

JURY BEHAVIOR AS A FUNCTION OF THE  
SEVERITY AND NATURE OF THE  
DEFENDANT'S PRIOR  
CRIMINAL RECORD

By

DIANNA MARIE BEDRICK

Bachelor of Arts  
North Texas State University  
Denton, Texas  
1973

Master of Science  
Oklahoma State University  
Stillwater, Oklahoma  
1980

Submitted to the Faculty of the  
Graduate College of the  
Oklahoma State University  
in partial fulfillment of  
the requirements for  
the Degree of  
DOCTOR OF PHILOSOPHY  
December, 1980

Thesis  
1980D  
B413j  
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Thesis Approved:

*Bill Scott*  
\_\_\_\_\_  
Thesis Adviser

*William H. Rambo*  
\_\_\_\_\_

*K. D. Harries*  
\_\_\_\_\_

*Beulah*  
\_\_\_\_\_

\_\_\_\_\_  
Dean of the Graduate College

## PREFACE

This study investigated the impact of the severity (low versus high) and nature of a defendant's prior criminal record (crime against property versus crime against person) on jury verdicts and deliberation time. A 2 X 2 completely randomized factorial experimental design was used. In addition, the jurors' manner of integrating trial evidence and information was explored by obtaining their responses on several questionnaires which were administered following jury deliberations.

I wish to express my appreciation to my major adviser, Dr. Bill Scott, for his assistance and guidance throughout this research effort. Appreciation is expressed, also, to the other members of the committee, Dr. William Rambo, Dr. Bob Helm, and Dr. Keith Harries, for their support and assistance in the preparation of the final manuscript.

A note of thanks is extended to Judge Ray Lee Wall, of the Ninth Judicial District, State of Oklahoma, for his assistance in providing the necessary legal information and facilities in the planning stage of the research, and to Ann Stout and Tammi White, who served as research assistants during the data-gathering phase of the study.

Finally, special gratitude is expressed to my parents, Mr. and Mrs. Rudolph J. Bedrick, for their unfailing support, understanding, and many sacrifices.

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## CHAPTER I

### INTRODUCTION

The word "jury" is defined as a "body of laymen selected by lot, or by some other fair and impartial means, to ascertain, under the guidance of a judge, the truth in questions of fact arising either in a civil or criminal proceeding" (Gulick & Kimbrough, 1965, p. 626). When a person has been charged with a crime, he is guaranteed certain rights, among them the right to a trial by an impartial jury and the right against self-incrimination. In order to prevent the jury's receiving biasing information, federal rules of evidence state that a prosecutor cannot use information about a defendant's "bad character" as evidence in the trial--the trial evidence must be limited to actual occurrences which bear directly on the facts of the criminal act before the court (Brooks & Doob, 1975).

In cases where the crime of which the defendant is accused constitutes a second or subsequent felony offense, or in cases where the death penalty is a possibility, federal rules of evidence specify that the trial is to be "bifurcated," consisting of two stages. During the first stage of a bifurcated trial procedure, evidence regarding the crime itself is presented. After this initial stage, the jury

decides the guilt or innocence of the defendant. If they find the defendant not guilty, the trial is over; if, however, the jury returns a verdict of guilty, information regarding the defendant's prior criminal record (previous convictions of felonies and crimes of "moral turpitude") is introduced during the second stage. The bifurcated trial enables the jury to consider the defendant's prior criminal record in recommending punishment. In this manner, "habitual offenders" can be dealt with more harshly (Oklahoma Statutes 1971, and 1977 Amendment, Title 22, Section 860). Further, during this stage of the proceeding, attorneys can introduce evidence of a mitigating or aggravating nature in order to influence the setting of punishment (Note 1). Thus, the rules of evidence for the two stages are substantially different. The Supreme Court has noted that making a distinction between the evidentiary rules governing trial and those governing sentencing is sound:

The trial is limited narrowly to strictly relevant evidence, to avoid waste of time and confusion, and to prevent influencing the court by evidence of other misconduct. But a sentencing judge is not limited to the issue of guilt, his task being to decide upon a type of punishment within the statutory limits. It is both relevant and essential for the judge to have in his possession the fullest possible information (Fellman, 1958, p. 45).

In Oklahoma the jury recommends sentence. The court is bound by law to follow the jury's recommendation except when the jury cannot reach unanimous agreement or when the punishment decided upon is excessive (greater than the maximum fixed by law). When the exceptions occur, the judge

sets sentences (Oklahoma Statutes 1971, Title 22, Sections 926-928). In addition, the judge may rule suspension or probation of all or any part of the sentence (Oklahoma Statutes 1971, Title 22, Section 991).

The major problem that a defendant encounters during a bifurcated trial becomes apparent when he has a prior criminal record and his defense demands that he testify in his own behalf. When the defendant takes the witness stand, the prosecutor can, in cross-examination during the first stage of the bifurcated trial, question the defendant regarding his prior criminal record for the purpose of affecting his credibility as a witness (Oklahoma Statutes 1971, and 1977 Amendment, Title 22, Section 860). Questions about the prior record of the defendant can also be introduced in order to establish identification of the defendant (Note 2).

This situation places the defendant in a serious dilemma. The reason for providing the bifurcated procedure is to prevent jury exposure to legally irrelevant information, which expressly includes the defendant's past record. Yet if the defendant takes the stand, he cannot refuse to answer questions about his prior criminal record. If he does not take the stand, the jury will most likely be biased against him since it is likely to reason that if he were innocent he would assert his innocence under oath (Fellman, 1958, Chap. 9).

In addition, the jury empaneled for a bifurcated trial is not supposed to know that their trial is a bifurcated

procedure because they may thereby suspect that a past criminal record is involved. Any citizen who has served on a jury previously, however, is likely to be aware of trial bifurcation, and nothing prevents his sharing this information with other jurors (Note 1). Because of this problem, some legal practitioners believe that all trials should be bifurcated (Notes 1 & 2).

In summary, the legal rationale for providing the bifurcated trial is that information about the defendant's prior criminal record is irrelevant during the verdict phase, but is necessary during sentencing. Knowledge of a defendant's past is thought to unduly influence the verdict behavior of the jury, thereby preventing the jury from being wholly objective in its consideration of the trial evidence.

Presence of the prior record has been explored previously by Bedrick (1980), who noted that further work varying characteristics of the prior record is needed. Similarity between present crime and prior record has been investigated (McCabe, 1974; Sealy & Cornish, 1973a) and has indicated that when the crimes are similar, jurors are more likely to convict. As a logical next step, the purpose of the present study is to examine the effects of varying severity and nature of the prior conviction upon jury behavior.

## CHAPTER II

### REVIEW OF THE LITERATURE

#### Jury Literature

##### Methodology

A real jury cannot be observed while they are deliberating; deliberations are held in secret, and may not be observed, recorded, or filmed. Two basic methodologies have been utilized by social psychologists in their attempt to study the group processes of juries. In the more common design, subjects are presented with an account of a crime or with trial evidence relating to a crime, deliberate within a jury group to reach a verdict, and perhaps complete some rating scales or other instruments of interest. In this design, the jury deliberations are observed and analyzed, as well as their verdict and sentencing behaviors. In all but a handful of studies, there is no voir dire at all, and the stimulus material is typewritten rather than being live or videotaped. A second methodology, used in a few studies and therefore minor in comparison with the preceding one, involves interviewing real jurors after their jury service is completed.

Both of these methods have theoretical and/or practical

limitations. The first one, which uses mock jurors, has been attacked by several authors as lacking validity and generalizability (Bermant, McGuire, McKinley & Salo, 1974; Davis, Bray & Holt, 1977; Feild & Barnett, 1978; Diamond, 1974; Diamond & Zeisel, 1974). These criticisms have been substantiated by Wilson and Donnerstein (1977), but Shapley (1974) has defended the role of social scientists in jury processes, noting that the research has uncovered inequities in the American jury system. In addition, the use of college students as subjects has been defended by Bray (1978). The desirability of using videotaped stimulus material has been explored and reported by Bermant, Chappel, Crockett and Jacoubovitch (1975), Bermant and Jacoubovitch (1975), the Brigham Young Law Review (1975), and by Miller (1975).

The second method mentioned above, that of interviewing real jurors after their jury service is completed, is fraught with the problems inherent in subjective descriptions and evaluations of juries by the participants themselves.

#### Effects of Various Types of Evidence and Facts of the Case

Many factors thought to influence juror behavior have been investigated. In general, perceptions of a crime as serious or heinous results in more attribution of responsibility and harsher sentencing (Hendrick & Shaffer, 1975b; Hester & Smith, 1973; McComas & Noll, 1974; Phares & Wilson, 1972). Apparently, a fairly stable hierarchy of the

seriousness of crimes exists in the minds of most individuals (Carroll & Payne, 1977; Rose & Prell, 1955).

Prior record of the defendant has been explored to some extent; its proper use during the trial is discussed by Brooks and Doob (1975) and by Margolis (1974). Two studies have found that, when the prior record is similar to the present offense, jurors are more likely to convict, but when it is dissimilar, they are more likely to acquit (McCabe, 1974; Sealy & Cornish, 1973a).

Studies which have considered the effect of victim injury on sentencing have resulted in contradictory data. Scroggs (1976) reported that severity of sentencing increased with degree of harm to the victim, but other studies have found no effect (Boor, 1976; Davis, 1977). In addition, Boor (1975) found that varying the competence of the victim and emphasizing the defendant's opportunism had no effect on sentence severity.

In exploring the effect of defendant remorse on sentencing, Jacobson and Berger (1974) and Rumsey (1976) reported that jurors sentenced much more leniently when the defendant's repentance was obvious. Further, when jurors were told that the defendant's accomplice had escaped, they sentenced more leniently than when they believed that both the defendant and the accomplice had been captured (DeJong & Hogue, 1978; DeJong, Morris & Hastorf, 1976). Frankel and Morris (1976) report a boomerang effect which occurs when defendants testify as to extenuating circumstances surrounding the criminal



act, resulting in harsher judgments after such testimony. Defendants who plead the Fifth Amendment are judged more guilty (Hendrick & Shaffer, 1975a), as are those who withhold evidence or are perceived as intending to withhold evidence (Shaffer, Sadowski & Hendrick, 1978).

The effect of inadmissible evidence has also been investigated. Sue, Smith, and Caldwell (1973) found that inadmissible evidence influenced verdicts when the remaining evidence was weak, but not when it was strong. Wolf and Montgomery (1977) reported that critical testimony had no effect on verdict when it was simply ruled inadmissible, but when ruled inadmissible followed by a strong judicial admonishment to disregard it, verdicts were influenced in the direction of that testimony. This finding was interpreted in terms of Brehm's theory of psychological reactance.

In other work, research data indicate that the number and kind of decision alternatives affect juror verdict behavior (Larntz, 1975; Roberts, Hoffman & Johnson, 1978; Vidmar, 1972). When jurors are given a choice between guilty of first degree murder and not guilty, for example, they are much more likely to acquit than if their choice is between first degree murder, manslaughter, and not guilty. Finally, Calder, Insko, and Yandell (1974) concluded that the process of persuasion in a jury trial is cognitive in nature, and that therefore jurors come to their decisions via a rational, rather than emotional, process.

## Group Processes

Weld and Danzig (1940) concluded that the juror reaches a decision before going into the deliberation room, and that jurors who do not agree with him are not able to change his decision. In contrast, after studying the group processes of juries, Foss (1976) concluded that simulated juries reach a final decision by an equalitarian process in which individual points of view are fairly represented. Foss suggested that the various extralegal factors which have been identified as influencing decision-making in individual jurors may be less important for group judgments than might be assumed from studies of individual jurors. This conclusion is supported by several studies which have found that group discussion tends to influence individual verdict and sentencing behavior (Davis, Stasser, Spitzer & Holt, 1976; Myers & Kaplan, 1976), leading to a leniency shift in some cases (Gleason & Harris, 1976; Izzett & Leginski, 1974; Roberts et al., 1978; Rumsey, 1976; Rumsey, Allgeier & Castore, 1978; Rumsey & Rumsey, 1977) and to changing perceptions of the defendant's potency and goodness (Simon, 1968). Further, Hadden (1973) believes that the jury constructs reality by integrating parts of the trial evidence presented by both sides and selected to form a sensible view of the defendant in relationship to the accusation.

Participation in jury deliberation varies with social status of the juror, higher status jurors having higher rates

of participation (Strodtbeck, James & Hawkins, 1957). In addition, Strodtbeck and Hook (1961) found that jurors' positions at the jury table influence such things as participation and selection of the foreman. Data from two studies have indicated that the foreman's prestige and leadership style have a great deal of influence in awarding damages in civil suits (Beran, Albert, Loiseaux, Mayfield & Wright, 1958; Eakin, 1975).

Group deliberation is considered in light of various decision models by several authors (Penrod & Hastie, 1979; Stasser & Davis, 1977; Thomas & Hogue, 1976), and is discussed in terms of polarization effects by others (Kaplan, 1977; Kaplan & Miller, 1977; Myers & Kaplan, 1976).

