

Total decision time is largely a function of discussion time. Those jurors who spoke five or fewer times during the deliberations were considered 'non-talkers'. There was a fairly clear but not quite significant tendency ($p < .10$) for the proportion of non-talkers to be higher in the larger juries and in non-unanimous juries with most non-talkers being in the non-unanimous, twelve-member juries. The average number of times each juror spoke and the total talking times for each jury were approximately 50% higher in the non-unanimous six-member and unanimous twelve-member juries. The non-unanimous, twelve-member juries had the lowest rate of participation as well as the most non-participants.

Looking only at the first time each juror voted the defendant 'guilty' and checking the proportion of total guilt attributed to the defendant at that time gives a measure of the 'cut off' point or minimum attribution needed for a guilty vote. In other words, how guilty does the defendant have to appear to an individual juror to receive a vote of guilty? For a sample of 165 jurors who gave at least one vote of guilty, the mean perceived proportion of guilty was a fraction under 70%. Even though the two cases in the study differed greatly in conviction rate there were essentially no overall differences, for those subjects voting guilty, in the perceived attribution of guilt at the time of the first vote of guilty.

Discussion

Perhaps the main finding of the study was that it appears
to be practical to do this type of research using simulated
juries. The subjects were highly involved in the project and
conscientious in trying to reach a fair verdict. A formal
and serious demeanor on the part of laboratory personnel was
found to be important in establishing the proper atmosphere
and attitude on the part of the subjects. The length and
intensity of the discussions also indicated that the cases were
presented in sufficient detail and were sufficiently realistic
to hold the juror's interest and generate brisk and sometimes
heated debate. An obvious factor which could have led to a
difference in conviction rate between the two cases may have
been the strength of the prosecution cases. Other possibilities
worth considering are that the victims in the automobile negli-
gence case were more appealing and innocent (small boys) than
in the murder case (loan shark) and that the jurors were more
reluctant to convict when the probable penalty was greater.
Therefore with regard to the important questions of the likeli-
hood of conviction under the various experimental conditions,
the small number of juries run and the imbalance in the verdicts
prevents coming to even a tentative conclusion.

A major problem is that each jury has to be considered as
a unit so the 426 subjects reduce to 50 juries divided among
eight combinations of conditions (case x size x criterion).
Specific groups of 6 or 12 people are certainly not equivalent

and one or two talkative or contentious individuals in a group can affect the course of the discussion and the time needed to reach agreement.

The results for the talk time and frequency agree with previous findings[9] that participation is greater in smaller juries but also suggest that the less than unanimity standard tends to reduce participation.[10] The greater participation in smaller juries would account for the minimal difference found among groups for the time required to reach a decision. At this point it would appear more reasonable to claim as a benefit of smaller juries (but not of non-unanimous juries) greater juror participation rather than faster decisions.

The relatively low value of the attribution of guilt to the defendant sufficient for a guilty vote is well short of the defendant appearing to be guilty beyond a reasonable doubt. This finding indicates that to the typical subject in the study the term 'guilty' means that the defendant has a predominant share of the guilt in the situation even if other factors were perceived as major contributors.

One reasonable explanation for this finding is that the jurors tend to presume that the defendant is guilty (rather than innocent). Since the defendant appears to be probably guilty, he is also likely to be judged legally guilty. In real life a major contributing factor to a presumption of guilt might be the very fact that the defendant is the defendant. Assuming that the defendant would not have attracted the atten-

tion of the police if he had not done something wrong, his selection as a defendant is itself a sign of possible or even probable guilt.

Informal questioning of court officials and individuals with extensive jury experience indicates that they presume most defendants to be guilty and further research by Shaver is currently underway to determine the extent to which this presumption is shared by potential jurors in the larger community. Therefore the 70% apparent guilt leading to a vote of guilty seen in this study may reflect a serious misunderstanding of the separate roles of the police (to catch) and of the courts (to judge).

The similarity of the guilt and responsibility attribution are consistent with Shaver's suggestion that guilt and responsibility are moral judgments made somewhat apart from the question of causation.[11] In other words, the subjects viewed the victim as sharing causality with the accused, but not responsibility or guilt. The problem of defining what is meant by 'guilt' is a difficult one but it seems that the legal and popular definitions may not coincide.

