

# **Trial by Social Media: How do you find the jury, guilty or not guilty?**

## **ABSTRACT**

*Social media makes it easier than ever to access information and opinions associated with criminal proceedings, and viewing or discussing these pre-trial could reduce juror impartiality. This study explored whether viewing social media comments influenced mock juror verdicts. Seventy two participants formed twelve 6-person 'mock juries'. All participants received information regarding a murder trial. Nine groups were exposed to social media comments, manipulated to be negative, positive or neutral towards the defendant. The remaining three groups only received trial information (control condition). Results showed that prior to group discussion, exposure to negatively-biased comments significantly increased the number of guilty verdicts, however these effects disappeared after group discussion. Therefore, although jurors may be unable to remain impartial before a trial, jury discussion can remove these prejudices; supporting previous group research. Further research is suggested where participants interact actively with social media, rather than passively viewing comments.*

Key Words: Jury Bias, Pre-Trial, Mock Jury, Decision-Making, Cyberpsychology, Social Psychology, Prejudice, Juror, Publicity

## **INTRODUCTION**

The rapid growth of the internet and the development of social media have made it far easier to gain access to information and opinions relating to background information, both about people involved and the circumstances of cases. In the past, pre-trial publicity via traditional mass media was thoroughly researched (e.g. Studebaker & Penrod, 1997) however there is less focussing on social media. Information is instantly accessible and on a global scale, often making it difficult to avoid; indeed Bakhshay & Haney (2018) report on the difficulty finding jurors who have not been exposed to potentially biased extra-legal information.

### **The Role of the Jury**

In the UK, juries are made up of twelve individuals aged between 18 and 70 selected randomly from the electoral register and their role is to arrive at a verdict on the charge facing the defendant by deciding questions of fact and applying the law to these facts (Herring, 2018). This random selection is intended to ensure that the twelve members of the jury represent the full range of individuals in society. Every individual who is charged with a criminal offence within the European Union has the right to a fair trial by an impartial jury, under the Human Rights Act (1998). An impartial juror is free from bias and prejudice and is free from the influence of knowledge acquired outside of the courtroom (Surette, 1998). Pre-trial publicity surrounding criminal investigations can potentially destroy a defendant's rights to a fair trial. If a court decides that the jury is prejudiced as a result from exposure to pre-trial publicity, proceedings may be adjourned or there may be a re-trial. Jurors are instructed that

they are to decide the case based solely on the evidence presented within the courtroom, and that they must not conduct any independent research or discuss the case with any other person outside of the courtroom until deliberations are complete (Judicial Conference Committee, 2012). Mock jury studies involve participants acting as jurors and are used to research aspects of the judicial system where it is not possible or ethical to conduct research using jurors involved in real criminal investigations. Although mock jury studies have contributed much to the understanding of the judicial system, they have received some criticism, relating to low ecological validity (O'Connell, 1988), however recent reviews argue that they can produce valid and reliable findings (Bornstein, Golding, Neuschatz, Kimbrough, Reed, Magyarics, & Luecht, 2017).

### **Pre-trial Publicity: negative and positive**

Research has found that pre-trial publicity can adversely influence the juror decision making process in both positive (pro-defendant) and negative (anti-defendant) ways (Dexter, Cutler & Moran, 1992; Fein, McCloskey & Tomlinson, 1997). Moran & Cutler (1991) found that the greater the amount of publicity, the greater the tendency of jurors to find the defendant guilty, regardless of whether publicity was negative or positive. The majority of research explores the effects that negative pre-trial publicity can have on juror decision making and highlights ways in which information is portrayed as anti-defendant and incriminating (Fein, Morgan, Norton & Sommers, 1997). Positive pre-trial publicity generally occurs less frequently than negative, but occurs more often in high profile cases in which the defendant is wealthy and/or well known to the public (e.g., Martha Stewart as cited in Ruva & McEvoy, 2008). Ruva (2010) found that people pay more attention to negative information compared to positive information and related this to the negativity bias identified in social psychology (Baron & Branscombe, 2016). Steblay, Besirevic, Fulero and Jimenez-Lorente (1999) conducted a meta-analytic review of 44 empirical studies and found that participants exposed to negative pre-trial publicity were significantly more likely to give guilty verdicts compared to those not exposed to this pre-trial publicity. In support of this finding, Ruva, McEvoy & Bryant (2007) found that exposure to negative pre-trial publicity significantly affected the number of guilty verdicts, the sentence length awarded and perceptions of defendant credibility. While Ruva, Guenther & Yarbrough (2011) found that mock jurors exposed to positive pre-trial publicity were significantly more likely to vote not guilty and rate the defendant as more credible, compared to jurors exposed to negative pre-trial publicity and jurors who were not exposed to pre-trial publicity.