Size of the Jury and Decision Rule. In the past few years, much controversy has centered around changing the jury system to allow for smaller juries and majority, rather than unanimous, decision rules. Some studies have found no differences in verdict behavior between 6-person and 12-person juries (Bermant & Coppock, 1973; Kessler, 1973; Mills, 1973; Snortum, Klein & Sherman, 1976), while others have found 6-person juries to be more likely to convict (Buckout, Weg, Reilly & Frohboese, 1977; Kerr, 1976; Valenti & Downing, 1974; Valenti & Downing, 1975). In contrast to these latter results, Padawer-Singer, Singer and Singer (1977) found that 6-person juries were less severe than the larger groups. Smaller juries require less time to deliberate (Davis, Kerr,

Atkin, Holt & Meek, 1975) and produce less juror interaction, conflict, and satisfaction (Nemeth, 1977).

Juries with a majority decision rule are more severe (Buckout et al., 1977) and take less time to deliberate (Davis et al., 1975). Zeisel and Diamond (1974) have provided a sharp critique of some of the studies done in this area, and other authors have discussed mathematical models for determining whether or not jury size and decision rule should be changed (Friedman, 1972; Saks & Ostrom, 1975).

Several legal authorities have expressed the desire for a constitutional amendment allowing smaller juries (Phillips, 1956; Siddens, 1974; Tamm, 1962). Others have not proposed an amendment, but have advocated the change (Joiner, 1962; Toch, 1961; Wiehl, 1968). In addition, several authors have urged a statutory change to majority rule rather than the requirement of unanimity (Joiner, 1962; Mossman, 1974; Ryan, 1967). Zeisel (1971) suggested that the issue be carefully studied before any changes are made; others have urged that no changes be made (Lempert, 1975; University of Chicago Law Review, 1954). Finally, Saks (1977) has presented a plan which would combine advantages of each of the types of juries and decision rules, resulting in what he considers to be the best possible system.

Voir Dire. Fellman (1958) defines a jury as an impartial group drawn from a cross-section of the community. Research indicates, however, that juries are not representative

of the whole community (Beiser, 1973; Kairys, 1972; Kairys & Schulman, 1975; Rokeach & Vidmar, 1973). Broeder (1965) observed that voir dire is often shallow, brief, and casual, and is therefore ineffective as a screening device. Several authors discuss the importance to an attorney's case of getting "good" jurors and about the consequent importance of an effective voir dire process (Bush, 1976; Cartwright, 1977; Dempsey, 1969; Field, 1965; Harrington & Dempsey, 1969). To answer this need for better voir dire, many "how to" strategies have been suggested by legal practitioners (Davis & Wiley, 1965; Hare, 1968; Karcher, 1969; Rothblatt, 1966). In addition, mathematical models for jury selection have been described by Brams and Davis (1976) and Kairys (1972).

Lowenstein (1977) and Toch (1961) have suggested that potential jurors be given psychological tests to identify and reject those individuals whose personal attitudes would bias them. Berman and Sales (1977), however, call into question the idea of social scientists participating in the jury selection process. Lowenstein (1977) believes that making jurors aware of extralegal factors that have been found to bias juries will increase their impartiality; Balch, Griffiths, Hall, and Winfree (1976), however, argue that the process of voir dire itself socializes the jurors into their new role.

Judge's Instructions. In recent years, attention has increased regarding the effectiveness of judge's instructions

in making juror decision-making more impartial. Dahlberg, Lee, and Safford (1976), for example, question the jurors' ability to disregard prior record as evidence of guilt when instructed to do so by the judge. Indeed, research has demonstrated that jurors do not or cannot obey specific judicial admonitions (Harris, 1978; Harris, Teske & Ginns, 1975). Despite this evidence, however, Hoffman and Brodley (1952) and Lowenstein (1977) recommend that jurors receive more information in order to enhance their impartiality during deliberation.

When juries are deadlocked, they are often given additional judge's instructions in order to break the deadlock and assure a verdict. One author opposes a judge's intervention under these circumstances because it may place too much pressure on the jury, which may result in an unjust verdict (Yale Law Journal, 1968).

#### Social Psychological Literature

In addition to the many topics of research in jury processes per se, several social psychological theoretical positions must be considered in order to understand the jury from a psychological perspective. Two theoretical orientations central to this perspective are cognitive consistency and attribution theory as they relate to impression formation. The juror's basic duty in a court of criminal law is to listen to both sides of an issue, integrate the information he receives, and arrive at a decision regarding the truth in the

case. In fulfilling these duties, he is presented with information about a crime and a defendant and must form an opinion regarding the likelihood of the defendant's guilt.

Social psychological research has demonstrated that people tend to integrate information by a process of weighting and averaging the bits of information they receive. If the information they get is inconsistent, the weighting of the information in this process changes (Abelson, 1968; Anderson, 1965a; Feldman, 1968). Singer (1968) views information integration as a stimulus-processing mechanism which tends to, if necessary, distort objectively inconsistent material in order to maintain cognitive consistency. This distortion can be accomplished in at least three ways: discounting, assimilation, and attention decrement (Anderson & Norman, 1964; Jones & Goethals, 1972; Kelley, 1972; Singer, 1968). These three methods of maintaining cognitive consistency result in either a primacy or a recency effect, depending upon the method of information presentation.

When one final evaluative response is required of the subject after a set of stimuli is introduced, a primacy effect may be expected (Anderson, 1965b; Anderson & Jacobson, 1965; Asch, 1946). This effect is demonstrated in these situations because, presumably, the subject receives the first parts of the information set and immediately begins making a judgment. Once this preliminary judgment (attribution) is made, he either assimilates further information into the existing cognitive structure, or discounts it (Warr & Knapper,

1968). On the other hand, when evaluative responding is required after each item, or when pronunciation or repetition of the stimuli is required, recency effects emerge (Anderson, 1965a; Stewart, 1965). Hendrick and Costanini (1970) reinterpret both primacy and recency effects as resulting from attention decrement; all of the methodological procedures mentioned above, in effect, redistribute attention across the stimuli set, and the results consequently support the attention decrement interpretation.

In addition to these ways of conceptualizing the process of information integration, two other factors have been identified which may affect the outcome. Brock and Fromkin (1968) found that the subject's "tuning set," or expectations regarding the purpose of the information given them, strongly affects how they cognitively select and organize the information. Kanouse and Hanson (1972) concluded that people weigh negative aspects of an object more heavily than positive ones, being generally cost-oriented in forming overall evaluations.

In the process of attributing causes for another's behavior, observers seem to use implicit personality theories--person, intuitive notions of which traits are likely to go together (Cronbach, 1955; Jones, 1954; Mischel, 1969). Observers often overemphasize the actor's "personality" and use their own implicit theories to the detriment of both the situational constraints and the stimulus person's unique characteristics (Jones & Nisbett, 1972; Mischel, 1968). This tendency is both pervasive and consistent, occurring whether



or not the observer has known the actor previously (Norman, 1963; Passini & Norman, 1966).

Mischel (1968), however, has concluded that generalized, specific traits or trait clusters exist only in the mind of the observer. Mischel's conclusion is supported by Hartshorne and May (1928), who found that the trait of "honesty" is situation-specific, and does not exist as an overall characteristic.

## CHAPTER III

### STATEMENT OF THE PROBLEM

#### Social Psychology and Jury Processes

The federal rules of evidence assume that a juror is able to follow instructions to disregard specific testimony, or to consider testimony to judge a witness's credibility, but not as evidence of guilt in the present trial. Hartshorne et al. (1928) found that dishonesty in one situation cannot be used to predict dishonesty in another. It seems inaccurate to say, then, that jurors should take evidence of past misbehavior as an indication of dishonesty (lying) in the present testimony. Federal rules of evidence assume, however, that information of prior conviction is proper in a jury's consideration of credibility, but not as evidence of guilt. Social psychological theory casts doubt on the probability of the jurors' ability to do this, indicating that jurors integrate information as it comes to them, rather than waiting until they have been instructed by the judge as to how the information they have received is to be perceived or weighted. The primary determinants of information organization appear to be the constraints of cognitive consistency, individual attitudes, and the jurors' implicit personality

theories. Jurors screen the information presented them, selectively organizing it and, if necessary, distorting it to maintain consistency. Their own attitudes and implicit personality theories further influence the integration of the information presented. They tend to perceive others in terms of stable, general clusters of traits, traits which apparently exist only in their own minds. Evidence suggests that jury deliberation may "neutralize" some of these effects, but there is no evidence that jurors can, in fact, obey judicial admonitions to disregard testimony or to perceive testimony as evidence of credibility but not of guilt.

In most cases, the defendant must testify in his own defense and must not appear to be withholding, or intending to withhold, evidence. Since prior record can be introduced during his testimony to impeach him as a witness, the jurors' ability to separate their consideration of the prior record as evidence of credibility and as evidence of guilt is crucial. Social psychological theory implies that they cannot make this kind of functional distinction.

If it is assumed, as in the federal rules of evidence, that jurors do have this ability, and do consider prior conviction only in terms of credibility, then prior record should have the same effect, whether it be similar or dissimilar to the present crime. Yet McCabe (1974) and Sealy et al. (1973a) found that when the prior record is similar to the present offense jurors are more likely to convict; but when it is dissimilar, they react against this knowledge and are more

inclined to acquit.

### The Present Research

The purpose of this study is to examine the effects of two additional facets of prior record: the severity of the previous crime (high versus low) and its nature (crime against property versus crime against person). The effects of these variables will be explored using verdict and deliberation time as the major dependent variables.

The methodology for this type of research should be as realistic as possible and include voir dire and jury deliberation. The evidence should be ambiguous and should be followed by judge's instructions which are actually used in the courts.

Considering social psychological theories as well as prior research on juries, several expectations regarding the effects of combining these two independent variables are apparent. In general, guilty verdicts and length of sentence are expected to increase as severity of prior crime increases. Prior conviction for a crime against person is expected to produce more guilty verdicts and harsher sentences than will a crime against property. The combination of high severity and crime against person is expected to result in the most guilty verdicts, and that of low severity and crime against property, in the fewest guilty verdicts.

The cognitive consistency literature indicates that individual jurors who return a guilty verdict will perceive

evidence damaging to the defendant's case as most important, whereas those who find the defendant not guilty will rate non-damaging evidence as most important.

## CHAPTER IV

### METHOD

The methodology for this study represents a compromise between two major considerations in doing social psychological research: mundane realism and experimental cost. Mundane realism refers to the use of a methodology which transcends the laboratory and enables the researcher to generalize the findings to situations actually encountered in the real world. A secondary purpose of a methodology characterized by mundane realism is to intensify subjects' involvement in the experiment. In this study, subjects participated in a trial procedure identical to the one used in criminal courts. The laboratory facility contained a judge's bench, witness chair, and a raised, two-tier jury box. In addition, many of the materials used during the trial and deliberations were duplicates of printed forms used currently in criminal courts.

Mundane realism must be weighed against experimental cost in terms of time, subject, and form requirements. Because of this consideration, two procedures were adopted to reduce experimental costs which also reduced mundane realism. First, subjects were not in an actual courtroom when they observed the videotaped trial. Thus, they knew that they were not really deciding the fate of a defendant. The second

exception was that 6-person juries instead of the 12-person juries normally used in Oklahoma felony courts were used.

### Subjects

The subjects were 180 students solicited from undergraduate psychology classes at Oklahoma State University. Each subject satisfied two legal criteria in order to serve in this study: he or she was eighteen years of age or older with no prior felony convictions. These criteria were appropriate since they satisfied the legal requirements for a citizen to serve as an actual juror in a civil or criminal case in Oklahoma. Subjects were recruited in groups of 18 for each of 10 experimental sessions. Subjects were randomly and equally assigned to the five experimental conditions.

### Experimental Design

A 2 X 2 completely randomized factorial design representing the severity of the crime involved in the defendant's prior conviction (high versus low) and the nature of the crime involved in the prior conviction (crime against property versus crime against person) was used. All treatments were fixed. In addition, a control group was included, in which no prior record was introduced.

The dependent variables included jury verdict (guilty, not guilty), recommended length of sentence, and length of deliberation. The deliberation times required to reach a verdict and to assign a sentence (if the verdict was guilty)

were recorded separately. The deliberation time in each condition was measured from the time the deliberation room door was closed until deliberations ceased. Further, each deliberation was tape recorded to assure accurate assessment of deliberation time, a procedure which was especially important since the deliberations for verdict and sentencing were uninterrupted. In addition, taping the deliberations was planned in order to allow for post hoc examination of the decision processes of the juries.

Immediately following jury deliberation, jurors answered several questions about their own impressions of the trial evidence and jury deliberation, rated items of evidence in order of perceived importance, and recalled evidence and information presented during the trial. The latter two instruments were refined from ones used in previous research (Bedrick, 1980). These paper/pencil tasks were included in order to gain insight into the subjects' process of information integration.

## Materials

### Stimulus Materials

A videotape was made in which the defendant is accused of robbery by force, a felony which, in Oklahoma, calls for a sentence of 5 to 50 years of incarceration. The evidence presented in this tape is based on an actual criminal proceeding held in Payne County, Oklahoma, in January of 1975



(State of Oklahoma versus Salinas and Karlin, No. CRF-74-260). The tape presents an ambiguous evidence condition which has been used successfully in previous research (Bedrick, 1980). The complete script used for the tape is presented in Appendix A.