On the basis of the present study several lines of research are being pursued or considered:

    a) One project is to determine what the term 'guilty' means to the juror or layman. The 70% average guilt attribution may reflect a misunderstanding of the term. A group test is being refined which

is designed to look at whether this cut-off point is influenced by either the nature of the crime (e.g., murder, assault, robbery) or the probable jail penalty (e.g., 5 years, 15 years, life). By combining the two factors it should be possible to see the influence of each and their interaction.

b) The use of a questionnaire at the time of each jury ballot appears to have been successful in providing valuable information about changes in juror opinion during the deliberations with a minimum of disturbance. While the legal problems are formidable, it may be possible to obtain some of the same information from actual juries either during or after the deliberations.

c) Another line of investigation (under the direction of Shaver with the collaboration of Richard Williamson and J. R. Zepkin) is the current study of the degree to which the defendants consider their treatment by the courts to be fair. Defendants will be interviewed with the cooperation of the court in order to determine if the legal system is seen as functioning to maintain order and provide justice.

d) A project is underway by Shaver to determine some of the attitudes toward various issues of civil liberties and punishment held by actual and potential jurors.

e) A direct follow-up of the jury project is being
   considered to obtain more data directed at the
   original questions of the influence of jury size
   and criteria for conviction on the jury deliberations
   and decisions.

In general terms this research project is another application of psychological research methods to the study of the criminal justice system.[13] In specific terms a workable procedure was developed and some interesting and potentially important findings obtained. There is no doubt that clearcut and unambiguous information on the many different factors that influence each stage of the detection, conviction and sentencing of criminals is difficult and sometimes impossible to acquire. However, such information is vital if the system is to be modified and improved so that we can more effectively punish and deter crime while protecting the rights of all citizens. The manner in which juries reach their decisions and the relationship between the legal system and the people it most directly affects are areas of great interest and importance. A better understanding of the behavior of defendants, victims, juries and the courts requires the cooperative efforts of members of both the legal and psychological professions.

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APPENDIX A

TABLES

TABLE I

Statistical Tables for Measure I: Guilt Attributed to Accused

Analysis of Variance

Source	Sum of Squares	DF	Mean Square	F
A:DOWD - BINUS	10026.118	1	10026.118	4.728*
B:UNAN - NONU	19577.748	1	19577.748	9.232**
C:SIX - TWELVE	4506.970	1	4506.970	2.125
A × B	1381.068	1	1381.068	2.125
A × C	3072.780	1	3072.780	1.499
B × C	1654.381	1	1654.381	0.780
A × B × C	1246.527	1	1246.527	0.588
ERROR	884351.495	417	1285.080	

Group Means

		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
Jury	6	64.958	46.935	69.186	51.548
	12	65.583	48.638	73.783	71.141
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

TABLE 2

Statistical Tables for Measure 2: Guilt Attributed to Victim

Analysis of Variance

Source	Sum of Squares	DF	Mean Square	F
A:DOWD – BINUS	28929.079	1	28929.079	22.512***
B:UNAN – NONU	31523.189	1	31523.189	24.530***
C:SIX – TWELVE	6631.122	1	6631.122	5.160*
A × B	6992.027	1	6992.027	5.441*
A × C	52.103	1	52.103	0.041
B × C	4330.219	1	4330.219	3.370
A × B × C	1255.137	1	1255.137	0.977
ERROR	535979.222	417	1285.080	

Group Means

		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
Jury	6	27.958	63.721	22.209	34.476
	12	29.200	44.983	17.883	24.155
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

TABLE 3

Statistical Tables for Measure 3: Guilt Attributed to Situation

Analysis of Variance

Source	Sum of Squares	DF	Mean Square	F
A:DOWD – BINUS	125.763	1	125.763	3.390
B:UNAN– NONU	296.005	1	296.005	7.979**
C:SIX – TWELVE	46.612	1	46.612	1.256
A × B	8.329	1	8.329	0.225
A × C	25.794	1	25.794	0.695
B × C	5.521	1	5.521	0.149
A × B × C	5.245	1	5.245	0.141
ERROR	15469.240	417	37.096	

