COMPREHENSION OF JUDICIAL INSTRUCTIONS

ROLE OF THE JURY AND JUDICIAL INSTRUCTIONS

- **3 Functions Required of Jurors:**

  **Comprehend the Law**
  
  - The presence or absence of jury instructions has been found to ________________________________
  
  - Failure to understand instructions can affect jury behavior in many ways:
    - by making it more likely that 1 or 2 strong jurors will ________________________________
    - by increasing the likelihood that jurors will discuss ___________________________ during deliberations, and
    - By making it less likely that jurors will discuss ___________________________

  Therefore, it is important to study whether jurors understand these instructions and what factors influence comprehension of them.

**METHODOLOGY USED TO STUDY JUROR/JURY COMPREHENSION**

**SURVEYS**
FIELD RESEARCH OR QUASI EXPERIMENTS

- **Disadvantages:**
  - Less useful than lab studies in testing juror comprehension. Why?

- **Advantages:**

EXPERIMENTAL DESIGNS

- **Criticisms**

- **Benefits**

  - Due to its reliance on ____________________, the law is more likely to be convinced by a single compelling ____________________ than any amount of experimental data.

SUMMARY

- All of these methods converge on one significant result:
How Should Comprehension Be Measured?

- **Ability to Paraphrase**
  - Charrow & Charrow (1979)

- **Recognition test** (true/false):

- **Application of Instructions**:

- **Comprehension vs. Application**:

- **Questions submitted by juries**:

- **What level of comprehension is good enough?**

- **Is there a maximum level of juror comprehension (ceiling effect)?**

- **Criminal vs. Civil Juries’ Comprehension: Is on more difficult?**

**FINDINGS FROM RESEARCH WITH ACTUAL JURIES: Surveys, Field Studies, and Questions**

- **Real jurors believe they understand** and follow judicial instructions, but ...

- **Even when jurors are** ____________ their comprehension has been found to be low

- **Confidence**

- **Juries spend** __________________________________________________________________________ considering and trying to apply judicial instructions,
FINDINGS FROM RESEARCH WITH ACTUAL JURIES: Surveys, Field Studies, and Questions

- Juries’ Questions

- Judges typically respond to jury questions by

FINDINGS FROM RESEARCH WITH JUDGES

Chicago Jury Project (Kalven & Zeisel, 1966)

- Judges were asked to recall, retrospectively, jury trials over which they presided and to indicate whether they agreed with jury verdicts.

- Criticisms of Methodology


COMPREHENSION STUDIES OF INSTRUCTIONS ALONE
COMPREHENSION STUDIES WITHIN THE CONTEXT OF A SIMULATED TRIAL

- **Trial Stimulus Materials**
  - Mode of presentation

- Mock jurors are ______________ in their correct and incorrect answers

- The effect of ______________ on juror comprehension is mixed.

- Jurors believe that instructions help them understand the law

- **Olgoff’s Experiment (1991) on the Insanity Defense Instructions:**

  - All jurors watched the identical videotaped trial.
  
  - IV was the type of instruction:

  - **Results:**

COMMON SENSE JUSTICE

- **Common Sense Justice (CSJ):**

  - People have _______________________________ for various legal concepts based on the media and popular culture

  - If legal instructions _______________________________, jurors are likely to continue to rely upon their ______________ and to ignore the judge’s instructions.

  - How the "CSI Effect" is changing the way jurors see evidence.
STRATEGIES OR MECHANISMS TO INCREASE COMPREHENSION

- It is essential that some satisfactory methodology be used to systematically examine and evaluate whether revised instructions or procedural challenges actually serve to increase comprehension of the law.

- As Wissler et al. (2000) suggest, “before courts or legislatures replace current instructions with alternative instructions or procedures, jurors’ understanding, interpretation and use of both the current instructions and the ‘improvements’ should be carefully tested. Some treatments can be more harmful than the neglect they were designed to replace” (p. 737).

STRATEGIES OR MECHANISMS TO INCREASE COMPREHENSION

- **Juror Note Taking**
  - Many US jurisdictions ________________________ jurors from taking notes during both evidence and instruction portions of trials.

- **Providing Jurors With Copies Of The Judicial Charge**
  - It ________________________________ for judges to provide a copy of their instructions to juries.

- **Plain English Or Redrafted Instructions**
  - **Legalese:**
    - Why can’t laws be written in plain English?

  - **Pattern or Standard Jury Instructions:**

  - **Summary:**
STRATEGIES OR MECHANISMS TO INCREASE COMPREHENSION

- **Preinstructions Of Juries**
  - Cognitive Reasons why preinstruction improves comprehension:
    - ForsterLee et al. 1993, found that
  - Other researchers
  - Preinstruction seems to interact with other variables

**WHERE DO WE GO FROM HERE?**

- READ TEXTBOOK pp. 434-439