In addition to the videotape, information about the defendant's prior criminal record was prepared for distribution at the beginning of the prosecutor's cross-examination of the defendant. This practice was adopted in accordance with current legal practices; in actual courtroom procedure, when jurors are informed of a defendant's prior record, they are provided with copies of the judgment certificate for the previous conviction. In the control condition, jurors received no information about prior record; in the four experimental treatment conditions, the judgment certificates reflected past convictions for bogus check writing, arson, simple assault, and second degree murder. A copy of the "arson" certificate is included in Appendix B.

These crimes were independently rated for severity by 27 undergraduate psychology students before data collection. Bogus check writing and simple assault were rated as low in severity, whereas arson and second degree murder were perceived as very severe crimes. Using a nine-point bipolar scale, with higher numbers indicating increasing severity, the mean ratings for these crimes were 4.8, 3.4, 7.4, and 8.7, respectively. The  $t$  statistic was utilized to verify the statistically significant difference between the low- and

high-severity ratings. Bogus check writing and arson represent crimes against property; and simple assault and second degree murder, crimes against person.

Immediately upon completion of the trial, subjects were given a short, written summary of the judge's instructions (Appendix C), which also included information about sentencing, indicating the statutory limits of 5 to 50 years.

#### Materials Used During Deliberation

The juries required several types of material during their deliberation. Ballot slips, pencils, and forms for recording the verdict and sentence were provided. The ballot slips were secretly coded so that the voting process could be subsequently reconstructed. The design of the verdict and sentencing forms approximated, as closely as possible, the form used in actual court cases (see Appendix D).

#### Post-Deliberation Materials

Three instruments were used by the jurors after their deliberations were completed: a form for rating the importance of items of evidence, and questionnaires regarding the jurors' impressions of the trial and the deliberation and their recall of evidence. These instruments were administered in the order outlined.

Evidence Importance. The evidence importance form, included in Appendix E, was composed of a random listing of

eight major points of evidence included in the videotape, plus a ninth item, "defendant's prior criminal record." The jurors were required to rate each of the nine items on the instrument as to perceived importance, a rating of "1" indicating highest importance and "9," low importance. The evidence importance instrument for the jurors in the control group, where no prior record was introduced, included only the eight items of evidence.

General Questionnaire. This questionnaire asked the jurors for certain specific information about their juries, such as the number of males and females included, and the initial split of guilty-not guilty votes. In addition, several questions were included which involved their opinions and impressions of the evidence presented in the trial. These questions were presented to the jurors in the form of nine-point bipolar scales, in which a higher number indicated increasing value of a dimension (certainty, relevance, etc., see Appendix F). Among these questions, numbers 9 and 10 were critical items; both elicited perceptions of the manner in which the defendant's prior record was used in the deliberation process.

Evidence Recall. The evidence recall instrument was composed of 35 true-false items designed to measure jurors' ability to remember details of evidence presented in the trial as well as events which occurred during the trial. Of these 35 items, the correct answer to 10 indicate the

defendant's guilt; the correct answer to 10 indicate his innocence; and the remaining 15 are neutral, indicating neither guilt nor innocence.

In each of the 10-item groups, five questions are true and five, false. Of the 15 neutral items, seven are true and eight are false. This questionnaire is included in Appendix G. The correct answer to each question is underlined, and each item is labeled as to whether it indicates guilt, no guilt, or neutrality. Scoring represents a simple count of the number of questions answered correctly. The "verdict relevant" score was computed by adding together the number of "guilty" items and "not guilty" items which were answered correctly.

#### Procedure

Three six-person juries were formed for each experimental session. Upon arrival, subjects were assigned randomly to the three juries by having each subject draw one poker chip from a paper bag. The bag contained six each of red, blue, and white chips (for the three juries), plus enough yellow chips (for alternates) to complete the number of subjects who had reported for the experimental session. This procedure was followed by a verbal orientation to jury service.

A short voir dire was then conducted to increase mundane realism and to enhance the subjects' involvement in the study. During this voir dire, each juror described himself/herself by giving his/her name, place of residence, and

college major. The jurors were asked several general questions, and then more specific questions, by the experimenter, who took the role of an Officer of the Court. The "script" for these verbal procedures is presented in Appendix H.

Following the voir dire, the experimental juries viewed the trial and received the information about the prior record at the appropriate time. The verbal instructions which the jurors received at this point are in Appendix H. After viewing the trial, they received a written summary of the judge's instructions which included information about sentencing (Appendix C). Finally, they received additional verbal instructions (Appendix H).

Each jury then retired to a deliberation room in order to reach a verdict and, in the case of a guilty verdict, to recommend punishment. Once the verdict and sentencing were completed, all materials used during deliberation (verdict/sentencing forms, ballot slips, judgment certificates, and summary sheets) were removed, and the three paper/pencil tasks were administered. After completing these tasks, they were debriefed, received credit for their participation in the experiment, and were dismissed. The time required for each experimental session was approximately two hours.

Since 24 (rather than the minimum 18) students were recruited for each experimental session, more than 18 students appeared for some of the sessions. These additional students were used as a separate control. Acting as jury alternates, they were exposed to the same experimental

conditions as the juries but reached their verdicts, recommended sentence, and completed the additional paper/pencil tasks individually. This control was planned so that the behavior of the jury groups could be compared with that of individuals on a post hoc basis, to assess the influences of group discussion and group processes on information integration and decision-making.

## CHAPTER V

### RESULTS

This study manipulated two independent variables, both of which represent characteristics of the prior record of the defendant implicated in the videotaped trial. Severity of the prior record (low, high) and nature of the prior record (crime against property, crime against person) were varied in a 2 X 2 completely randomized factorial design. In addition, a control condition was planned, in which no prior record was included. A detailed presentation of information about the juries involved in the study is included in Appendix I. Analyses of variance were used to determine the effects of the treatments on juries' verdicts, sentences, and deliberation times.

In addition to these analyses of jury behavior, several juror behaviors were examined using analyses of variance and correlation procedures. Analyses of variance assessed the effects of the independent variables upon jurors' reactions to the trial and deliberation, their ability to recall information about the trial, and their importance ratings of nine items of evidence/information presented during the trial. Correlation coefficients were used to identify interrelationships among these three sets of dependent variables. All

reported correlations are statistically significant at the .05 level or less; no non-significant correlations are reported. Jury and juror analyses are reported separately, as are the results for the control group and the alternates.

Several juror substitutions occurred as a result of challenges for cause during the voir dire. These substitutions served to increase mundane realism and external validity. A total of three females and two males were pre-empted. In each case a same-sexed alternate was substituted, and the pre-empted juror joined the panel of alternates. Of the total of five pre-empted jurors, three had relatives in law enforcement, one had been the victim of a robbery, and one had a close friend who had recently been convicted of a felony.

### Jury Processes

#### Verdict

All of the juries were required to deliberate until a unanimous verdict was reached. A guilty verdict was scored "1" and a verdict of not guilty, "0." Two of the juries initially reported being unable to reach a unanimous verdict ("hung"). Both of these juries were split 4-2 (four guilty, two not guilty), and both were again instructed that they must reach a unanimous verdict. Jury group nine, which was in the low severity, crime against person condition, eventually voted guilty, but group 24 (in the high severity,



crime against person condition) returned a verdict of not guilty.

In five of the 24 juries, the majority changed their opinions to reach a final unanimous verdict. Three of these (Juries 1, 2, and 4) were in the low severity, crime against property condition; and two (Juries 19 and 24) were in the high severity, crime against person condition. All of these juries began deliberation with a 4-2 split (four guilty, two not guilty), but in all of them the final verdict was not guilty.

Ten of the 24 juries returned a guilty verdict. The number of guilty verdicts in each condition is presented in Figure 1. Four of these occurred in the low severity treatment condition and six occurred in the high severity condition. Three guilty verdicts resulted when the prior crime was a crime against property, and seven, when it was a crime against person.

		<u>Nature</u>		
		<u>Property</u>	<u>Person</u>	
<u>Severity</u>	Low	1	3	4
	High	2	4	6
		3	7	10

Figure 1. Distribution of Guilty Verdicts

A 2 X 2 analysis of variance was performed; the results of this analysis are presented in Table I and the means appear in Table II. None of the main or interaction effects was significant, although the effect of nature of the prior crime was marginally significant. There was a definite trend for prior crimes against person to produce more guilty verdicts,  $F(1, 20) = 2.67, p < .11$ . The means reflecting this trend were .25 for the "property" condition and .58 for the "person" condition.

#### Deliberation Time and Sentencing

The deliberation time for each jury was measured in minutes from the beginning of the deliberation until a unanimous verdict was reached. Neither of the independent variables, nor their interaction, had any significant effect on deliberation time. The overall mean deliberation time was 22.9 minutes; the scores ranged from 6 to 89 minutes.

Likewise, no significant effects resulted from the analysis of sentences recommended by the ten juries who returned guilty verdicts. The average sentence assigned was 13.3 years. Although the effect of severity of the prior record was not statistically significant, the sentence assigned in the high severity treatment condition was almost twice that recommended by jurors in the low severity condition ( $M_s = 16.33$  and  $8.75$ , respectively).

TABLE I  
ANALYSIS OF VARIANCE  
OF JURY VERDICTS

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	.167	.67	NS
Nature	1	.667	2.67	*
Severity X Nature	1	.000	.00	NS
Error	20	5.000		

\*  $p < .12$

TABLE II  
MEANS OF DEPENDENT VARIABLES  
FOR JURY GROUPS

Independent Variable	<u>N</u>	Ver.	Delib. Time Verdict	<u>N</u> for Sent.	Sent.
Overall	24	.42	22.88 min.	10	13.3 yr.
Severity:					
Low	12	.33	21.17 min.	4	8.8 yr.
High	12	.50	24.58 min.	6	16.3 yr.
Nature:					
Against Prop.	12	.25	19.50 min.	3	11.7 yr.
Against Per.	12	.58	26.25 min.	7	14.0 yr.
Severity X Nature:					
Low Sev. X Prop.	6	.17	18.50 min.	1	5.0 yr.
Low Sev. X Per.	6	.50	23.83 min.	3	10.0 yr.
High Sev. X Prop.	6	.33	20.50 min.	2	15.0 yr.
High Sev. X Per.	6	.67	28.67 min.	4	17.0 yr.

## Juror Behavior

In addition to the statistical analyses of the juries' behavior, dependent variables for the jurors as individuals were analyzed. These included their responses on the general questionnaire soliciting reactions to the trial and deliberation, their importance ratings for specific items of evidence, and their ability to recall information presented during the trial.

Initial verdict and final verdict were recorded as were the group verdicts, that is, verdicts of not guilty were scored "0" and guilty verdicts, "1." The items on the general questionnaire were presented in the form of nine-point bipolar scales and were scored such that a higher number indicated increasing value of the dimension. In recording juror responses on the evidence importance instrument, a rating of "1" indicated highest importance and "9," lowest importance. Finally, the scoring on the evidence recall instrument represented a simple count of the number of true-false items which were answered correctly, and the "verdict-relevant" score was computed by adding together the number of correct items which indicated the defendant's guilt and those indicating his innocence.

Analyses of variance were performed on these dependent variables. In addition to these analyses, correlation coefficients, as previously outlined, were computed. The correlations may be examined in Appendix J. The dependent

variables will be presented separately.

### Verdict

Initial Verdict. The recording of each juror's initial verdict was based on self-report and was verified by examining the ballot slips used by them during their deliberation. This dependent variable reflects the way each juror voted on the first ballot, and the results are summarized in Table III, with means in Table IV. The effects of both severity of the prior record and the interaction between the independent variables achieved marginal significance, in both cases,  $F(1, 140) = 2.93, p < .089$ . When the prior record reflected a high severity crime, jurors were somewhat more likely to vote guilty on the first ballot; the means for this relationship were .53 for low severity compared with .67 for high severity. Turning attention to the interaction, the lowest mean initial verdict occurred in the low severity crime against person condition ( $M = .47$ ), and the highest, in the high severity crime against person cell ( $M = .75$ ). In both of the remaining cells, low severity crime against property and low severity crime against person, the mean initial verdict was .58.

Those who voted guilty on the first ballot, in general, tended to vote guilty on the final ballot ( $r = .41$ ), to perceive the prior record as relevant in judging the defendant's credibility ( $r = .19$ ), and to be relatively certain that the victim and bartender were not lying and were not mistaken in their testimony ( $r = .26$  and  $.45$  for the victim;  $r = .25$  and  $.41$

TABLE III  
ANALYSIS OF VARIANCE FOR INITIAL  
VERDICTS OF JURORS

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	.694	2.93	*
Nature	1	.028	.12	NS
Severity X Nature	1	.694	2.93	*
Error	140	33.222		

\*  $p < .09$

TABLE IV  
MEANS FOR INITIAL VERDICT  
AND VERDICT CHANGE

Independent Variable	N	Initial Verdict	Verdict Change
Overall	144	.597	.319
Severity:			
Low	72	.528	.278
High	72	.667	.361
Nature:			
Against Property	72	.583	.389
Against Person	72	.611	.250
Severity X Nature:			
Low Severity X Property	36	.583	.417
Low Severity X Person	36	.472	.139
High Severity X Property	36	.583	.361
High Severity X Person	36	.750	.361

for the bartender). Jurors voting guilty initially also perceived the physician's testimony and the bartender's testimony as important ( $r=.16$  and  $.31$ , respectively). Thus, the bartender's testimony was more closely associated with guilty verdicts than was the physician's testimony. The bartender was perhaps the most damaging witness against the defendant, since he was the only "third party" witness to testify to the actions of the defendant and the victim on the night of the crime. Its strong association with guilty verdicts, therefore, demonstrates consistency.