Group Means

		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
Jury	6	0.0	1.977	1.116	2.071
	12	0.167	2.155	1.833	3.704
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

TABLE 4

Statistical Tables for Measure 4: Guilt Attributed to Bad Luck

Analysis of Variance

Source	Sum of Squares	DF	Mean Square	F
A:DOWD – BINUS	1232.433	1	1232.433	6.649**
B:SUAN – NONU	70.127	1	70.127	0.378
C:SIX – TWELVE	549.478	1	549.478	2.965
A × B	150.901	1	150.901	0.814
A × C	59.796	1	59.796	0.323
B × C	32.822	1	32.822	0.177
A × B × C	2992.752	1	2992.752	16.147***
ERROR	77288.747	417	185.345	

Group Means

		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
Jury	6	0.833	3.628	7.721	2.143
	12	7.217	0.345	4.833	11.183
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

TABLE 5

Statistical Tables for Measure 5: Self-Rank of Contribution to Deliberation

Analysis of Variance

Source	Sum of Squares	DF	Mean Square	F
A:DOWD - BINUS	1.026	1	1.026	0.048
B:UNAN - NONU	0.064	1	0.064	0.003
C:SIX - TWELVE	688.880	1	688.880	32.152***
A × B	1.131	1	1.131	0.053
A × C	38.620	1	38.620	1.803
B × C	5.550	1	5.550	0.259
A × B × C	30.895	1	30.895	1.442
ERROR	8934.423	417	21.425	

Group Means

		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
Jury	6	3.771	3.070	2.814	3.000
	12	4.967	5.828	6.333	5.887
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

TABLE 6

Statistical Tables for Measure 6:
How Seriously did we Take the Research

Analysis of Variance

Source	Sum of Squares	DF	Mean Squares	F
A:DOWD – BINUS	2.251	1	2.251	2.139
B:UNAN – NONU	0.499	1	0.499	0.474
C:SIX – TWELVE	3.275	1	3.275	3.112
A × B	9.686	1	9.686	9.206**
A × C	0.204	1	0.204	0.194
A × B × C	0.710	1	0.710	0.675
ERROR	438.734	417	1.052	

Group Means

| | | DOWD | | BINUS | |
		UNAN	NONU	UNAN	NONU
Jury	6	3.646	3.953	4.140	3.667
	12	3.850	4.017	4.267	3.986
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

TABLE 7

Statistical Tables for Measure 7: Responsibility Attributed to Accused

Analysis of Variance

Source	Sum of Squares	DF	Mean Squares	F
A:DOWD - BINUS	11860.996	1	11860.996	4.627*
B:UNAN -NONU	35297.223	1	35297.223	13.770***
C:SIX -TWELVE	6422.621	1	6422.621	2.506
A × B	0.014	1	0.014	0.000
A × C	1021.137	1	1021.137	0.398
B × C	1724.865	1	1724.865	0.673
A × B × C	2860.050	1	2860.050	1.116
ERROR	1068904.836	417	2563.321	

Group Means

		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
Jury	6	68.021	40.093	70.326	52.976
	12	63.400	54.224	82.567	62.859
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

TABLE 8

Statistical Tables for Measure 8: Responsibility Attributed to Victim

Analysis of Variance

Source	Sum of Squares	DF	Mean Squares	F
A:DOWD - BINUS	33353.920	1	33353.920	14.983***
B:UNAN - NONU	13375.420	1	13375.420	6.008*
C:SIX - TWELVE	91.413	1	91.413	0.041
A × B	190.228	1	190.228	0.085
A × C	81.883	1	81.883	0.037
B × C	265.351	1	265.351	0.119
A × B × C	4164.759	1	4164.759	1.871
ERROR	928286.534	417	2226.107	

Group Means

		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
Jury	6	44.063	48.860	20.140	34.952
	12	34.250	55.000	24.850	30.141
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

TABLE 9

Statistical Tables for Measure 9: Responsibility Attributed to Situation

Analysis of Variance

Source	Sum of Squares	DF	Mean Squares	F
A:DOWD – BINUS	202.828	1	202.828	4.836*
B:UNAN – NONU	274.889	1	274.889	6.554*
C:SIX – TWELVE	27.070	1	27.070	0.645
A × B	0.194	1	0.194	0.005
A × C	4.539	1	4.539	0.108
A × B × C	21.641	1	21.641	0.516
ERROR	17490.504	417	41.944	