The trial of O.J. Simpson in 1995 was described as the most publicised criminal trial in America at that time. O.J. Simpson was tried and acquitted for the murder of his ex-wife and her male companion. Shortly after the time of the murders Simpson was shown on national television speeding along freeways to apparently avoid arrest (Howitt, 2009). Given that the media reported rumours, innuendos and other information that would not be admissible as evidence in court, pre-trial publicity had the potential to prejudice and bias potential jurors (Fein et al, 1997). However, the acquittal of Simpson could suggest that the jurors on the trial were able to base their verdict solely on evidence heard within the court room and were resistant to prejudice reported in the media. On the other hand, Simpson's reputation as an American hero before criminal proceedings could have resulted in positive biases contributing to his acquittal.

Jacquín & Hodges (2007) conducted mock juror research using the murder investigation of Andrea Yates, who in 2001 was found guilty of the murder of her five children. Yates was suffering from severe post-partum psychosis when she systematically drowned her five children. The researchers provided participants with either sympathetic (positive) or unsympathetic (negative) media about the murder and found that those who were exposed to unsympathetic media were significantly more likely to convict Yates of murder, compared to those who received no media, unbiased media or sympathetic media. However, exposure to media about this high-profile case prior to the experiment could have confounded the results and also only traditional media were used, not social media.

It has been reported that a third of jurors, consciously or subconsciously, decide on a verdict before the opening arguments of a trial and consequently, this bias affects how subsequent evidence is processed (Carlson & Russo, 2001). Social psychological research has shown that first impressions of people are formed as quickly as one-tenth of a second (Willis & Todorov, 2006) suggesting that exposure to negative pre-trial publicity can lead to rapid formations of negative impressions of the defendant. Within a criminal trial, the prosecution are required to present their case against the defendant first. The defence subsequently presents any contrary evidence or provides arguments to counter the evidence presented by the prosecution. The trial concludes with the closing arguments at which point the prosecution will present after the defence have addressed the court. Cognitive psychology has demonstrated that information we receive first and information that is received most recently are much better remembered compared to any other information. Drawing on an understanding of these so-called primacy and recency effects, jurors may be able to remember more information presented at the beginning and at the conclusion of the trial, i.e. the evidence and information of the prosecution.

Pre-trial publicity and associated social media comments relating to a trial are often the first sources of information available to the public, including jurors; details can be magnified by the widespread usage of social media and therefore have a greater impact on jurors' impartiality. The primacy effect explains that information we receive first strongly influences our views and perceptions, which can lead to a confirmation bias amongst those involved in a trial (Baron & Branscombe, 2016). A confirmation bias occurs when information that is consistent with a person's belief is sought and consequently information supporting the other side of the argument is disregarded. In terms of negative pre-trial publicity, this means that information supporting the defendants' guilt is favoured over information suggesting innocence (Rassin, Eerland & Kuijpers, 2010). Ruva et al. (2011) found that jurors exposed to pre-trial publicity (both positive and negative) distorted witness testimony in the direction consistent with the pre-trial publicity bias. In support of the prosecution bias that negative pre-trial publicity can elicit, Hope, Memon & McGeorge (2004) found that jurors exposed to negative pre-trial publicity reported significantly higher pre-decisional distortion in support of the prosecution, resulting in an increased incidence of guilty verdicts.

Although individual jurors may succumb to memory errors and biases, courts have so far assumed jury deliberation will at least partially or wholly correct errors in jurors' memories. This implies that if an individual juror mistakes pre-trial publicity as court evidence and attempts to use it during deliberations, another jury member will correct the error. As part of the jury process, jurors are required to deliberate after the presentation of all of the evidence in court. The purpose of this deliberation is to arrive at a verdict on the charge facing the defendant. Pritchard & Keenan (2002) found that jury deliberation resulted in a slight memory

improvement, corrected errors and did not introduce distortions. However, Ruva & LeVasseur (2012) found in a content analysis of 30 mock juror deliberations exposure to pre-trial publicity influenced the interpretation and discussion of trial evidence during deliberations. They found that jurors exposed to negative pre-trial publicity were significantly more likely to discuss ambiguous trial facts in a manner that supported the prosecution. The researchers also found that jurors were either unwilling or unable to adhere to instructions forbidding them from discussing extra-legal information and that those jurors who mentioned pre-trial publicity during the deliberations were rarely corrected. These findings suggest that jury deliberations may not correct errors and biases in jurors' memories, in turn producing biased verdicts resulting from pre-trial publicity. However, other research found that biases created by pre-trial publicity can be reduced by the presentation of trial evidence (Otto, Penrod & Dexter, 1994).

