CONTENT ANALYSIS OF JURY DELIBERATIONS

Content/Behavioral Analysis

The Use of Content/Behavioral Analysis in Research
- Language/Linguistics (numerous areas)
- Developmental studies with infants and children
- Alzheimer’s patients and individuals with mental retardation
- Animal studies
- Surprisingly little research exploring mock jury deliberations

The Old Way - Transcripts
- Audio recorded interactions converted to transcripts; time-consuming; sound quality critical
- Video recordings converted to transcripts; better than audio recordings b/c behavioral information available (can read lips)
- Transcripts lose behavioral information (body language, tone, physical motions, etc.)

The paper/pencil/stopwatch way:
- Researcher watches new videotapes and makes hatch marks to count behaviors and uses stop watch to record stop and start times (durations) of behaviors.
- Tallies made w/ paper, pencil, and calculator
- If done in real time, much info is lost; no chance to develop a new coding scheme or answer other research questions; usually coding durations must be very short or very few behaviors can be coded at one time

The Observer 5.0® way:
- Video file is imported into The Observer 5.0® software and coder pushes buttons on keyboard to count behaviors and indicates start and stop times (durations) of behaviors.
- The Observer 5.0® tallies everything and is very accurate.
- The same set of tapes can be used for eons with newly developed coding schemes to answer new research questions.
- Allows for complicated coding schemes with multiple levels.
- The Observer 5.0® provides elementary statistical analyses, reliability analyses, and more advanced analyses such as lag sequential analyses.
Limitations of Observational data and The Observer ® 5.0

- Many “human” hours required to:
  - Develop coding scheme
  - Participate in training activities
  - Resolve disagreements
  - Learn how to conduct analyses (reliability, transitional probabilities, time-series, etc.)

- Cannot change coding scheme once “real” coding starts

- Cost
  - Software + 1 key = ~ $4000 - $5000
  - Additional keys = $3000 - $4000 each

- Complicated coding schemes lead to prohibitive amounts of data! Must consider ability to “lump” behaviors for simpler analyses/conceptual understanding.

**Background/Context**

- Mock jurors exposed to negative Pretrial Publicity (PTP) about the defendant are more likely to render ______________ than those not exposed to the negative PTP.

- Social scientists do not have an adequate understanding of how _____________ its biasing effect on jury decision making.

- ________________ to make educated decisions on the types of remedies that may be effective in combating PTP effects.

**Courts Have The Difficult Duty Of Protecting Both:**

- A defendant’s Sixth Amendment right to a “speedy and public trial, by an _________________________________.”

- Citizens’ First Amendment rights to free speech (________________________)
Group Decision Making

Oft-stated Benefits of Group Decision Making by the Courts:

Research has shown that:

- Collaboration ________________ held by a majority of group members.
- Groups are sometimes ________________ than are individuals or nominal groups.

Our Question

Does Pretrial Publicity Affect The Qualitative Nature Of Jury Deliberations?

Theory driving our research questions and coding scheme:
- Predecisional Distortion Theory (Carlson & Russo, 2001)
- Story Model (Pennington and Hastie, 1993)
- Evidence vs. Verdict Driven Juries (Hastie, Penrod, and Pennington, 1983)
- Source Memory Theory (Johnson, Hashtroudi, & Lindsay, 1993)

Research Questions:
- Does PTP affect the level of juror participation in deliberations?
- Do jurors exposed to PTP spend more time discussing prosecution facts and less time discussing defense facts?
- Does PTP affect the interpretation of neutral/ambiguous facts?
- Are PTP exposed juries more verdict driven and less evidence driven than non-exposed juries?
- How often was PTP discussed during deliberations and what was the jury’s reaction when it was mentioned?
Participants

- 167 college students
- 42 males and 125 females
- 105 White, 28 African American, 24 Hispanic, 8 Asian, 1 Native American, and 1 Other
- Age: $M = 21; SD = 5.47$, Range = 18 – 52
- 30 Juries: 4 to 6 person
- Data collected fall 2000 and spring 2001

Two-Phase Experiment: Procedure for Phases 1 & 2

Verdict Results

- Juries exposed to PTP were more likely to deliver a guilty verdict, $\chi^2(2, N=30) = 8.45, p < .05.$

Developing & Piloting the Coding Scheme

- RAs (N=11) who were blind to PTP condition compared pairs of juries on 13 different variables (e.g., interpretation of evidence; participation; emotionality; timing of straw poll).
- Hours of group discussion regarding how to reliably code the constructs of interests (e.g., participation and interpretation of evidence).
- Initial coding scheme and catalog were developed.
- RAs were trained to code using The Observer Video Pro 5.0® (Noldus, 2003; www.noldus.com).
- Piloting of coding scheme $\rightarrow$ Coding scheme revised.
Training & Coding

- A new group of RAs (N = 7) became familiar with the trial, PTP, and coding scheme.

- RAs coded the same tape and random pairs were selected for reliability comparisons. RAs codings were compared to the Trainer’s coding.

- Disagreements in coding were resolved through group discussion and the code catalog was revised.

- Once reliability analyses indicated overall kappas of at least .70 for all pairs of coders actual coding began.

- Random pairs of RAs were assigned to code 6 to 8 tapes ~ 10 – 12 hours per 30 minute tape.

Reliabilities and Issues

- **Reliability Checker & Reliability Decay**: Inter-observer reliabilities were checked throughout coding and problems were addressed.

- Cohen’s Kappa ranged from .62 to .83 (M = .75, SD = .05) suggesting good to excellent inter-observer agreement (Bakeman & Gottman, 1997).