Group Means

		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
Jury	6	0.0	2.093	1.698	2.786
	12	0.717	1.983	1.917	4.014
		(murder case)		(negligence case)	

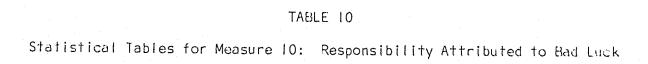* p = .05   ** p = .01   *** p = .001

TABLE 10

Statistical Tables for Measure 10: Responsibility Attributed to Bad Luck

Analysis of Variance

Source	Sum of Squares	DF	Mean Squares	F
A:DOWD – BINUS	1298.007	1	1298.007	5.109*
B:UNAN – NONU	0.996	1	0.996	0.004
C:SIX – TWELVE	0.611	1	0.611	0.002
A × B	97.425	1	97.425	0.383
A × C	219.289	1	219.289	0.863
B × C	253.380	1	253.380	0.997
A × B × C	1064.670	1	1064.670	4.191
ERROR	105939.992	417	254.053	

Group Means

Jury		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
	6	0.458	4.372	7.721	7.143
	12	6.633	0.966	4.533	7.254
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

TABLE 11

Statistical Tables for Measure 11: Suitability and Realism of Presentation

Analysis of Variance

Source	Sum of Squares	DF	Mean Squares	F
A:DOWD – BINUS	0.000	1	0.000	0.000
B:UNAN –NONU	2.109	1	2.109	1.791
C:SIX – TWELVE	1.209	1	1.209	1.026
A × B	7.912	1	7.912	6.719
A × CC	0.006	1	0.006	0.006
B × C	0.684	1	0.684	0.581
A × B × C	0.230	1	0.230	0.195
ERROR	491.078	417	1.178	

Group Means

		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
Jury	6	2.646	2.651	2.884	2.429
	12	2.633	2.897	2.950	2.563
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

TABLE 12

Statistical Tables for Measure 12: Causality Attributed to Accused

Analysis of Variance

Source	Sum of Squares	DF	Mean Squarea	F
A:DOWD – BINUS	6102.790	1	6102.790	8.503**
B:UNAN – NONU	17850.718	1	17850.718	24.872***
C:SIX – TWELVE	1792.154	1	1792.154	2.497
A × B	162.257	1	162.257	0.229
A × C	265.046	1	265.046	0.369
B × C	692.259	1	692.259	0.965
A × B × C	360.861	1	360.861	0.503
ERROR	299279.610	417	717.697	

Group Means

		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
Jury	6	55.750	36.837	58.721	46.071
	12	53.850	43.879	63.783	52.577
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

TABLE 13

Statistical Tables for Measure 13: Causality Attributed to Victim

Analysis of Variance

Source	Sum of Squares	DF	Mean Squares	F
A:DOWD - BINUS	9420.183	1	9420.183	16.052***
B:UNAN - NONU	10475.695	1	10475.695	17.852***
C:SIX - TWELVE	1741.191	1	1741.191	2.967
A × B	1074.590	1	1074.590	1.831
A × C	75.470	1	75.470	0.129
B × C	277.590	1	277.590	0.473
A × B × C	77.186	1	77.186	0.132
ERROR	244718.348	417	586.855	

Group Means

		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
Jury	6	37.167	51.279	30.814	40.190
	12	34.683	47.241	28.350	32.704
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

TABLE 14

Statistical Tables for Measure 14: Causality Attributed to Situation

Analysis of Variance

Source	Sum of Squares	DF	Mean Squares	F
A:DOWD - BINUS	3.154	1	3.154	0.049
B:UNAN - NONU	229.146	1	229.146	3.571
C:SIX - TWELVE	27.670	1	27.670	0.431
A × B	31.583	1	31.583	0.492
A × C	1.256	1	1.256	0.020
B × C	25.563	1	25.563	0.398
A × B × C	5.143		5.143	0.080
ERROR	26758.665	417	64.169	