Research has also explored whether pre-trial publicity can affect jurors ability to discriminate between sources of information. This is known as source memory and is the ability to accurately attribute information to its source. Ruva and Hudak (2013) found that pre-trial publicity had significant effects on accurate source memory judgements with those exposed to pre-trial publicity being less accurate. Pre-trial publicity also had a significant effect on critical source memory errors (misattributing pre-trial publicity as trial information) with those exposed to negative pre-trial publicity making more of these errors. These findings suggest that jurors who have been exposed to pre-trial publicity find it difficult to discriminate between information heard in the court room and information they have received from pre-trial publicity; affecting their ability to reach a verdict solely based on information heard within the court room.

## **Social Media**

The growth of social media poses a new challenge for the criminal justice system. Social media enables users to communicate with others in a manner that allows those offering their views and opinions a feeling of anonymity. The wider diversity of views and anonymous conditions could allow for a greater level of opinion polarisation (at the extreme ends of the continuum) as this phenomena has been highlighted in previous cyberpsychology research (Taylor & MacDonald, 2002). This effect could potentially lead to an even greater level of pre-trial influence, than the research presented previously using traditional mass media.

Social media sites such as Facebook (now with 2250 million active users) and Twitter (with over 326 million active users) (Statista, 2019) allow individuals to post their thoughts to a global stage and receive replies almost instantaneously, anywhere and at any time. Jurors can consult online social media sources in order to aid decision making, despite court instructions not to do this. A juror who is unsure of a verdict may consult online social media to seek the opinion of the public. This was demonstrated during a child abduction and sexual assault case, when a female juror was removed from the jury after posting on her Facebook page "I don't know which way to go, so I'm holding a poll" (reported in Mastro, 2011). By searching in this way, the juror becomes at risk of 'informational social influence' which is the desire to be correct and possess accurate perceptions of the world (Baron & Branscombe, 2016). Other people's actions and opinions define social reality and these are used as a source of information in order to shape our own actions and opinions. Informational social influence is a powerful source of conformity, particularly in situations in which individuals are highly uncertain about what is correct or accurate (Baron & Branscombe, 2016).

The trial of Casey Anthony has been cited by Cloud (2011) as the first murder trial of the social-media age. Anthony was suspected of her 2 year old daughter's death when the young child's body was found near the family home in America. By posting comments onto social networking websites, the public aired their opinions; the majority were convinced of Casey Anthony's guilt. The prosecution sought the death penalty but the trial controversially resulted in Casey Anthony being acquitted of murder. Cloud suggested that the jurors were able to base their verdict solely on information heard within the court room and ignored the pre-trial publicity and unsubstantiated opinions.

The murder investigation of Reeva Steenkamp in South Africa in 2013 demonstrated the scale of interest via social media comments posted before and during criminal investigations; and subsequently comments about the impact of social media on court proceedings. The Paralympian Oscar Pistorius was arrested and charged with the murder of his partner Reeva Steenkamp when she was found shot dead at his home. Despite the events of the shooting being unclear and while criminal investigations were still taking place, hundreds of thousands of comments speculating about the incident were posted onto social networking sites within minutes of the news breaking. Although due to political and racial reasons trials in South Africa do not have jurors, it is possible that the judge could have been affected. At a recent hearing in the UK reported by Baksi (2014), Mr Justice Burnett agreed to an application allowing tweeting from the court but the QC revealed that knowing that his words would be instantly relayed to a virtual audience actually impacted on what he said. He told the court he had been about to use the expression 'tame poodles' but had changed his mind.

In 2012, during the investigations into the murder of Jill Meagher, Australian police issued a statement via Twitter instructing people to refrain from posting comments which could endanger the presumption of innocence. Another recent example where a juror had already formed views and opinions as a result of publicity and social media was shown in the case of *R v Huhne and Pryce* (BBC, 2013) where the judge was asked directly by the jury: "*Can a juror come to a verdict based on a reason that was not presented in court and has no facts or evidence to support it either from the prosecution or the defence?*" (BBC, 2013). This question resulted in the following negative comments by the judge: "*The answer to that question is firmly 'no' ...that is because it would be completely contrary to the directions I have given you for anyone to return a verdict except a true verdict according to the evidence*". Other misunderstandings contained in a list of 10 questions for the judge resulted in the dismissal of the jury by the judge and the order of a retrial.