- Disagreements were resolved by a third independent coder resulting in perfect agreement across the 2 tapes.

- One tape was selected for all subsequent analyses.
Overview of Coding Scheme

- **Events**
  - Provide frequency data, rate data, and ability to look at chains of events
  - Duration is not important/recorded
  - Example: verdicts & straw polls

- **States**
  - Provide duration data for calculating percentages and conducting time series analyses
  - Mutually exclusive and exhaustive
  - Example: talks and no talks

- **Modifiers: increase specificity of states and events.**

- **On-Topic vs. Off-Topic (States)**
  - **Trial Facts**
    - Specific trial fact (N = 25)
      - Neutral Facts: Prosecution, Defense, or Neutral
  - **PTP Facts**
    - Specific PTP fact (11 specific and 1 general)
      - The jury’s reaction to the discussion of PTP
  - **New Facts Related Facts**
  - **Undetermined** - necessary category for all states

Juror Participation in Deliberations

- **Mean Proportion of Deliberation Time on Topic:**
  - PTP exposed juries = 92.45% (SD = 10.50%)
  - Non-exposed juries = 92.93% (SD = 8.62 %)

- **Mean Proportion of Deliberation Time that the Most and Least talkative jurors spent talking:**
  - PTP Exposed = 36.09% and 2.72% (SDs = 8.52 and 2.79)
  - Non-exposed = 32.56% and 1.68% (SDs = 11.39 and 1.90)
Gun Reenactments Per Minute:
- Exposed juries 0.33 per minute (SD = .21; range = .07 to .79)
- Non-exposed 0.26 per minute (SD = .12; range = .07 to .50).

These results suggest that both exposed and non-exposed jurors demonstrated moderate to high involvement.

Verdict vs. Evidence Driven Juries: Time to First Straw Poll

Verdict driven juries begin the deliberation process by taking a straw poll, whereas evidence driven juries are likely to discuss all evidence before their first straw poll.

All but one of the _______________ juries conducted their first straw poll within the first minute.
- $M = 1.00$ minute, $SD = 2.92$, range = 0.12 to 11.12 minutes

For _______________ juries, time to first straw poll was more varied:
- 10 juries conducted a straw poll within the first minute and the remaining six juries took between 7 minutes and 33 minutes
- $M = 6.25$ minutes, $SD = 10.00$; range = 0.12 to 32.8 minutes

Verdict vs. Evidence Driven Juries (cont.)

______________ juries are characterized as discussing all evidence presented at trial and therefore they should spend relatively equal time discussing trial facts to support the defense ($n = 9$) and trial facts to support the prosecution ($n = 10$).

In comparison, ________________ juries are likely to spend more time discussing trial facts that support their favored verdict.

Proportion of Deliberation Time Spent Discussing Prosecution Facts:
- Exposed jurors: $M = 16.12\%$ ($SD = 5.88\%$)
- Non-exposed jurors: $M = 14.21\%$ ($SD = 6.10\%$).

Proportion of Deliberation Time Spent Discussing Defense Facts:
- Exposed jurors: $M = 15.10\%$ ($SD = 6.03\%$)
- Non-exposed jurors: $M = 16.83\%$ ($SD = 6.31\%$)
Neutral Facts

- **Neutral Facts** should either **not** be used by juries as a basis for rendering a verdict, or the fact could be perceived as supporting either side.

- For example, the defendant's appearance during the police interrogation and while on the witness stand were markedly different but not indicative of guilt or innocence.
  - However, according to _________________________________, once a juror has arrived at a verdict, subsequent facts presented at trial will be perceived as supporting his or her verdict or point of view (Carlson & Russo, 2001).

- Juries ______________________________ were expected to discuss neutral facts as if they supported the prosecution due to the PTP’s pro-prosecution slant.

- ______________________________ were expected to discuss the facts without bias, or be equivalently divided.

Neutral Facts: Results

- Exposed juries distorted the neutral facts as supporting the ____________________ significantly more often than nonexposed juries, t(28) = 2.54, p < .05.

- Nonexposed juries distorted the neutral facts as supporting the ____________________ significantly more often than exposed juries, t(28) = -2.66, p < .05.

- There was no significant difference between exposure conditions in treating a neutral fact as neutral, t(28) = -1.18, p < .05.

PTP Facts

- All fourteen exposed juries mentioned a specific PTP fact at least once:
  - __________ times, SD = 3.25, Md = 4, Mode = 4, range = 1 to 14 times

- On average, exposed juries spent 4.15% (SD = 3.65%, range = 1% to 14%) of total deliberation time discussing ________________________________.

- They spent another 2.38% (SD = 2.38%, range = 0% to 5%) discussing the existence of ________________________________.

Exposed Jurors Responses to PTP Facts

- ____________________________________________

- ____________________________________________
Mediation Analyses

- The proportion of deliberation time spent discussing neutral facts as supporting significantly mediated the effect of PTP on verdicts, Sobel test $z = 2.06$ (1982), $p < .04$.

- The proportion of deliberation time spent discussing neutral facts as supporting did not significantly mediate the effect of PTP on verdicts, Sobel test $z = 0.83$ (1982), $p = .40$.

Take Home Message

- Negative PTP about a defendant can have an extremely biasing effect on jury decision making.

- PTP exposure can influence juries’ interpretation and discussion of:
  ______________________________________________________________________

- Jurors exposed to PTP may be unable or unwilling to adhere to judicial instructions admonishing them not to ___________________________ and unable or unwilling to ___________________________ who do not follow these instructions.

- If jurors are using information provided in PTP to make verdict decisions then the ______________________________________________________________________.