Group Means

		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
Jury	6	1.250	3.023	2.093	2.310
	12	1.383	3.707	2.000	3.662
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

TABLE 15

Statistical Tables for Measure 15: Causality Attributed to Bad Luck

Analysis of Variance

Source	Sum of Squares	DF	Mean Squares	F
A:DOWD - BINUS	540.842	1	540.842	3.689
B:UNAN - NONU	107.749	1	107.749	0.735
C:SIX - TWELVE	502.063	1	502.063	3.424
A × B	103.727	1	103.727	0.707
A × C	130.126	1	130.126	0.887
B × C	8.180	1	8.180	0.056
A × B × C	1060.876	1	1060.876	7.235**
ERROR	61143.146	417	146.626	

Group Means

		DOWD		BINUS	
		UNAN	NONU	UNAN	NONU
Jury	6	0.417	1.884	6.047	3.095
	12	7.250	1.724	4.200	7.113
		(murder case)		(negligence case)	

* p = .05   ** p = .01   *** p = .001

APPENDIX B

Stimulus Material

The College of William and Mary

Judicial Decision Processing Project

Instructions

I. Select a Foreman

    A. Duties of a Foreman

        1. Maintain order in deliberations
        2. Call and record votes.

    B. Instructions to the Foreman

        1. Take a vote at the beginning of your discussion
            to establish where the group stands.
        2. Thereafter, take as many votes as often as you
            need to. You may find them valuable in aiding
            your discussion.

II. Voting

    A. All Voting is Done by Secret Ballot

    B. <u>Yellow Paper</u>: Used to Record Votes for the Foreman

        1. Write "guilty" or "not guilty"
        2. Fold the paper once
        3. Place ballot in box with yellow lid

    C. <u>White Balloting Forms</u>: <u>Not</u> for Use in Your Deliberations
        but Are Part of the Experimental Data

        1. Question 1: "How did you vote", refers to the
            yellow ballot. Simply circle "guilty" or "not guilty"
        2. Question 2: "At this time, to what extent do you
            feel the following were at fault for the accident?
            Divide 100% among the following: "--<u>Be sure that
            the total amount of "fault" adds up to 100%.</u>
        3. Place this ballot in the box with the white lid
            and do not refer to them again.

STATE vs. BINUS

The accused, James P. Binus, a 25 year old male, was driving west on a two-lane back road at about 11 a.m. on Saturday, May 15th. He had not travelled the road before, and confronted an "S" curve going first to the right and then to the left. Thereafter the road (which is 22 feet wide with soft shoulders) is straight. A driver coming into the "S" curve cannot see beyond the bend, but this is not a direct factor in the events leading to the charge in this case. After negotiating the "S" curve, the accused, who was driving his late model Ford pick-up, saw at a distance of about 150 yards ahead of him (and also proceeding west) a bicycle with two boys on it, one driving and the other sitting over the rear wheel. The day was clear, and the pavement dry and there was no other traffic. The defendant, not using his horn, struck the rear of the bicycle and subsequently the boys were thrown to the pavement. After his car had come to a stop, the accused went back to offer what first aid he could and directed a passing car to summon an ambulance. Having suffered multiple injuries, both victims, ages 7 1/2 and 8, were found dead on arrival at the county hospital.

The accused claims that he was operating his vehicle at the posted speed limit of 40 m.p.h.; that the bicycle suddenly swerved in front of him; and that the application of brakes was simply too late.

An independent witness who had observed the accident from a distance of some 300 yards north of the scene, testified that

she couldn't be sure, but that she thought she remembered seeing the bike move into the path of the vehicle just before impact.

The prosecution contends that the physical evidence contradicts the defense testimony. Skid marks of the truck started 2 feet 9 inches from the north edge of the pavement and extended some 50 feet, but veered to 5 feet from the pavement edge about half way along. There were no marks indicating whether the bicycle had swerved so as to either make a collision unavoidable or so as to confront the accused with the need to make a quick decision. Other evidence presented by the prosecutor showed that only the front fender and right front headlight alone were dented; there was no damage to the side of the car, nor was the bicycle hit at the side.

DEFINITION

Dangerous Driving and Negligence: "Driving in a manner
that is dangerous to the public having to all the circumstances
including the nature and condition and use of such place and
the amount of traffic that at that time is or might reasonably
be expected to be on such place."