### **Experimental Rationale and Hypotheses**

This study explores whether biased social media comments influence mock jurors in their decision making and it is hypothesised that:

**H<sub>1</sub>:** There will be no difference in verdicts between those participants viewing neutral social media comments and those viewing no social media (the control condition).

**H<sub>2</sub>:** Viewing negatively biased social media will produce more guilty verdicts, compared to verdicts given by participants viewing positive comments, neutral comments or no comments.

**H<sub>3</sub>:** Viewing positively biased social media comments will produce more not guilty verdicts, compared to verdicts given by participants viewing negative comments, neutral comments or no comments.

**H<sub>4</sub>:** Group discussion will reduce the impact of social media influence on juror decision making.

**H<sub>5</sub>:** Jurors will report higher confidence in their verdict post-jury deliberations compared to pre-jury deliberations.

## **METHODOLOGY**

### **Design**

A between-groups experimental design was used with four conditions: no social media, negative bias, positive bias and neutral. The dependent variables included: pre-discussion and post-discussion verdicts (guilty or not guilty), and confidence in decision rating pre-discussion and post-discussion.

### **Participants**

Seventy two participants (16 males, 56 females) aged between 18 and 33 ( $M=20.43$ ,  $SD=2.11$ ) and from a range of courses were recruited from a UK University via opportunistic sampling. Participants volunteered through an advertisement posted on the experimental participant software system which informed participants of the nature of the experiment, the requirements of participation and the course credits available. Participants were randomly assigned to a 6-person mock jury, in one of four conditions. Gender was not controlled for and inevitably most groups contained more female members. Social media use was not controlled for as the majority of participants had an active social media account ( $N=71$ ) of which most used daily ( $N=61$ ).

### **Materials**

Participants received instructions outlining how the experiment was to be conducted in an information sheet and an informed consent form. Individuals allocated to the control condition received instructions stating that they would be exposed to information from a real court trial regarding a murder investigation. Participants within the experimental conditions received the same instructions however, in addition it was stated that they would receive social media comments relating to the trial.

The information relating to a murder trial was based on a real murder investigation (R v Boreman and others, 1999), however names and events were changed for ethical reasons. Some evidence from post-mortem examinations remained in order to ensure that evidence presented to participants was realistic. This case was selected from a number of potential cases as the defendant's guilt was unclear and therefore participants would need to make their own decision based on the evidence presented to them.

Fictional social media comments (from Twitter and Facebook) were created for use within the experimental conditions. Social media comments were either positive towards the defendant, negative towards the defendant, or neutral. Spelling, grammar and punctuation errors were

introduced in order to reflect real comments posted onto social media websites. Social media searches were conducted on recent murder investigations to help construct the comments.

Pre- and post-discussion questionnaires asked participants to record their individual verdicts as well as their confidence in their verdict measured on a 6-point Likert scale. The post-discussion questionnaire also collected information relating to social media use and whether participants would search social networking sites for information relating to a defendant should they become a member of a real jury. A separate answer sheet was supplied to the group after the discussion, on which to record the group verdict. A debrief form was provided on completion.

## Procedure

Before participation, participants were given instructions of the experiment along with a consent form, which notified the participants that they had the right to withdraw at any time during and after the study, and that they could request the withdrawal of their data. If participants agreed to participate in the experiment, the consent form was signed.

Participants allocated to the control condition received a copy of the court transcript and were asked to complete a pre-discussion questionnaire. They were then asked to discuss the evidence to form a jury deliberation and reach a collective verdict. Participants were instructed that the verdict given should be based on the evidence heard within the courtroom and not outside of the courtroom. The jury recorded their verdict on a separate answer sheet. Participants were then required to complete the post-discussion questionnaire which involved giving a second individual verdict and answering questions on social media use. Participants allocated to the experimental conditions experienced the same procedure however, they were also given social media comments about the trial, presented at the same time as the court transcript. The social media differed in the direction of bias towards the defendant (positive, negative or neutral). A debrief form was given to all participants on completion of the experiment.

## RESULTS

The verdicts given by jurors prior to jury deliberations are shown in Table 1 which shows that 'guilty' verdicts were more frequent from jurors who were exposed to negatively biased social media, and 'not guilty' verdicts were more frequent from jurors who were exposed to positively biased social media. While verdicts given by participants in the control and neutral conditions are very similar, supporting  $H_1$ .