Jurors voting not guilty tended to perceive the judge's instructions as relevant in their deliberation ( $r=.19$ ) and were relatively certain that the defendant was telling the truth in his testimony ( $r=.42$ ). These jurors perceived three items of evidence as most important: the amount of money in the defendant's possession when he was arrested ( $r=.26$ ), the amount of alcohol consumed by both the victim and defendant ( $r=.29$ ), and the absence of stains on the defendant's clothes when arrested ( $r=.46$ ). Finally, those jurors voting not guilty on the first ballot tended to score higher on the verdict-relevant portion of the evidence recall questionnaire ( $r=.19$ ).

The positive relationship between initial verdicts of not guilty and the importance of the amount of money in the possession of the defendant is surprising, since this item of evidence is damaging to the defendant's case and, therefore, its association with verdicts of not guilty seemingly

represents an inconsistency. The amount of alcohol consumed is relatively ambiguous, and the absence of stains on the defendant's clothes when arrested is non-damaging, so the association of these two items of evidence with verdicts of not guilty is consistent.

Final Verdict. Those jurors who returned a guilty verdict were more certain of their verdict than were the jurors who found the defendant not guilty ( $r=.31$ ). They also tended to perceive the defendant's prior record as relevant both in their consideration of his credibility as a witness ( $r=.41$ ) and as evidence of his guilt for the present crime ( $r=.31$ ). They saw the prosecutor as more capable ( $r=.39$ ) and were more certain that the victim and the bartender, both of whom provided damaging testimony, were neither lying nor mistaken ( $r=.32$  and  $.45$  for the victim;  $r=.30$  and  $.49$  for the bartender). Further, they perceived four items of evidence as important. Two of these involved damaging eyewitness testimony by the victim ( $r=.30$ ) and the bartender ( $r=.38$ ). The other two were the physician's testimony ( $r=.20$ ) and the defendant's lack of corroboration for his version of what happened on the night of the crime ( $r=.26$ ). The positive associations between these items of evidence and guilty verdicts is reasonable, because they were all damaging except the physician's testimony, which was ambiguous. Finally, jurors who returned final verdicts of guilty tended to score highest on the neutral, or irrelevant, portion of the evidence recall



questionnaire ( $r=.18$ ).

Jurors who returned verdicts of not guilty perceived the defense attorney as more capable ( $r=.18$ ) and were more certain that the defendant was telling the truth when he testified ( $r=.29$ ). Three items of evidence were perceived important when verdicts of not guilty were returned: the amount of money the defendant had when arrested ( $r=.34$ ), the amount of alcohol consumed ( $r=.41$ ), and the absence of stains on the defendant's clothes ( $r=.66$ ). These are the same three items of evidence which were associated with initial verdicts of not guilty. Again, the relationship between this verdict and the amount of money the defendant had when arrested seems inconsistent.

Verdict Change. This dependent variable reflects whether each juror's final verdict was the same as or different from his/her initial opinion. Those jurors who had changed verdicts were scored "1" for this variable, and those who had not were scored "0." A total of 46 jurors (32%) in the 24 juries indicated that they had changed their opinions during deliberation.

Those jurors who changed verdicts were much less certain of the final verdict than those who did not change ( $r=-.44$ ), perhaps indicating the effect of peer pressure to conform in their decisions to change opinions. They also indicated that the judge's instructions were relevant in their deliberation ( $r=.18$ ). Jurors who did not change perceived the prosecutor

as more capable ( $r=.20$ ) and scored higher on the neutral portion of the evidence recall instrument ( $r=.20$ ).

### Sentence

Two items on the general questionnaire were associated with length of sentence recommended by those jurors who returned a guilty verdict. Length of sentence was related to the jurors' certainty of the verdict ( $r=.36$ ) and to their certainty that the bartender was telling the truth ( $r=.27$ ). The relationship between certainty of guilt and length of sentence demonstrates consistency, which is also demonstrated by the association between length of sentence and the testimony of the bartender, which was one of the most damaging items of evidence in the trial.

### General Questionnaire

Each item on this questionnaire was rated on a nine-point bipolar scale, where a higher number indicated increasing value on the dimension involved. The means for each of the eleven items are presented in Table V.

Certainty of Final Verdict. Neither the independent variables nor their interaction had a significant effect on the jurors' certainty of their final verdict, but two of these relationships achieved marginal significance (see Table VI). Jurors tended to be more certain of the verdict when the prior record indicated a previous crime of high

TABLE V  
MEANS - GENERAL QUESTIONNAIRE ITEMS

Independent Variable	n	Cer Ver	Relev Judge Instr	PR for Cred	PR for Glt	Cap of Pros	Cap of Def	Cer Def Tru	Cer Vic Tru	Cer Vic Mis	Cer Bar Tru	Cer Bar Mis
Overall	144	6.5	6.81	4.26	3.53	5.14	3.73	3.88	6.03	5.44	6.38	5.54
Severity:												
Low	72	6.19	6.47	3.78	3.38	5.44	3.64	4.17	5.85	4.76	6.33	5.14
High	72	6.81	7.14	4.75	3.69	5.58	3.82	3.58	6.21	6.11	6.42	5.94
Nature:												
Property	72	6.39	6.74	3.75	2.82	5.07	3.82	3.88	5.89	5.08	6.04	4.92
Person	72	6.61	6.88	4.77	4.25	5.96	3.64	3.88	6.17	5.79	6.71	6.17
Sev. X Nature:												
Lo X Prop.	36	5.78	5.81	3.19	3.06	4.69	3.50	4.00	5.72	4.25	6.28	4.47
Hi X Prop.	36	6.61	7.14	4.36	3.69	6.19	3.78	4.33	5.97	5.28	6.39	5.81
Lo X Per.	36	7.00	7.67	4.30	2.58	5.44	4.14	3.75	6.06	5.92	5.81	5.36
Hi X Per.	36	6.61	6.61	5.19	4.81	5.72	3.50	3.42	6.36	6.31	7.03	6.53

TABLE VI  
ANALYSIS OF VARIANCE FOR  
CERTAINTY OF VERDICT

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	13.44	2.73	*
Nature	1	1.78	.36	NS
Severity X Nature	1	13.44	2.73	*
Error	140	689.33		

\*  $p < .10$

severity,  $F(1, 140) = 2.73, p < .10$ . The means reflecting this relationship were 6.19 for low severity compared with 6.81 for high severity. The Severity X Nature interaction was also marginally significant,  $F(1, 140) = 2.73, p < .10$ . Jurors were least certain of their verdicts when in the low severity crime against property treatment condition ( $M = 5.8$ ), and were most certain in the low severity crime against person condition ( $M = 7.0$ ). Means in the remaining two cells were 6.61.

Certainty of verdict was significantly correlated with six other items on the general questionnaire. Jurors who were certain of their verdicts were also certain of the veracity of the testimony presented by the crucial witnesses in the trial. They indicated that they felt certain the defendant was telling the truth ( $r = .20$ ), the victim was not deliberately lying ( $r = .27$ ) and was not mistaken ( $r = .23$ ), and the bartender was not deliberately lying and was not mistaken ( $r = .24$  and  $.22$ , respectively). In addition, they perceived the prosecutor as being capable ( $r = .28$ ). None of the evidence importance items were correlated significantly with certainty of verdict. Accuracy on the guilt-indicating items of the evidence recall instrument, however, was negatively related to certainty ( $r = -.17$ ). Jurors who indicated that they were certain of their verdict scored lower on this portion of the true-false test.

Relevance of Judge's Instructions During Deliberation.

The relationship between severity of the prior record and jurors' report of the importance of judge's instructions during deliberation was significant; jurors in the high severity condition rated judge's instructions as more relevant,  $F(1, 140) = 4.08, p < .045$  ( $M_s = 6.47$  for low severity and  $7.14$  for high severity). Further, the interaction between the two independent variables had a highly significant effect on their ratings,  $F(1, 140) = 13.11, p < .0004$ . These data are presented in Table VII. Jurors in the high severity crime against property experimental condition rated the judge's instructions as most relevant ( $M = 7.67$ ); those in the low severity crime against property condition rated the instructions as least relevant ( $M = 5.81$ ).

Relevance of instruction was not significantly correlated with any other item on the general questionnaire, but it was negatively related to importance of the physician's testimony ( $r = -.23$ ). Those who perceived the instruction as relevant tended to assign little importance to the testimony of the physician, who testified only as to the injuries of the victim, but did not present evidence either favoring or damaging the defendant's case.

Relevance of Prior Record in Judging Defendant's Credibility. This question was one of the most critical items on the general questionnaire, since it bears directly on the research question asked in this study. Table VIII presents

TABLE VII  
ANALYSIS OF VARIANCE FOR  
RELEVANCE OF JUDGE'S  
INSTRUCTIONS

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	16.00	4.08	*
Nature	1	.69	.18	NS
Severity X Nature	1	51.36	13.11	**
Error	140	548.50		
* $p < .05$				
** $p < .0005$				

TABLE VIII  
ANALYSIS OF VARIANCE FOR RELEVANCE  
OF PRIOR RECORD IN JUDGING  
DEFENDANT'S CREDIBILITY

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	34.03	6.39	*
Nature	1	38.03	7.14	**
Severity X Nature	1	.69	.13	NS
Error	140	745.22		
* $p < .02$				
** $p < .01$				

the analysis of variance results for this dependent variable. Both of the independent variables had a highly significant effect on jurors' responses to this question. They apparently gave much more weight to the prior record when it reflected a high severity crime,  $F(1, 140) = 6.39, p < .013$ , or when the previous crime was against a person,  $F(1, 140) = 7.14, p < .008$ . The means reflecting these relationships were 3.78 for low severity versus 4.75 for high severity, and 3.75 for crime against property compared with 4.77 for crime against person.

This variable was also significantly correlated with several other dependent variables. First, there was a highly significant relationship between jurors' use of prior record in judging the defendant's credibility and their use of it as evidence for guilt in the present trial ( $r = .56$ ). This relationship may indicate that, contrary to legal assumptions, jurors are not able to distinguish cognitively between these two ways of considering the prior record. Jurors who indicated that they used the prior record in judging the defendant's credibility tended also to be relatively certain that the victim was not deliberately lying ( $r = .21$ ) and that he was not mistaken in his testimony ( $r = .39$ ). An even greater relationship occurred when they rated their certainty that the bartender was telling the truth ( $r = .36$ ) and that he was not mistaken ( $r = .48$ ). Not surprisingly, those jurors who rated the defendant's prior record as important in their consideration of his credibility also doubted the veracity of his



testimony ( $r=-.16$ ).

High ratings on this question were correlated significantly with high importance ratings on four items of evidence: the victim's eyewitness identification of the defendant as his assailant ( $r=.19$ ), the bartender's eyewitness testimony ( $r=.26$ ), the defendant's lack of corroboration for his own testimony ( $r=.17$ ), and the defendant's prior record ( $r=.47$ ). All of these are damaging to the defendant's case, so their statistical association with the use of his prior record to determine credibility is reasonable. This consistency is also demonstrated, with one exception, by the negative relationships between jurors' use of the prior record to judge credibility and four additional items of evidence: the amount of alcohol consumed by the defendant and the victim on the night of the crime ( $r=-.23$ ), the absence of stains on the defendant's clothes when arrested ( $r=-.47$ ), the defendant's account of his own activities on the evening of the robbery ( $r=-.18$ ), and the amount of money in his possession when he was arrested ( $r=-.17$ ). The first of these items is ambiguous, and the second and third are non-damaging to the defendant's case; thus, their negative relationships with relevance of prior record in determining credibility is understandable. The fourth item, however, is damaging, so its inclusion in this group appears inconsistent.

Relevance of Prior Record as Evidence of Guilt in the Present Case. This question was a second critical item

included in the general questionnaire. Severity of the previous crime had no significant effect, but the nature of the crime and the Severity X Nature interaction were highly significant (see Table IX). When the prior record reflected a crime against person, jurors were much more likely to use that prior record as evidence of guilt in the present trial,  $F(1, 140) = 17.14, p < .0001$ . Means demonstrating this relationship were 2.82 for the crime against property condition compared with 4.25 for the crime against person condition. Further, jurors in the high severity cells were the most disparate in their responses to this question,  $F(1, 140) = 5.25, p < .025$ , the lowest cell mean occurring in the high severity crime against property condition ( $M = 2.58$ ), and the highest occurring in the high severity crime against person cell ( $M = 4.81$ ).