The offense is to mean more than mere civil negligence,
that is, inattention from which civil liability might flow.
The jury must determine, from the evidence, the circumstances
which existed at the time the accused was driving. After con-
sidering the manner in which he was driving, the jurors must
determine whether or not that way he was driving was dangerous.

If found guilty of dangerous driving, the accused will
then be held responsible and accountable for any and all jury
to property and/or person. Maximum sentence in this case would
be 5 years in prison. It must be emphasized, however, that
your job, as a jury, is to determine the guilt or innocence of
the accused. Sentencing, whether it be a small fine or the
maximum, is solely the responsibility of a judge.

STATE vs. DOWD

    On January 22nd, 1974, at 1:07 a.m., the 24th Precinct of
the Metropolitan Police Department received an anonymous phone
report of a shooting in the 2400 block of River Street. Upon
arriving at the scene, Officers John A. Pence and Robert
Williams found a dead caucasian male, later identified as 35
year old Charles Robert Reese, lying face down ten feet from
the unlocked, broken front glass door of a local pawn shop.
He had been shot twice in the head. Fingerprints on the lock
were smudged. The defendant, 46 year old John Paul Dowd, owner
and manager of the shop, was found standing a few feet from
the victim with a .45 caliber automatic pistol in hand. He
told the officers that he and his wife were asleep in their
living quarters above the pawn shop when shortly before 1:00
a.m. he was awakened by the sound of breaking glass downstairs.
"I grabbed my .45, which I keep in the bedstand drawer, and
went downstairs to investigate. The streetlight was enough
for me to see glass all over the place, and this guy walking
toward my safe...he must have heard me and starts to bring a
gun out of his pocket...so, I let him have it...it all happened
so quickly; I didn't mean to kill him...it all happened so
quickly."

    Among the papers found on the victim was an I.O.U, signed
by the defendant and in his handwriting promising to pay the
deceased, Charles R. Reese, the sum of $2,500 no later than

December 20, 1973.

The medical examiner testified that the deceased died of two gunshot wounds inflicted at the left temple of the victim at close range (approx. 6 feet).

The prosecution contends that the death of Charles Reese was premeditated murder; that John Dowd owing the deceased a large sum of money that he was unable to pay, carefully planned to lure Reese into his shop with the promise to make good his note. He then shot him to death and attempted to make it look like self-defense. The District Attorney insists that at such a short distance, Dowd could easily have wounded his alleged assailant rather than literally blowing his head off with not one, but two shots from a large caliber weapon.

Two witnesses for the prosecution had accompanied the defendant to a New Year's Eve party and testified that at that time he became very intoxicated and promised as a New Year's resolution, "I will get Charlie Reese off my back forever."

Other witnesses, who had been playing poker with the deceased earlier on the night of the incident, testified that Reese left the card game at about 12:30 a.m. claiming that he had an appointment to collect an overdue debt.

The defense established that a rash of robberies had occurred recently in the neighborhood of Dowd's Pawn Shop and that Dowd, himself, had been robbed 3 times within the past 2 years. According to the defense, the defendant was acting reasonably in interpreting what he perceived as an attempted

robbery, and that the death of Charles Reese, was a case of pure self-defense.

Attorneys for the defendant also pointed out that Reese did, in fact, have an unlicensed, loaded .32 caliber pistol found clenched in his hand after the incident. Witnesses for the defense, including Police Lt. Ross Hunt, identified the deceased as a small-time loan shark who had been questioned several times in the past 2 years about suspected assault and extortion.

CHARGE TO THE JURY

Members of the jury, it is charged in the indictment that on or about January 22nd, 1974, the defendant, John Paul Dowd, with premeditation and malice aforethought, and by means of shooting, unlawfully killed Charles Robert Reese; in violation of Title 18, Section 1111 of the State Criminal Code. "Murder", as defined by the Code, "is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing..., is murder in the first degree."

Three essential elements are required to be proved in order to establish the offense of first degree murder charged in the indictment.