*Table 1. Cross-tabulation of observed frequencies, bias of social media and the individual verdict given by the juror prior to jury deliberations.*

Verdict	Condition			
	No comments (Control)	Positively biased comments	Negative biased comments	Neutral comments
Guilty	5	1	8	3

Not Guilty	13	17	10	15
<b>Total</b>	18	18	18	18

As the data is at a categorical level a Pearson’s chi-squared was conducted and there was a significant difference across the conditions ( $\chi^2 (3, N =72) = 8.24, p = .041, \phi = .338, \text{odds ratio} = 13.56$ ). The adjusted residual indicated that jurors exposed to negative social media were significantly more likely (2.4) to produce a guilty verdict compared to jurors exposed to neutral, positive or no social media, supporting H<sub>2</sub>. The adjusted residual also indicated that jurors who were exposed to positive social media were significantly more likely (2.1) to produce a not guilty verdict, compared to jurors exposed to negative, neutral or no social media, supporting H<sub>3</sub>.

Statistical tests were conducted on jurors’ individual verdicts post jury deliberations, in order to determine whether the biasing effects of social media remain after deliberations. The frequencies of verdicts given by jurors after jury deliberations are shown in Table 2 which shows that despite juror exposure to biased social media, ‘not guilty’ was the most frequent verdict given across all conditions.

*Table 2. Cross-tabulation of observed frequencies, bias of social media and the individual verdict given by the juror post jury deliberations.*

Verdict	Condition			
	No comments (Control)	Positively biased comments	Negative biased comments	Neutral comments
Guilty	1	0	0	2
Not Guilty	17	18	18	16
<b>Total</b>	18	18	18	18

A Pearson’s  $\chi^2$  analyses investigating jurors individual verdicts after jury deliberations indicated no significant difference between conditions ( $\chi^2 (3, N=72) = 3.83, p = .281, \phi = .231$ ) supporting H<sub>4</sub> that the biasing effects of social media were reduced by the deliberation process. Regardless of their exposure to social media, the collective verdicts given by all groups after deliberation found the defendant ‘not guilty’; also supporting H<sub>4</sub>.

In the post-discussion questionnaire, participants were asked whether they would conduct a social media search of a defendant if they were serving as a member of a real jury and 46% of participants (N=33) reported that they would. The differences between confidence ratings pre and post jury deliberations were examined to test H<sub>5</sub>: that jurors will report higher confidence in their verdict post-jury deliberations compared to pre-jury deliberations. The results showed that confidence ratings in the verdict increased after jury deliberations (mean 4.46) compared to pre-jury deliberations (mean 3.76). A Kolmogorov-Smirnov test revealed that ‘confidence in verdict’ data was not normally distributed (pre-discussion:  $D (72) = .213, p = < .001$  and post-discussion:  $D (72) = .225, p = < .001$ ). Therefore, a Wilcoxon signed rank test of differences was conducted and the results revealed that the confidence ratings were



significantly different ( $W = 163$ ;  $z = -5.198$ ,  $p = < .001$ , with a strong effect size  $r = .576$ ), supporting  $H_5$ .

## DISCUSSION

The results support the hypotheses and found that pre-trial juror exposure to social media influenced the verdicts given, such that exposure to negative social media significantly increased the number of 'guilty' verdicts and exposure to positive social media significantly increased the number of 'not guilty' verdicts given by jurors. These findings are consistent with the findings of previous literature exploring the effects of pre-trial publicity on juror decision making (Fein et al, 1997; Jacquin et al, 2007; Ruva & LeVasseur, 2012; Steblay et al, 1999).

The trial selected for this study was chosen as there was insufficient evidence and it was unclear whether the defendant started the fire and therefore committed murder or whether the fire was as a result of an accident. This should have therefore resulted in the defendant being found 'not guilty' of murder due to the lack of proof. The findings could be as a result of informational social influence (Baron & Branscombe, 2016). Jurors who were unsure of a verdict may have consulted the social media comments in order to shape their own opinions in order to reach a verdict. It would be interesting therefore in future research to examine different types of trial (e.g. those where is clear evidence to support a guilty or non-guilty verdict).

The study found that following jury deliberations there was no significant difference in the verdicts given by jurors, supporting  $H_4$  which hypothesised that the biased nature of social media would be reduced by the deliberation process. Subsequently, it was found that all juries across all conditions reached a verdict of 'not guilty' further suggesting that the biasing effects of social media can be significantly reduced by the deliberation process. This finding suggests that although jurors individually may succumb to the biasing effects of social media, collectively jurors are not likely to be influenced by social media. The results also revealed that despite instructions to base the verdict solely on information given within the transcript, social media was repeatedly discussed by two juries during deliberations and when discussing the verdict. This finding is consistent with that of Ruva & LeVasseur (2012) who found that jurors were either unwilling or unable to adhere to instructions forbidding them from discussing extra-legal information. A possible explanation for this finding could be that jurors either did not fully understand the instructions given to them or that the instructions were not read carefully rather than assuming that jurors had simply chosen to disregard the instructions they had been given. In a real criminal investigation, these instructions would be given verbally to jurors by a judge and jurors would be expected to confirm that they had understood the instructions they were receiving and the consequences of breaching these instructions. Of concern, it was found that almost half of the participants reported that they would conduct a social media search on a defendant if they were serving as a juror in a real criminal trial. This is concerning for the criminal justice system where the defendants' rights to a fair trial by an impartial jury, listening only to evidence within the courtroom, could be deemed to have been violated.