Juror ratings of the relevance of prior record as evidence of guilt correlated significantly with several other variables. Jurors who indicated that the prior record was relevant as evidence of guilt also indicated that they were certain that neither the victim nor the bartender were mistaken in their testimony during the trial ( $r = .25$  and  $.31$ , respectively). These relationships demonstrate consistency, as do those between relevance of prior record as evidence of guilt and the importance of six items of evidence. Jurors who indicated that the prior record was relevant as evidence of guilt also tended to place high importance on four damaging evidence items: the amount of money in the possession

TABLE IX  
 ANALYSIS OF VARIANCE FOR RELEVANCE  
 OF PRIOR RECORD AS EVIDENCE  
 OF GUILT

Source	D.F.	Sum of Squares	F-Value	PR > F
<b>Model:</b>				
Severity	1	3.67	.85	NS
Nature	1	73.67	17.14	*
Severity X Nature	1	22.56	5.25	**
Error	140	601.92		
* $p < .0001$				
** $p < .025$				

of the defendant when arrested ( $r=.17$ ), the victim's identification of the defendant as his assailant ( $r=.25$ ), the bartender's testimony ( $r=.17$ ), and the defendant's prior record itself ( $r=.47$ ). In addition, two non-damaging items were negatively related: the absence of stains on the defendant's clothes when arrested ( $r=-.34$ ) and the amount of alcohol consumed ( $r=-.24$ ). As stated previously, these correlations are aligned properly, given the nature of each variable.

Capability of the Prosecutor. Juror ratings of the effectiveness of the prosecuting attorney were affected significantly by the nature of the crime selected by the prior record,  $F(1, 140) = 5.69$ ,  $p < .02$ , see Table X. Their ratings were higher when the previous crime was against a person rather than against property ( $M_s = 5.96$  and  $5.07$ , respectively). There was also a tendency for jurors to be most disparate in their ratings when they were in the low severity cells,  $F(1, 140) = 2.69$ ,  $p < .10$ . Means reflecting this interaction were  $6.19$  in the low severity crime against property treatment condition, compared with  $5.44$  in the low severity crime against person condition. The remaining cell means, both in the high severity condition, were between these two extremes.

Those jurors who perceived the prosecutor as being effective also tended to believe that the victim was neither lying nor mistaken ( $r=.36$  and  $.26$ , respectively), and that the bartender was neither lying nor mistaken ( $r=.34$  and  $.31$ ,

TABLE X  
ANALYSIS OF VARIANCE FOR  
PERCEIVED CAPABILITY  
OF PROSECUTOR

Source	D.F.	Sum of Squares	F-Value	PR > F
<b>Model:</b>				
Severity	1	.69	.14	NS
Nature	1	28.44	5.69	*
Severity X Nature	1	13.44	2.69	**
Error	140	699.39		
* $p < .02$				
** $p < .10$				

respectively). Further, they tended to consider two damaging items of evidence as important: the defendant's lack of corroboration for his own testimony ( $r=.18$ ) and the bartender's testimony ( $r=.24$ ). In addition, capability of the prosecutor was negatively related to jurors' importance ratings of the absence of stains on the defendant's clothes when arrested ( $r=-.32$ ). Since this latter item is non-damaging to the defendant's case, these relationships seem aligned consistently.

Capability of the Defense Attorney. Neither of the independent variables, nor their interaction, had significant effect on this dependent variable. Juror ratings of the defense attorney's effectiveness were correlated significantly with their certainty that the defendant was telling the truth in his testimony ( $r=.28$ ), a relationship which is reasonable. In addition, high ratings on this dependent variable were related to low accuracy scores on the evidence recall questions which indicated not guilty ( $r=-.19$ ), on those which were neutral ( $r=-.33$ ), and on the instrument as a whole ( $r=-.28$ ). Apparently, those jurors who perceived the defense attorney as capable were unable to remember accurately certain information about the trial which indicated the defendant's innocence.

Certainty that the Defendant Was Telling the Truth in His Testimony. Overall, jurors did not seem convinced that the defendant was telling the truth when he testified during the trial; on a nine-point scale, the overall mean response

on this item was 3.88. Neither severity nor nature of the prior record, nor the interaction, was significant. Juror responses on this item, however, were correlated significantly with two other questions on the general questionnaire. High certainty of the defendant's veracity was associated with low certainty that the victim was not mistaken ( $r=-.21$ ) and with high certainty that the bartender was telling the truth ( $r=.16$ ). The first of these relationships is reasonable, but the second would seem to show inconsistency.

This seeming inconsistency may be de-emphasized, however, in view of the negative relationship between juror certainty of the defendant's veracity and the perceived importance of the bartender's testimony, which was one of the more damaging items of evidence contained in the trial ( $r=-.23$ ). There were three other evidence items which were negatively correlated with certainty that the defendant was telling the truth: the victim's identification of the defendant as his assailant ( $r=-.17$ ), the defendant's lack of corroboration ( $r=-.21$ ), and the absence of stains on the defendant's clothes when arrested ( $r=-.37$ ). The first two of these are damaging, so their negative association with certainty of the defendant's veracity is reasonable. The third item, however, is non-damaging, a situation which seems to indicate inconsistency.

Two items of evidence were positively related to certainty that the defendant was telling the truth. One of these items, the amount of alcohol consumed ( $r=.37$ ), is

ambiguous; the other, the defendant's account of his own activities ( $r=.20$ ), is non-damaging. Both of these relationships are therefore reasonable. Finally, jurors who expressed certainty of the truth of the defendant's testimony tended to score lower on the neutral, or irrelevant, portion of the evidence recall instrument.

Certainty that the Victim Was Telling the Truth. The overall mean on this item was 6.03, indicating that jurors tended to believe the victim's testimony. The characteristics of the prior record had no significant effect on their responses to this question. These ratings, however, were significantly correlated with their certainty that the victim was not mistaken ( $r=.42$ ), and that the bartender was neither lying nor mistaken ( $r=.55$  and  $.46$ , respectively).

These relationships demonstrate consistency, as do the relationships between certainty of the victim's veracity and four items of evidence: the victim's identification of the defendant as his assailant ( $r=.30$ ), the bartender's testimony ( $r=.31$ ), the absence of stains on the defendant's clothes ( $r=-.42$ ), and the defendant's account of his own activities ( $r=-.16$ ). The first two of these items were damaging to the defendant's case, so their positive relationship with juror certainty of the truth of the victim's testimony, which was also damaging, is understandable. The same can be said of the negative relationships of the latter two items of evidence, which were both non-damaging.



Certainty that the Victim Was Not Mistaken. Both the severity and the nature of the prior record affected juror responses to this question; the latter achieved only marginal significance, however (see Table XI). Jurors in the high severity condition were much more certain that the victim's testimony accurately reflected the true events of the night of the crime,  $F(1, 140) = 12.66, p < .0005$  ( $M_s = 4.76$  and  $6.11$  for low and high severity, respectively). Further, they tended to be more certain on this item when the prior record indicated a crime against person,  $F(1, 140) = 3.50, p < .063$ . The latter means were  $5.08$  for crime against property compared with  $5.79$  for crime against person.

Jurors' responses on this item were positively related to their certainty that the bartender was telling the truth and that he was not mistaken ( $r = .41$  and  $.65$ , respectively). Since the bartender's testimony partially corroborated the victim's story, this relationship is reasonable. High certainty of the victim's accuracy was also related to four damaging items of evidence listed on the evidence importance instrument: the bartender's testimony ( $r = .29$ ), the defendant's lack of corroboration ( $r = .27$ ), the victim's identification of the defendant ( $r = .21$ ), and the defendant's prior record ( $r = .20$ ). Three other items of evidence were correlated negatively with the jurors' certainty that the victim was not mistaken. The first of these, the absence of stains on the defendant's clothes ( $r = -.57$ ), was non-damaging; and the second item, the amount of alcohol consumed ( $r = -.34$ ), was

TABLE XI  
 ANALYSIS OF VARIANCE FOR PERCEIVED  
 CERTAINTY THAT VICTIM  
 WAS NOT MISTAKEN

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	65.34	12.66	*
Nature	1	18.06	3.50	**
Severity X Nature	1	3.67	.71	NS
Error	140	722.36		
* $p < .0005$				
** $p < .063$				

ambiguous. These relationships, therefore, indicate consistency. The third item, the amount of money in the defendant's possession when arrested ( $r=-.16$ ), was damaging to the defendant's case, so this negative relationship seems inconsistent.

Certainty that the Bartender Was Telling the Truth.

Juror ratings on this question were somewhat affected by the nature of the crime indicated by the prior record,  $F(1, 140) = 3.03$ ,  $p < .08$ , see Table XII. They tended to be more certain that the bartender was not deliberately lying when the prior record reflected a crime against person ( $M_s = 6.04$  and  $6.71$  for crime against property and person, respectively).

The highly significant correlation between this dependent variable and the jurors' certainty that the bartender was not mistaken ( $r=.66$ ) is perfectly reasonable, as is its positive relationship with three items included on the evidence importance instrument. These three items of evidence, all damaging, were the victim's identification of the defendant as the perpetrator of the crime ( $r=.27$ ), the defendant's prior record ( $r=.16$ ), and the bartender's testimony ( $r=.34$ ). Conversely, jurors who expressed high certainty of the bartender's veracity tended to place relatively little importance on three non-damaging evidence items: the defendant's account of his own actions on the night of the crime ( $r=-.26$ ), the absence of stains on the defendant's clothes when arrested ( $r=-.40$ ), and the amount of alcohol consumed by the

TABLE XII  
ANALYSIS OF VARIANCE FOR PERCEIVED  
CERTAINTY THAT BARTENDER  
WAS TELLING TRUTH

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	.25	.05	NS
Nature	1	16.00	3.03	*
Severity X Nature	1	11.11	2.10	NS
Error	140	740.39		

\*  $p < .08$

defendant and victim on the night of the crime ( $r=-.27$ ). All these relationships, then, demonstrate consistency in the juror ratings.

Certainty that the Bartender Was Not Mistaken. Both of the independent variables had a significant effect on juror responses to this question (see Table XIII). Jurors in the high severity treatment condition expressed more confidence in the bartender's testimony,  $F(1, 140) = 3.88$ ,  $p < .05$ , as did jurors in the crime against person condition, this latter relationship achieving high significance,  $F(1, 140) = 9.35$ ,  $p < .003$ . The means reflecting these relationships were 5.14 versus 5.94 for the "severity" main effect, and 4.92 versus 6.17 for the "nature" main effect.

The jurors' expressed confidence in the accuracy of the bartender's testimony was correlated significantly with perceived importance of four items of evidence, all of which were damaging to the defendant's case: the victim's identification of the defendant ( $r=.32$ ), the defendant's lack of corroboration ( $r=.23$ ), the defendant's prior criminal record ( $r=.21$ ), and the bartender's testimony itself ( $r=.29$ ). Likewise, their certainty was negatively related to four items of evidence: the amount of alcohol consumed by the victim and defendant ( $r=-.32$ ), the absence of stains on the defendant's clothes when arrested ( $r=-.58$ ), the defendant's account of his own actions on the night of the crime ( $r=-.16$ ), and the amount of money in the defendant's possession when

TABLE XIII  
 ANALYSIS OF VARIANCE FOR PERCEIVED  
 CERTAINTY THAT BARTENDER  
 WAS NOT MISTAKEN

Source	D.F.	Sum of Squares	F-Value	PR > F
<b>Model:</b>				
Severity	1	23.36	3.88	*
Nature	1	56.25	9.35	**
Severity X Nature	1	.25	.04	NS
Error	140	841.89		
* $p < .05$				
** $p < .005$				

arrested ( $r=-.19$ ). The first of these is ambiguous, the second and third, non-damaging. Their negative relationship with confidence in the bartender's testimony is, therefore, reasonable. The fourth item of evidence, however, is damaging; its negative association with this dependent variable appears inconsistent.

Summary. Overall, the analyses of variance reported here indicate that the severity and nature of the prior record have rather generalized effects. The severity of the prior record was found to significantly affect relevance of the judge's instructions during deliberation and certainty that neither the victim nor the bartender was mistaken in his testimony, as well as the relevance of the prior record in determining the defendant's credibility as a witness. Nature of the previous crime affected, not only the relevance of the prior record in considering the defendant's credibility, but also the use of the prior record as evidence of guilt for the present crime, the capability of the prosecutor, and confidence in the victim's testimony. Further, these two independent variables interacted significantly to affect the relevance of the judge's instructions and the use of prior record as evidence of guilt for the present crime.

Generally, the items on this questionnaire were related to one another and to the items of evidence in a consistent manner. Items which reflected damaging evidence or information were, in most cases, positively correlated with each

other and negatively related to non-damaging items. The one exception was that the amount of money found on the defendant when arrested, which is a damaging item of evidence, was in three cases negatively related to items on the general questionnaire which were of a damaging nature. The direction of these relationships seems to indicate logical inconsistency.

#### Evidence Importance Instrument

This form consisted of a random listing of eight items of evidence presented during the trial, plus a ninth item, "Defendant's Prior Record." Jurors were required to rate each item as to perceived importance, a rating of "1" indicating highest importance and "9," lowest importance. Mean importance ratings for all these items are presented in Table XIV. Each item will be considered separately.

Amount of Money in the Defendant's Possession When Arrested. When the defendant was arrested, he had \$70 in his possession, a rather large amount, considering that he had been unemployed for the previous few months, his only income being \$55 per week from the Employment Commission. In addition, his explanation for having had such an amount was flimsy. Because of this situation, the amount of money was damaging to his case.