    First: The act of killing a human being unlawfully

    Second: Doing such act with malice aforethought

    Third: Doing such act with premeditation

"Malice aforethought" means an intent, at the time of a killing, willfully to take the life of a human being, or an intent willfully to act in callous or wanton disregard of the consequences to human life. "Malice" as the term is used here, is but another name for a certain state or condition of a person's mind or heart. Since no one can look into the heart or mind of another, the only means of determining whether or not malice existed at the time of a killing is by inference drawn from the surrounding facts and circumstances as shown by the
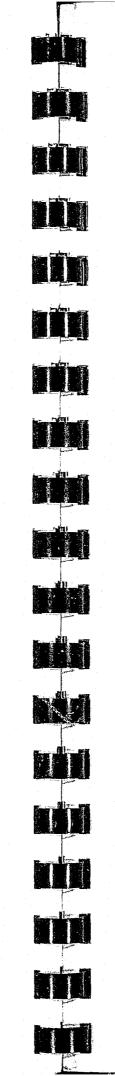
evidence in this case.

"Premeditation", which is required in addition to malice aforethought in order to establish the offense of first degree murder, is typically associated with murder in cold blood, and requires a period of time in which the accused coolly deliberates, or thinks the matter over before acting.

A verdict of guilty from the jury will mean that the indictment of murder in the first degree is upheld, and it would then be my duty, as a judge, to assess punishment...in this case up to life imprisonment.

A verdict of not guilty from the jury, in this case would be interpreted as meaning that the defendant committed murder in self-defense, which carries no penalty. The law provides that if a defendant had reasonable grounds to believe that he was in imminent danger of death or serious bodily harm, and that deadly force was necessary to repel such danger, he would be justified in using deadly force in self-defense, even though it may have turned out that the appearances were false.

In determining whether Charles R. Reese was unlawfully killed with premeditation and malice aforethought, the jury should consider all of the evidence as presented. No fact, no matter how small, no circumstance, no matter how trivial, should escape careful consideration by the jury.

APPENDIX C

Questionnaires

CONTINUED

1 OF 2

The College of William and Mary

Judicial Decision Processing Project

Questionnaire

Juror Number _____

1. What is your class standing? (Circle One)

   Fresh   Soph   Junior   Senior   Other (specify)

2. What is your age?

   _____ years

3. What do you remember as the strongest piece of evidence
   for the defense?

4. What do you remember as the strongest piece of evidence
   for the prosecution?

5. Divide 100% among the following as to RESPONSIBILITY for
   the incident:

   A. The accused, James P. Binus: _____

   B. The bicyclists: _____

   C. Street Conditions: _____

   D. Bad luck   _____

                      Total   100%

6. Which two fellow jurors most helped the group arrive at it's decision?

7. If you rank the entire jury in terms of how much each juror contributed to reaching a decision, where would you rank yourself?

   (Rank of #1 for greatest contribution)

8. How serious and conscientious was the jury in trying to reach a fair verdict?

```
1            2            3              4              5
not at    slightly    moderately      very        extremely
all
```

9. Divide 100% among the following as to CAUSALITY for the incident:

   A. The accused, James P. Binus: _____

   B. The bicyclists: _____

   C. Street conditions: _____

   D. Bad luck: _____

                            Total   100%

10. How much did the presentation of evidence approximate a real trial?

```
1            2            3              4              5
not at    slightly    moderately      very        extremely
all
```

11. Did any juror contribute hardly at all to the discussion?
    And if so, who?

12. Divide 100% among the following as to GUILT in the incident:

    A.   The accused, James P. Binus: _____

    B.   The bicyclists: _____

    C.   Street Conditions: _____

    D.   Bad luck: _____

                                 Total   100%

13. Rate the following as to chances for PREVENTING the incident:

    A.   The accused, James P. Binus:

    1   2   3   4   5
    absolutely   absolutely
    no chance of   certain that
    prevention   individual could
                                                    have prevented
                                                    incident

    B.   The bicyclists:

    1   2   3   4   5
    absolutely   absolutely
    no chance of   certain that
    prevention   individual could
                                                    have prevented
                                                    incident

    C.   Other: (specify)

    1   2   3   4   5
    absolutely   absolutely
    no chance of   certain that
    prevention   individual could
                                                    have prevented
                                                    incident

14. Your comments:

END