Finally, the results support  $H_5$  (the confirmatory hypothesis), finding that jurors confidence in their verdicts were rated higher following jury deliberation compared to before deliberation.

This finding is consistent with previous literature exploring conformity, suggesting that upon hearing others opinions individuals become more confident and certain of their own thoughts and conclusions.

### **Implications of the Findings**

The finding that exposure to social media has a significant influence on the verdicts given by jurors has implications for the criminal justice system. These findings suggest that jurors who are exposed to social media comments and opinions about criminal trials and investigations are unable to remain impartial to the biasing effects that social media can have on decision making. Every individual who is charged with a criminal offence in the European Union has the right to a fair trial by an impartial jury under the Human Rights Act (1998) and a biased juror would therefore contravene these rights and potentially result in incorrect trial findings or potential claims for mistrial. Biased jurors could result in the conviction of an innocent defendant and vice versa which is contrary to the aims and fundamental principles of the criminal justice system. Should the jury return a guilty verdict and a member of the defence believes that this decision was made by biased jurors then the defence are entitled to appeal the outcome of the trial. In trials where the outcome is flawed due to a biased jury, the verdict can be overturned and the defendant acquitted of an offence.

In order to protect defendants' rights, methods have been implemented in an attempt to reduce the impact of pre-trial publicity. *Voir dire* is the preliminary questioning of potential jurors by a judge to determine whether a juror has biased beliefs or opinions and is therefore unable to remain impartial. The aim of questioning is to determine whether prospective jurors have already conducted prohibited activity and whether they agree to follow the rules prohibiting any independent research regarding the case (Simpler, 2012). In the case of *R v Huhne and Pryce* (BBC, 2013) a *voir dire* could potentially have identified the issues and negated the need for a retrial. Further research exploring the effectiveness of *voir dire* in reducing the bias caused by exposure to social media is required. Fein et al (1997a) found that despite judge's instructions to disregard incriminating evidence in the form of pre-trial publicity, jurors' verdicts were significantly affected. However the researchers found that if jurors were given reason to be suspicious about why such incriminating evidence was presented to the media, their verdicts were similar to those given by jurors who were not exposed to such media. Despite finding that social media significantly influences jurors pre-discussion decisions, this study found that the biasing effects of social media were significantly reduced by the deliberation process. Further research is needed to explore the way deliberation reduces bias amongst jurors.

### **Strengths and Limitations**

As with other mock jury studies, there are some methodological issues regarding their ecological validity (Bornstein et al, 2017) and this study was limited in group size and make-up. In the United Kingdom juries are comprised of 12 members, while this study used 6 member juries and group size can significantly affect decision-making. Participants were from the student population, impacting on the generalisability of the findings and Keller and Weiner (2011) found that student mock jurors were more lenient in assigning guilt to murder cases, compared to community members in mock jury trials. Also, students are more likely to use social media than the general population; a higher use of social media would increase the opportunity for an individual to be exposed to and be influenced by comments and information relating to criminal investigations posted onto social networking websites.

Further research could explore jurors' perceptions of the quality of information available via social and a variety of age groups with varied use of social media could be included to more accurately represent the demographic composition of a real criminal case jury panel. In this study exposure to social media was restricted within a controlled environment, while in real criminal trials jurors may have access to a variety of posts, which may or may not be influential. Jurors could also be exposed to hundreds of posts as opposed to the ten used in this study. Further research could expose participants to a variety of biases and increase the number and variety of social media they are exposed to.

## CONCLUSION

In conclusion, this study has added to the literature exploring juror decision making. The findings are in line with previous research regarding negative pre-trial publicity and highlight the serious effects that pre-trial publicity can have on juror's decision making. The findings suggest that social media should be considered as a significant threat to juror impartiality and the legitimacy of the verdicts derived from the trial process. Further research should be conducted to explore methods to reduce or even eliminate the biasing effects.