Jurors who were presented with a prior record reflecting a previous crime against a person were much more likely to assign greater importance to this item of evidence than were



TABLE XIV  
MEANS - EVIDENCE IMPORTANCE ITEMS

Independent Variable	<u>n</u>	Amt Money	Phys Test	Victim ID	Amt Alcoh	Lack of Corrob	Bar Test	Absence Stains	Def Alibi	Def PR
Overall	144	3.44	6.30	3.31	5.35	4.60	4.01	5.15	4.47	7.39
Severity:										
Low	72	3.61	6.46	3.36	5.00	5.13	4.43	4.56	4.51	7.62
High	72	3.28	6.14	3.25	5.69	4.07	3.60	5.74	4.42	7.15
Nature:										
Property	72	3.97	6.53	3.49	4.93	4.71	4.56	4.35	4.04	7.81
Person	72	2.92	6.07	3.13	5.76	4.49	3.47	5.94	4.89	6.97
Sev. X Nature:										
Lo X Prop.	36	4.11	6.75	3.58	4.92	5.36	4.58	3.83	4.00	7.94
Lo X Per.	36	3.11	6.17	3.13	5.08	4.89	4.28	5.28	5.03	7.31
Hi X Prop.	36	3.83	6.31	3.39	4.94	4.06	4.53	4.86	4.08	7.67
Hi X Per.	36	2.72	5.97	3.11	6.44	4.09	2.67	6.61	4.76	6.64

those in the crime against property condition,  $F(1, 140) = 8.22$ ,  $p < .005$  ( $M_s = 2.92$  and  $3.97$  for crime against person and property, respectively). Severity of the prior record had no significant effect, nor did the interaction (see Table XV).

Importance ratings for this evidence item were correlated significantly with those of four others: the victim's identification of the defendant as his assailant ( $r = .16$ ), the amount of alcohol consumed by the victim and defendant ( $r = -.25$ ), the absence of stains on the defendant's clothes when arrested ( $r = -.26$ ), and the defendant's account of his own activities on the night of the crime ( $r = -.29$ ). Given the damaging character of the amount of money, these relationships appear reasonable. The first of the four items is damaging, so a positive relationship would be expected; the second is ambiguous; the third and fourth are non-damaging, making the negative correlations reasonable.

Physician's Testimony. The physician's role in the trial was to testify as to the extent of the victim's injuries; he never presented testimony either favoring or damaging the defendant's case. It is understandable, therefore, that the characteristics of the prior record did not affect significantly the jurors' ratings on this item. The overall mean rating was 6.3, indicating that jurors generally did not consider this item very important.

It was, however, correlated significantly with one other

TABLE XV  
 ANALYSIS OF VARIANCE FOR PERCEIVED  
 IMPORTANCE OF THE AMOUNT OF MONEY  
 FOUND ON DEFENDANT  
 WHEN ARRESTED

Source	D.F.	Sum of Squares	F-Value	PR) F
<b>Model:</b>				
Severity	1	4.00	.82	NS
Nature	1	40.11	8.22	*
Severity X Nature	1	.11	.02	NS
Error	140	683.33		
* $p < .005$				

item of evidence, the victim's identification of the defendant ( $r=-.19$ ). The physician's testimony may be characterized as ambiguous evidence and, as such, its negative association with an item which was very damaging is understandable.

Victim's Identification of the Defendant as His Assailant. This item was one of the more damaging items of evidence in the trial. The victim testified that, while lying on the ground after being hit the first time, he looked up and saw the defendant's face just before being kicked in the face. The damaging nature of the item was mitigated somewhat by the victim's admission of being dazed and almost unconscious when he saw the defendant. Despite this latter circumstance, however, jurors rated this item as the most important one overall, the mean rating being 3.31.

Neither of the independent variables manipulated in this study, nor their interaction, affected significantly the importance rating of this item. However, it was correlated significantly with several items. There was a positive relationship between the victim's identification and two other damaging items: the bartender's testimony ( $r=.28$ ) and the defendant's prior record ( $r=.19$ ). The victim's identification was negatively related to the absence of stains on the defendant's clothes when arrested ( $r=-.40$ ) and the defendant's account of his own activities on the night of the robbery ( $r=-.17$ ), both of these being non-damaging. Finally, it was related negatively to one ambiguous item, the amount

of alcohol consumed ( $r = -.41$ ). These relationships are aligned appropriately, demonstrating consistency.

Amount of Alcohol Consumed by the Victim and Defendant on the Night of the Crime. Both the victim and the defendant had been drinking beer on the evening of the crime, just prior to the robbery. The amount, however, was ambiguous. This ambiguity may have led jurors to assign more or less importance to this item, depending on the experimental condition. Jurors who had been presented with a prior record reflecting a crime against property perceived the amount of alcohol as more important than those in the crime against person condition,  $F(1, 140) = 4.56, p < .035$  (see Table XVI). The means reflecting this relationship were 4.93 and 5.76 for crime against property and person, respectively. Further, both the severity of the prior record and the interaction achieved marginal significance. There was a tendency for jurors in the low severity treatment condition to assign greater importance to this item than did those in the high severity condition,  $F(1, 140) = 3.16, p < .078$  ( $M_s = 5.00$  and  $5.69$ , respectively). The means reflecting the interaction between the two independent variables,  $F(1, 140) = 2.92, p < .09$ , indicate that there was little difference between the importance ratings of jurors who were in the crime against property cells (4.92 versus 4.94) but a substantially greater difference between the two cells in the crime against person condition (5.08 versus 6.44).

TABLE XVI  
ANALYSIS OF VARIANCE FOR PERCEIVED  
IMPORTANCE OF THE AMOUNT  
OF ALCOHOL CONSUMED

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	17.36	3.16	*
Nature	1	25.00	4.56	**
Severity X Nature	1	16.00	2.92	*
Error	140	768.28		

\*  $p < .10$

\*\*  $p < .05$

The ratings on this item, the amount of alcohol, were positively related to those of the absence of stains on the defendant's clothes when arrested ( $r=.39$ ), but negatively related to three damaging items: the lack of corroboration for the defendant's testimony ( $r=-.19$ ), the bartender's testimony ( $r=-.42$ ), and the defendant's prior record ( $r=-.22$ ). These alignments seem reasonable.

Defendant's Lack of Corroboration for His Own Account of His Activities on the Night of the Crime. The defendant had his own version of what happened on the night the robbery occurred. Although his testimony involved an account which precluded his guilt, no witnesses were found who could corroborate his story. This lack of corroboration was a damaging item of information.

Jurors who were presented with a prior record which indicated a previous crime of high severity rated this item as more important than those who had been exposed to a low severity prior record,  $F(1, 140) = 8.28, p < .005$  ( $M_s = 5.13$  and  $4.07$  for low and high severity, respectively, see Table XVII). Neither the nature of the prior record nor the interaction achieved significance. This item was, however, correlated significantly with one other evidence item, the absence of stains on the defendant's clothes when arrested ( $r=-.34$ ). Since the defendant's lack of corroboration is damaging, and the absence of stains is non-damaging, the negative relationship between the two is consistent.

TABLE XVII  
 ANALYSIS OF VARIANCE FOR PERCEIVED  
 IMPORTANCE OF THE DEFENDANT'S  
 LACK OF CORROBORATION

Source	D.F.	Sum of Squares	F-Value	PR > F
<b>Model:</b>				
Severity	1	40.11	8.28	*
Nature	1	1.78	.37	NS
Severity X Nature	1	2.25	.46	NS
Error	140	678.50		
* $p < .005$				



Bartender's Testimony. During the trial, the bartender testified that he had seen the defendant follow the victim out of the bar on the night of the robbery; since the crime took place just outside the bar, this item was very damaging to the defendant's case.

Importance ratings on this item were influenced significantly by both independent variables and by their interaction (see Table XVIII). A prior record indicating high severity was associated with higher importance ratings on this item,  $F(1, 140) = 6.00, p < .016$  ( $M_s = 3.6$  for high and 4.43 for low severity). Further, a prior record showing a crime against person led to much higher ratings,  $F(1, 140) = 10.15, p < .002$ . The means reflecting this relationship were 3.47 for crime against person, compared with 4.56 for crime against property. The Severity X Nature interaction was also significant,  $F(1, 140) = 5.23, p < .025$ . Jurors perceived this item as most important in the high severity condition when the previous crime was against a person ( $M = 2.67$ ) and least important when the prior record indicated a low severity crime against property ( $M = 4.58$ ).

The bartender's testimony was significantly correlated with one other damaging item of information, the defendant's prior record ( $r = .19$ ). Jurors who rated the bartender's testimony as important also perceived the defendant's prior record as important. Negative relationships resulted between the bartender's testimony and two non-damaging items: the absence of stains on the defendant's clothes when arrested

TABLE XVIII  
 ANALYSIS OF VARIANCE FOR PERCEIVED  
 IMPORTANCE OF THE BARTENDER'S  
 TESTIMONY

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	25.00	6.00	*
Nature	1	42.25	10.15	**
Severity X Nature	1	21.78	5.23	*
Error	140	582.94		

\*  $p < .025$   
 \*\*  $p < .002$

( $r=-.41$ ) and the defendant's account of his own activities on the night of the crime ( $r=-.16$ ). All of these relationships are consistent, the damaging item being aligned positively with another damaging item and negatively with non-damaging items.

Absence of Stains on the Defendant's Clothes When Arrested. When the defendant was arrested, the morning after the robbery, he was wearing the same clothes that he had been wearing when the crime occurred; no blood stains appeared on them, however. Since the lack of stains indicated his possible innocence, this item was non-damaging.

Both the severity and nature of the prior offense influenced jurors' perceptions of the importance of this item (see Table XIX). Jurors in the high severity condition rated this item significantly less important than those in the low severity condition,  $F(1, 140) = 5.72, p < .02$  ( $M_s = 4.56$  for low severity versus  $5.74$  for high severity). Likewise, those jurors in the crime against person treatment condition perceived the absence of stains as much less important than those who were in the crime against property condition,  $F(1, 140) = 10.46, p < .002$ . The means reflecting this relationship were  $4.35$  and  $5.94$  for crime against property and crime against person, respectively. Since the absence of stains on the defendant's clothes is evidence favoring the defendant, it seems possible that the prior record influenced the jurors to discount this favorable item of evidence when

TABLE XIX  
 ANALYSIS OF VARIANCE FOR PERCEIVED  
 IMPORTANCE OF THE ABSENCE OF  
 STAINS ON THE DEFENDANT'S  
 CLOTHES WHEN ARRESTED

Source	D.F.	Sum of Squares	F-Value	PR	F
Model:					
Severity	1	50.17	5.72		*
Nature	1	91.84	10.46		**
Severity X Nature	1	.84	.10		NS
Error	140	1229.08			
* p .02					
** p .002					

the previous offense was severe and when it was a crime against a person. This interpretation is supported by the significant negative correlation between the absence of stains and the defendant's prior record ( $r = -.18$ ).

Defendant's Account of His Own Activities the Night of the Crime. Since the defendant, during his testimony, insisted upon his innocence, this item was considered non-damaging. Nature of the prior record was significantly associated with jurors' perceptions of the importance of this item,  $F(1, 140) = 5.87, p < .02$  (see Table XX). It was rated significantly less important when jurors had been informed of a prior offense against a person than when the prior record was against property ( $M_s = 4.04$  and  $4.89$  for crime against property and person, respectively). The same interpretation may be made here as in the immediately preceding item.

Defendant's Prior Record. The defendant's prior criminal record was not presented as evidence during the trial. It was presented by the Officer of the Court (the experimenter) at the beginning of the defendant's cross-examination, and was immediately followed by appropriate judicial instruction concerning the proper use of the prior record, i.e., as information bearing on credibility but not as evidence of guilt (see Appendix H). The defendant's prior record was included on the evidence importance instrument in order to see how the jurors would rate it. If they had followed instructions, this item should have been marked with a "9" in every

TABLE XX  
 ANALYSIS OF VARIANCE FOR PERCEIVED  
 IMPORTANCE OF THE DEFENDANT'S  
 ACCOUNT OF HIS OWN  
 ACTIVITIES

Source	D.F.	Sum of Squares	F-Value	PR > F
<b>Model:</b>				
Severity	1	.34	.08	NS
Nature	1	25.84	5.87	*
Severity X Nature	1	1.17	.27	NS
Error	140	616.47		
* $p < .02$				

case, since, technically, it should not have been considered as evidence in the trial. The overall mean rating on this item was 7.39, which was the lowest overall mean obtained on this instrument. The range, however, was 2 to 9.

Importance ratings on this item were influenced by the nature of the previous offense (see Table XXI), but not by severity nor by the interaction. Jurors tended to consider the prior record more important when it reflected a crime against person than when the crime was against property,  $F(1, 140) = 7.71, p < .006$  ( $M_s = 7.81$  and  $6.97$  for crime against property and person, respectively).

Summary. As was the case in the general questionnaire items, the characteristics of the prior record seemed to have a rather widespread effect on the importance ratings of these evidence items. In general, when the prior record reflected a high severity crime or a crime against person, damaging items of information were emphasized, obtaining higher importance ratings, while non-damaging items were de-emphasized, obtaining significantly lower ratings.

Interrelationships among these items seem to be aligned in a logically consistent manner. Jurors who considered damaging evidence as most important tended to perceive non-damaging evidence as relatively unimportant, and vice versa.

#### Evidence Recall Instrument

The final task required of the jurors was to answer 35

TABLE XXI  
ANALYSIS OF VARIANCE FOR PERCEIVED  
IMPORTANCE OF THE DEFENDANT'S  
PRIOR RECORD

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	8.03	2.48	*
Nature	1	25.00	7.71	**
Severity X Nature	1	1.36	.42	NS
Error	140	453.83		
* $p < .12$				
** $p < .01$				



true-false questions testing their recall of evidence and information presented during the trial. Ten of these items tested recall of facts which favored the defendant's case, ten of them, facts which were damaging, and the remaining 15, irrelevant or neutral bits of information. Mean accuracy scores for the various conditions may be examined in Table XXII. The scores for "relevant" questions represent a simple addition of the "guilty" scores and the "not guilty" scores.

The only main effect noted was the significant influence of severity upon the number of relevant true-false items recalled correctly (see Table XXIII). Jurors in the low severity condition scored significantly higher on this portion of the test,  $F(1, 140) = 5.12, p < .025$  ( $M_s = 17.63$  versus  $17.08$  for low and high severity, respectively).

Accuracy on the items indicating the defendant's guilt was inversely correlated with jurors' certainty of their verdicts ( $r = -.17$ ); those who were most certain tended to score lowest on this portion of the test. Jurors who perceived the defense attorney as capable tended to score low on the "not guilty" items ( $r = -.19$ ) and on the test as a whole ( $r = -.28$ ). Finally, those jurors whose initial verdict was guilty tended to score low on the "relevant" items ( $r = -.19$ ).

#### Control Group

The control group was included in this experiment so that overall effects of presence of a prior record could be

TABLE XXII  
MEANS - EVIDENCE RECALL INSTRUMENT

Independent Variable	<u>N</u>	Glty	Not Glty	Neut	Relev	Ovrll
Overall	144	8.75	8.60	12.80	17.40	30.15
Severity:						
Low	72	8.88	8.75	12.79	17.63	30.42
High	72	8.63	8.46	12.79	17.08	29.88
Nature:						
Property	72	8.75	8.64	12.85	17.39	30.24
Person	72	8.75	8.57	12.74	17.32	30.06
Sev. X Nature:						
Lo X Prop.	36	8.83	8.72	12.78	17.56	30.33
Lo X Per.	36	8.92	8.78	12.81	17.69	30.50
Hi X Prop.	36	8.67	8.56	12.92	17.22	30.14
Hi X Per.	36	8.58	8.36	12.67	16.94	29.61

TABLE XXIII  
ANALYSIS OF VARIANCE FOR RECALL OF  
VERDICT-RELEVANT ITEMS

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	10.56	5.12	*
Nature	1	.17	.08	NS
Severity X Nature	1	1.56	.76	NS
Error	140	288.64		

\*  $p < .025$

assessed. Examination was planned to explore the influence of prior record upon the verdict and sentence behavior of the jurors. The data indicate, however, that the verdict and sentencing behavior of the control group was exactly the same as that for the low severity crime against property groups; in each case there was one guilty verdict and the sentence was five years. Since the overall analysis of variance indicated no significant influence by the independent variables, no comparison between the experimental groups and the control group was conducted.

#### Alternates

Of the total of 15 alternates who participated in this research study, 13 were involved in the low severity condition, four in the crime against property cell and nine in the crime against person cell. Two alternates participated in the high severity condition, one each in the crime against property and crime against person cells. These alternates viewed the trial and received information about the prior record along with the jurors, though seated in a separate group, but did not deliberate. Immediately after the trial, while the juries were deliberating, the alternates rendered individual verdicts and completed the three paper/pencil tasks.

Analyses of variance were computed in order to detect significant effects of the treatments upon the dependent variables. Results of significant effects, as well as the

means involved, are presented in Appendix K.

A comparison between data for the juries and that for alternates reveals that, overall, the independent variables had much more significant influence when deliberation took place. While the relationship between nature of the prior record and jury verdicts achieved marginal significance, there was no statistical significance when the verdicts of the alternates was considered. Paranthetically, it should be noted that, even though there were no statistically significant effects of the independent variables upon the verdicts of alternates, 12 of the 15 found the defendant guilty, compared with 10 of 24 juries who found him guilty.

Juror ratings on eight of the items from the general questionnaire were systematically influenced by the independent variables; for the alternates, only two of these items achieved significance, both interactions. The Severity X Nature interaction relationship with relevance of the prior record in determining the defendant's guilt was, for the alternates, only marginally significant,  $F(1, 11) = 3.97$ ,  $p < .07$ . The second item where the interaction was significant was the alternates' certainty that the victim was not mistaken in his testimony,  $F(1, 11) = 3.90$ ,  $p < .07$ . Possibly, juror deliberation acted as a reciprocal process of clarifying information which polarized post-deliberation reactions to the information contained in the trial.

Juror importance ratings on seven of the nine items of evidence were influenced significantly by the independent

variables. In contrast, only two of the evidence items were affected when the raters were alternates. First, the defendant's lack of corroboration was influenced significantly by the Severity X Nature interaction,  $F(1, 11) = 9.2$ ,  $p < .01$ . Second, severity of the prior record was significantly related to the perceived importance of the physician's testimony, with alternates in the high severity treatment condition tending to rate this item as much more important than those in the low severity condition,  $F(1, 11) = 7.33$ ,  $p < .02$ . This relationship is interesting, since, as previously noted, the physician supplied testimony that neither favored nor damaged the defendant's case. Apparently, to this extent at least, deliberation served to clarify the proper relationships among these evidence items, since the ratings of the jurors on this item were not systematically influenced by the independent variables.

Overall, it seems possible that group deliberation provided the advantage of reciprocal clarification and organization of perceptions which resulted in ratings which were more significantly affected by the treatment conditions.

## CHAPTER VI

### DISCUSSION

#### The Juries

All juries which participated in this research viewed the same trial in which the evidence was ambiguous. It consisted of conflicting testimony and no physical evidence. The juries should have, therefore, found the defendant not guilty, based on the principles of presumption of innocence and reasonable doubt as outlined in the judge's instructions. Ten of the 24 experimental juries, however, returned guilty verdicts.

All juries expressed the desire for more testimony from more witnesses during their deliberations as well as during the post-experimental debriefing sessions. They wanted not only reliable, credible witnesses, but eyewitnesses who actually viewed the assault. They wanted, it seems, an "open and shut case," which could be decided with absolute certainty, even though jurors in actual litigation seldom try cases which are unambiguous. Their task during deliberation was to select the facts from lengthy, often ambiguous testimony, a task which closely matches the problem of most real-life jurors.

A total of 10 of the 24 experimental juries returned guilty verdicts. Although neither of the independent variables, nor their interaction, affected significantly jury verdicts, examination of the results indicates that there was a definite trend for both severity and nature of the prior record to influence verdict. The trend was apparent especially when the nature of the crime is considered (three guilty verdicts in the crime against property condition compared with seven in the crime against person condition). If the number of juries had been higher, the results probably would have been statistically significant. Even with the low number of guilty verdicts in this study, the relationship between nature of the prior record and verdict nearly achieved significance.

Two of the 24 juries reported themselves "hung" after an initial period of deliberation; both of these were split 4-2 (four guilty, two not guilty) on the initial ballot. Jury 9, in the low severity crime against person treatment condition, eventually returned a verdict of guilty, indicating that those in the minority changed their votes to achieve unanimity. However, in Jury 24, which was in the high severity crime against person condition, the minority was able to persuade the majority to switch sides, the final verdict in this group being not guilty. Apparently, the two in the minority on the first ballot were subsequently allied and were able to convince the four that there was reasonable doubt as to the defendant's guilt. The deliberation time expended by this jury

was the longest of any recorded--89 minutes.

In 19 of the 24 juries, the majority opinion as expressed on the first ballot turned out to be the final verdict of the group. In five cases, however, the majority changed their opinions in order to reach a final unanimous jury verdict. All of these juries began with an initial split of 4-2 (four guilty, two not guilty), and all eventually found the defendant not guilty. Three juries were in the low severity crime against property condition, and two were in the high severity crime against person cell. The change of the initial majority opinion in these juries appeared unrelated to longer deliberation times. Although the time required by Jury 24 was, as previously noted, the longest time recorded, the deliberation times for the remaining four juries were not inordinately long (range was 14 to 22 minutes); apparently, those members were convinced rather easily.

In general, jurors who returned guilty verdicts were more certain of their verdicts than jurors who returned verdicts of not guilty. Further, guilty-voting jurors tended to perceive the defendant's prior record as relevant in judging his credibility as a witness and as evidence of guilt in the present case. These jurors' self-reports indicated that the prior record did enter into their deliberation and decision process as evidence of guilt. The taped deliberations showed, however, that they did not overtly discuss the prior record as evidence of guilt. This finding seems to indicate that guilty-voting jurors either did not follow judge's



instructions or could not distinguish between the use of the prior record in judging credibility and its use as evidence of guilt.

Apparently, the items of evidence emphasized by the juries who returned guilty verdicts differed from those emphasized by the juries voting not guilty. Four items of evidence correlated significantly with a final verdict of guilty, and three with a verdict of not guilty. Juries who voted guilty emphasized the eyewitness testimony of the victim and bartender, the physician's testimony, and the defendant's lack of corroboration. Since all of these items were damaging to the defendant's case except the physician's testimony, which was ambiguous, these ratings seem generally consistent with the verdicts that were returned. The juries which returned verdicts of not guilty emphasized the importance of the amount of alcohol consumed, which was ambiguous, the absence of stains on the defendant's clothes when arrested, which was non-damaging, and the amount of money found on the defendant when arrested, which was damaging. This latter item would seem to be inconsistent with verdicts of not guilty, an inconsistency which will be explored later. Despite the apparent inconsistency just noted, these ratings overall demonstrate consistency, with damaging evidence perceived as more important for guilty-voting jurors and non-damaging evidence more important for those who had returned verdicts of not guilty.

Deliberation time was not affected by either the

independent variables or their interaction. The actual trial evidence in all conditions was held constant; apparently the characteristics of the prior record had no significant effect on the time needed by the juries to discuss the evidence and reach their verdicts.

Likewise, no statistically significant effects resulted from the analysis of sentences recommended by the ten juries who returned guilty verdicts. However, since the mean sentence recommended by juries in the high severity condition was almost twice that in the low severity condition, a larger sample probably would have resulted in a statistically significant result for this dependent variable.

The length of sentence was positively correlated with juror certainty of verdict; those jurors who recommended longer sentences were more certain of their verdicts than were those who recommended shorter sentences. This relationship demonstrates consistency.

#### The Jurors

Eleven items were included on the general questionnaire, which elicited jurors' reactions to the evidence and the trial. Overall, the correlations indicated that jurors demonstrated internal consistency. In addition, juror ratings of these items were consistent with the verdicts they returned and with their importance ratings of the items of evidence included on the evidence importance instrument.

Of the eleven items, the two most critical ones were

those asking the jurors to rate the relevance of the defendant's prior record in determining his credibility as a witness and as evidence of guilt in the trial. A third crucial item was the perceived relevance of the judge's instructions during deliberation. These three questions were critical because they are directly relevant to the research question posed in this study.

The relationship between severity of the prior record and perceived relevance of the judge's instructions was significant. High severity was associated with higher juror ratings on this item. Further, severity interacted with the nature of the crime, the high severity crime against person treatment producing the highest ratings, and the low severity crime against property condition, the lowest ratings. The jurors in the high severity cells may have focused on the judge's instructions more than those in the low severity conditions; in a sense, perhaps high-severity jurors "needed" the instructions more because a more severe prior record was more difficult to handle properly. If these jurors paid more attention to the judge's instructions, they would be expected to perceive the instructions as more relevant. As previously noted, however, jurors who voted guilty appear to have been unable to follow the instructions regarding proper use of the prior record.

Despite the significant relationships between the independent variables and perceived relevance of judicial instructions, which emphasized the correct use of the prior

record, the relevance of the prior record both for determining the defendant's credibility and as evidence of his guilt in the present case generally was affected by the independent variables. Both of the independent variables, and their interaction, had a significant effect on perceived relevance of the prior record in judging the defendant's credibility as a witness. Jurors gave higher ratings when the prior record was high in severity or when it was a crime against a person. This relationship was expected, of course, since jurors are allowed to use the prior record in judging credibility. Under these conditions, a prior record reflecting high severity and/or a crime against person would be expected to be perceived as more relevant since the defendant's credibility would suffer greater damage (Hartshorne et al. notwithstanding). Statistically significant negative correlations between perceived relevance of the prior record for credibility and certainty that the defendant was telling the truth indicates that the jurors took these questions seriously, a conclusion which is supported by a similar consistency of answers on other items.