## REFERENCES

- Bakhshay, S. & Haney, C. (2018). The media's impact on the right to a fair trial: A content analysis of pre-trial publicity in capital cases. *Psychology, Public Policy and Law*, 24(3), 326-340.
- Baksi, C. (2014). Courts, TV and Twitter – the perfect combination? Reported in the *Law Society Gazette* on 11 September 2014. Retrieved 15 January 2019 from: <http://www.lawgazette.co.uk/analysis/comment-and-opinion/courts-tv-and-twitter-the-perfect-combination/5043029.fullarticle>
- Baron, R. A. & Branscombe, N. R. (2016). *Social Psychology (15th ed)*. Boston, MA: Pearson.
- Bornstein, B. H., Golding, J. M., Neuschatz, J., Kimbrough, C., Reed, K., Magyarics, C., & Luecht, K. (2017). Mock juror sampling issues in jury simulation research: A meta-analysis. *Law and Human Behavior*, 41(1), 13-28.
- BBC (2013). Ten questions posed by the Vicky Pryce jury. Retrieved 15 January 2019, from <http://www.bbc.co.uk/news/uk-21521460>
- Carlson, K. A., & Russo, J. E. (2001). Biased interpretation of evidence by mock jurors: A meta-analysis. *Journal of Experimental Psychology: Applied*. 7, 91-103. DOI: 10.1037//1076-898X.7.2.91
- Cloud, J. (2011). Fascination with the Casey Anthony case has made it the first major murder trial of the social-media age. *Time*, 177(26), 42-45.

- Dexter, H. R., Cutler, B. L., & Moran, G. (1992). A test of *voir dire* as a remedy for the prejudicial effects of pre-trial publicity. *Journal of Applied Social Psychology*, 22(10), 819-832. DOI: 10.1111/j.1559-1816.1992.tb00926.x
- Fein, S., McCloskey, A. L., & Tomlinson, T. M. (1997a). Can the jury disregard that information? The use of suspicion to reduce the prejudicial effects of pre-trial publicity and inadmissible testimony. *Personality and Social Psychology Bulletin*, 23(11), 1215-1226. DOI: 10.1177/01461672972311008
- Fein, S., Morgan, S. J., Norton, M. I., & Sommers, S. R. (1997b). Hype and suspicion: The effects of pre-trial publicity, race, and suspicion on jurors' verdicts. *Journal of Social Issues*, 53(3), 487-502. DOI: 10.1111/j.1540-4560.1997.tb02124.x
- Herring, J. (2018). *Criminal Law: text, cases and materials (8th Ed)*. Oxford: OUP.
- Hope, L., Memon, A., & McGeorge, P. (2004). Understanding pre-trial publicity: Pre-decisional distortion of evidence by mock jurors. *Journal of Experimental Psychology Applied*, 10(2), 111-119. DOI: 10.1037/1076-898X.10.2.111
- Jacquín, K. M., & Hodges, E. P. (2007). The influence of media messages on mock juror decisions in the Andrea Yates trial. *American Journal of Forensic Psychology*, 25(4), 21-40.
- Johnson, M. K., Hashtroudi, S., & Lindsay, D. (1993). Source monitoring. *Psychological Bulletin*, 114, 3-28.
- Johnson, M. K. (1997). Source monitoring and memory distortion. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 352(1362), 1733-1745. DOI: [10.1098/rstb.1997.0156](https://doi.org/10.1098/rstb.1997.0156)
- Judicial Conference Committee (2012). Proposed model jury instructions. The use of electronic technology to conduct research on or communicate about a case. Published on 21 August 2012 and retrieved 15 January 2019 from: <http://www.uscourts.gov/news/2012/08/21/revised-jury-instructions-hope-deter-juror-use-social-media-during-trial>
- Keller, R. S., & Wiener, L. R. (2011). What are we studying? Student jurors, community jurors, and construct validity. *Behavioural Sciences and the Law*, 29, 376-394. DOI: 10.1002/bsl.971
- Kelly, A., Carroll, M., & Mazzoni, G. (2002). Meta-memory and reality monitoring. *Applied Cognitive Psychology*, 16, 407-428. DOI: 10.1002/acp.803
- Kiernan, M. K., & Cooley, S. E. (2012). Juror misconduct in the age of social networking. *Federation of Defense & Corporate Counsel Quarterly*, 62(2), 179-193.
- Mastro, F. J. (2011). Preventing the "Google Mistrial": the challenge posed by jurors who use the internet and social media. *Litigation*, 37(2), 23-27. Accessed on 15 January 2019 from [http://media.wix.com/ugd/a36d16\\_8626fd696d5f43f9b2eb81fc6d336540.pdf](http://media.wix.com/ugd/a36d16_8626fd696d5f43f9b2eb81fc6d336540.pdf)
- Moran, G., & Cutler, B., L. (1997). Bogus publicity items and the contingency between awareness and media-induced pre-trial prejudice, *Law and Human Behaviour*, 21(3), 339-344. DOI: 10.1023/A:1024846917038

Moran, G., & Cutler, B. L. (1991). The prejudicial impact of pre-trial publicity, *Journal of Applied Social Psychology*, 21(5), 345-367. DOI: 10.1111/j.1559-1816.1991.tb00524.x

Nietzel, M. T., & Dillehay, R. C. (1983). Psychologists as consultants for changes of venue. *Law and Human Behaviour*, 7, 309-355. DOI: 10.1007/BF01044735

O'Connell, P. D. (1988). Pre-trial publicity, change of venue, public opinion polls: A theory of procedural justice. *University of Detroit Law Review*, 65, 169-197.

Otto, A. L., Penrod, S. D., & Dexter, H. R. (1994). The biasing impact of pre-trial publicity on juror judgments. *Law and Human Behaviour*, 18(4), 453-469. DOI: 10.1007/BF01499050

Pritchard, M. E., & Keenan, J. M. (2002). Does jury deliberation really improve jurors' memories? *Applied Cognitive Psychology*, 16(5), 589-601. DOI: 10.1002/acp.816

R v Boreman and others. (1999). Retrieved 15 January 2019 from:  
<http://netk.net.au/UK/Boreman.asp>

Rassin, E., Eerland, A., & Kuijpers, I. (2010). Let's find the evidence: an analogue study of confirmation bias in criminal investigations. *Journal of Investigative Psychology & Offender Profiling*, 7(3), 231-246. DOI: 10.1002/jip.126

Ruva, C. L. (2010). *How Pre-trial Publicity Affects Juror Decision Making and Memory*. University of Pittsburgh, PA: Nova Science Publishers.

Ruva, C. L., Guenther, C. C., & Yarbrough, A. (2011). The roles of impression formation, emotion and pre-decisional distortion. *Criminal Justice and Behaviour*, 38 (5), 511-534. DOI: 10.1177/0093854811400823

Ruva, C. L., & Hudak, E. M. (2013). Pretrial publicity and juror age affect mock-juror decision making. *Psychology, Crime & Law*, 19(2), 179-202. DOI: 10.1080/1068316X.2011.616509

Ruva, C. L., & LeVasseur, M. A. (2012). Behind closed doors: the effect of pre-trial publicity on jury deliberations. *Psychology, Crime and Law*, 18(5), 431-452. DOI: 10.1080/1068316X.2010.502120

Ruva, C. L., McEvoy, C., & Bryant, J. (2007). Effects of pre-trial publicity and jury deliberation on juror bias and source memory errors. *Applied Cognitive Psychology*, 21, 45-67. DOI: 10.1002/acp.1254

Simpler, M. F. (2012). The unjust "web" we weave: the evolution of social media and its psychological impact on juror impartiality and fair trials. *Law and Psychology Review*, 36, 275-296.

Statista (2019) Accessed on 15 January 2019 from <http://www.statista.com/>

St. Eve, A. J. and Zuckerman, M. A. (2012). Ensuring an impartial jury in the age of social media. *Duke Law & Technology Review*, 11, 1-29. DOI: 10.1080/02763877.2014.982316

- Stebly, N., Besirevic, J., Fulero, S. M., & Jimenez-Lorente, B. (1999). The effects of pre-trial publicity on juror verdicts: A meta-analytic review. *Law and Human Behaviour*, 23(2), 219-235. DOI: 10.1023/A:1022325019080
- Studebaker, C. A., & Penrod, S. D. (1997). Pre-trial publicity: The media, the law, and common sense. *Psychology, Public Policy and Law*, 3(2-3), 428-460. DOI: 10.1037/1076-8971.3.2-3.428
- Studebaker, C. A., Robbennolt, J. K., Pathak-Sharma, M. K., & Penrod, S. D. (2000). Assessing pre-trial publicity effects: Integrating content analytic results. *Law and Human Behaviour*, 24(3), 317-336. DOI: 10.1023/A:1005536204923
- Surette, R. (1998). *Media, Crime, and Criminal Justice (2nd Ed)*. London: Wadsworth Publishing Company.
- Taylor, J. & MacDonald, J. (2002). The effects of asynchronous computer-mediated group interaction on group processes. *Social Science Computer Review*, 20(3), 260-274.
- Willis, J., & Todorov, A. (2006). First impression: Making up your mind after a 100-ms. exposure to a face. *Psychological Science*, 17, 592-598. DOI: 10.1111/j.1467-9280.2006.01750.x