Severity of the defendant's prior record had no significant effect on perceived relevance of the prior record as evidence of guilt. However, the nature of the prior record and the interaction of the independent variables did affect these ratings significantly. When the prior record was a crime against person, it was seen as more relevant than when it indicated a crime against property. Further, jurors in

the high severity cells were the most disparate in their judgments of the relevance of the prior record as evidence of guilt, the lowest ratings occurring in the high severity crime against property cell and the highest in the high severity crime against person condition. Jurors tended, then, to perceive the defendant's prior record as relevant evidence for guilt when that prior record reflected a crime against person, and especially when it was a high severity crime against person. Moreover, the highly significant positive correlation between relevance of the prior record in determining the defendant's credibility and as evidence of his guilt suggests that jurors are unable to distinguish cognitively between these two ways of considering the prior record. This finding, of course, contradicts the assumption by the judicial system that they are able to make this distinction.

In addition to the eleven questions included on the general questionnaire, eight items of evidence were chosen from the videotaped trial to appear on the evidence importance instrument. These items were pivotal points of evidence which favored either the prosecution or the defense, or were ambiguous. Two of them involved eyewitness testimony: the bartender's testimony and the victim's identification of the defendant as his assailant. In addition to these eight items of evidence, a ninth was also included, "Defendant's Prior Record."

The amount of money in the defendant's possession when arrested was damaging to the defendant's case because it was

large and the defendant was unable to explain his possession of it. This item was rated as the second most important item on the list; only the victim's identification of the defendant as the perpetrator of the crime was rated as more important.

The significant correlations between this item and other items of evidence are aligned consistently. Its positive relationship with the importance of the victim's identification, and its negative relationship with perceived importance of the absence of stains on the defendant's clothes and the defendant's account of his own activities on the night of the crime are all reasonable.

One source of apparent inconsistency is the relationship between the amount of money in the defendant's possession when arrested and several items on the general questionnaire. Since this item of evidence was damaging, its negative relationship with verdicts of guilty, and its positive relationships with ratings of the relevance of the prior record for credibility, and with certainty that the victim and bartender were not mistaken seem to demonstrate inconsistency.

This apparent inconsistency may be understood, however, by examining closely these relationships. Guilty-voting jurors tended to perceive the prior record as relevant for determining the defendant's credibility. Their use of the prior record in this manner apparently led them to disbelieve the defendant's testimony. Thus, the amount of money in his possession when arrested was given little importance, since

his overall credibility suffered in light of his prior record. The prior record/credibility variable was related in the same negative way to all the evidence items which rested directly and solely on the defendant's testimony. Jurors who used the prior record for credibility tended to discount the defendant's whole testimony; therefore, they rated the amount of money in his possession as unimportant.

The physician's testimony was considered important since the physician testified to the seriousness of the victim's injuries. In terms of the defendant's guilt or innocence, however, it did not constitute "evidence." The physician did attest to the victim's injuries, but he did not present evidence either favoring or damaging the defendant's case. The mean overall importance rating for this item was 6.3, the lowest rating of all the eight items of evidence.

The victim's identification of the defendant as his assailant was one of the most damaging items of evidence in the trial; the mean rating of 3.31 was the highest importance rating achieved. The significant correlations between this item and several others are aligned appropriately. It was positively related with two other damaging items, the bartender's testimony and the defendant's prior record, and negatively related with two non-damaging items. Overall, then, the relationships demonstrate consistency.

The amount of alcohol consumed by the victim and defendant on the evening the robbery took place was somewhat ambiguous and therefore was generally non-damaging. The nature

of the prior record affected significantly the importance ratings of this item. Jurors in the crime against person treatment condition assigned less importance to it than those in the crime against property condition. Further, both the severity of the prior record and the interaction achieved marginal significance. Jurors in the high severity condition tended to perceive the amount of alcohol consumed as less important than those in the low severity treatment. The means reflecting the interaction indicated that little difference existed between the two cells in the crime against property cells, but a substantially greater difference existed between the two cells in the crime against person condition. Since the amount of alcohol consumed was relatively non-damaging, it is possible that a prior record indicating high severity and/or a crime against person influenced the jurors to discount this item and thus to rate it as less important; jurors in the low severity and/or crime against property condition, on the other hand, inflated their ratings.

This item correlated significantly with several other items in a consistent manner. The amount of alcohol consumed was positively related to the absence of stains on the defendant's clothes, a non-damaging item, but negatively related to three damaging items: the defendant's lack of corroboration, the bartender's testimony, and the defendant's prior record.

The defendant's lack of corroboration for his own account of his actions on the night of the crime, a damaging



item of evidence, was significantly affected by severity of the prior record. Jurors in the high severity treatment condition perceived it as more important than those in the low severity condition. Since the defendant's lack of corroboration was damaging, a prior record indicating high severity apparently led the jurors to increase their importance ratings on the item.

In addition to the significant influence of severity of the prior record, this item was correlated negatively with importance ratings for the absence of stains on the defendant's clothes when arrested. Given the nature of these two items, the ratings appear consistent.

The bartender's testimony was very damaging to the defendant's case, and its importance ratings were affected significantly by both independent variables and by their interaction. Higher ratings were associated with a prior record indicating a crime of high severity and a crime against person. Jurors perceived this item as most important when in the high severity crime against person cell, and least important when in the low severity crime against property condition.

As in the case of other items considered, the significant correlations between this item and several other items demonstrate consistency. The bartender's testimony is damaging, so its significant positive relationship with the defendant's prior record is reasonable. Further, the negative relationships between the bartender's testimony and two

non-damaging items, the absence of stains on the defendant's clothes and the defendant's account of his own activities on the night of the crime, are also consistent.

When the defendant was arrested, no blood stains appeared on his clothing--clothing which he apparently had been wearing the night before, when the crime was committed. Since this item was favorable to the defendant's case, it was considered to be non-damaging.

Importance ratings on this item were affected significantly by both the severity and nature of the prior offense. Jurors in the high severity condition rated the absence of stains as significantly less important, as did those in the crime against person condition. Since the absence of stains favored the defendant's case, it may be that the prior record influenced the jurors to discount this non-damaging item when the previous crime was severe and when it was a crime against a person. This interpretation is supported by the significant negative relationship between importance ratings of the absence of stains and those for the defendant's prior record.

The defendant denied having committed the crime and presented an account of his own activities which precluded his guilt; this item, therefore, was non-damaging. The nature of the prior record significantly influenced jurors' perceptions of the importance of this item. Ratings indicated significantly less perceived importance when the previous crime was an offense against a person than when it was a crime against property.

Even though the defendant's prior record was not presented as evidence in the trial, it was included on the evidence importance instrument in order to explore the jurors' ability to follow judicial instructions. If they had followed instructions, this item should have been marked with a "9" (least important) in every case. The overall mean rating for this item was the lowest of all the items on the questionnaire, but the range of ratings was from 2 to 9. Jurors in the crime against person condition perceived the prior record as much more important than did those in the crime against property treatment. Again, the type of prior record led jurors to emphasize the importance of this item.

The evidence recall questionnaire was composed of 35 true-false items eliciting jurors' recall of evidence and information presented during the trial. Ten of these items tested recall of facts which favored the defendant's case, ten of them, facts which were damaging, and the remaining 15, irrelevant or neutral bits of information. The scores for "relevant" questions were computed by adding the "guilty" and "not guilty" scores together.

Jurors in the low severity treatment condition scored significantly higher on the relevant questions than did those in the high severity condition. Recall of the facts perhaps was clouded by the high severity prior record which interfered with their memories more than did the low severity prior record. In addition, accuracy on the "guilty" items was inversely correlated with certainty of their verdicts;

those who scored highest tended to be least certain of their verdicts. Since the evidence presented in the trial was conflicting and inconclusive, jurors who remembered this evidence more accurately might be expected to report less certainty of the correctness of their verdicts.

#### The Alternates

A comparison between data for the juries and that for alternates revealed that, overall, the independent variables had much more significant influence when deliberation took place. While the relationship between nature of the defendant's prior record and jury verdicts achieved marginal significance, the verdicts of alternates were not influenced significantly by the independent variables.

Moreover, alternates' responses on only two items from the general questionnaire were systematically influenced by the independent variables, compared with eight items when juror ratings were considered. Likewise, two of the nine evidence importance items were affected significantly when the raters were alternates, but seven were influenced significantly when jurors rated them.

Apparently, group deliberation was responsible for these disparities, since, in all other respects, the alternates were treated the same as the jurors. It appears that jury deliberation provided the advantage of reciprocal clarification and organization of perceptions, resulting in ratings which were more significantly affected by the treatment

conditions. During deliberation, jurors emphasized various items of evidence which differed depending upon the experimental condition. The discussion tended to result in perceptions which were closer in agreement among the jurors in each condition. Since alternates did not deliberate, they did not have the benefit of this reciprocal process of clarification.

### Summary and Conclusions

Since the trial evidence in all experimental conditions was ambiguous, involving conflicting testimony and no actual physical evidence, all juries should have returned verdicts of not guilty, based upon the legal principles of presumption of innocence and reasonable doubt. Ten of the 24 juries, however, returned verdicts of guilty. Although the influence of the independent variables was not statistically significant, varying the severity and nature of the defendant's prior record did result in a definite trend toward more guilty verdicts in the high severity and in the crime against person conditions. An increase in the number of juries used in this study probably would have resulted in statistical significance. Even with the small number of ten guilty verdicts analyzed in this study, the relationship between the nature of the prior record and verdict achieved near significance.

In general, jurors who returned guilty verdicts indicated more certainty of their verdicts and perceived the

defendant's prior record as more relevant both for determining the defendant's credibility as a witness and as evidence for his guilt in the present case. This latter finding, coupled with the highly significant positive correlation between relevance of the prior record for credibility and as evidence of guilt indicates that, contrary to the legal assumption, jurors may not be able to distinguish cognitively between these two uses of the prior record. If they do make this distinction, they fail to follow judicial admonitions regarding its proper use.

Overall, juror responses on the general questionnaire demonstrated consistency with respect to both their verdicts and their importance ratings of the items of evidence. In addition, their responses on the general questionnaire showed internal consistency; certainty of verdict was positively correlated with confidence in the testimony of the witnesses. The jurors' use of the prior record in judging the defendant's credibility seemed to have a rather generalized effect, leading them to discount, and therefore to rate as unimportant, several items of evidence which rested solely on the defendant's testimony.

As with the general questionnaire, jurors' importance ratings of the nine items included on the evidence importance instrument demonstrate overall consistency. In general, damaging items were positively correlated with one another and negatively correlated with non-damaging items. Jurors who tended to perceive one damaging item as important also

rated other damaging items as important; the same was true for non-damaging items. The introduction of a prior record reflecting a high severity crime and/or a crime against person increased jurors' importance ratings of damaging evidence and, consequently, decreased their ratings of non-damaging items.

Jurors tended, then, to integrate the trial evidence in a consistent manner. This consistency is demonstrated by the close relationships between verdict and the items on the various rating tasks as well as internal consistencies among the items themselves.

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APPENDIX A

TRIAL SCRIPT

Information

The State of Oklahoma versus Neal Garnett, Defendant.

Charles H. Headrick, District Attorney of Payne County, State of Oklahoma, under and virtue of the authority vested in him as District Attorney, gives this Honorable Court to know and be informed in the name and by the authority of the State of Oklahoma, that in the County of Payne and State of Oklahoma, on the twelfth day of November, 1975, Neal Garnett, while acting alone, did commit the crime of Robbery by Force in the following form and fashion, to-wit: that is to say that the said defendant, Neal Garnett, while acting alone, then and there being, did willfully, wrongfully, unlawfully, and feloniously rob one James Lawrence, by wrongfully taking and carrying away certain money and personal property of value belonging to and in the possession of said James Lawrence, and in his immediate presence, without his consent and against his will, said robbery being accomplished by said defendant, while acting alone, by means of force and violence used against said James Lawrence by then and there kicking him and knocking him down onto the ground, beating and kicking him about the head and body and then and there wrongfully taking and carrying the money and property aforesaid, in Violation of Title 21, Oklahoma State Statutes, Section 791, contrary to the form of the statute in such cases made and provided and against the peace and dignity of the State of Oklahoma.

Introductory Remarks

JUDGE: Let the record show that the defendant is personally present in the courtroom with his court-appointed attorney, Mr. Jackson. Is the State ready?

PROSECUTOR: State's ready, Your Honor.

JUDGE: Is the Defense ready?

JACKSON: Yes, Your Honor.

JUDGE: Ladies and Gentlemen of the Jury, this is the case of the State of Oklahoma versus Neal Garnett. The charge is Robbery by Force. At this stage of the proceedings, the State will tell the plea of the defendant and make an opening statement, outlining in some detail the evidence and witnesses to be called to prove their case today. Mr. Prosecutor ...?

PROSECUTOR: Ladies and Gentlemen of the Jury, to this charge the defendant has entered a plea of not guilty. This is our whole reason for being here. At this point, I want to explain briefly to you what the evidence of the State will be. This case does not involve many people--we will call only four witnesses. First of all, the complaining witness, James Lawrence, is the man who was with the defendant for a short time during the evening of the 12th of November, 1975. I anticipate that the evidence will show that Mr. Lawrence was in a bar in Cushing on that evening, and while at the bar he met the defendant and they had some drinks together. I further anticipate his testimony to indicate that, upon deciding to leave this establishment to go home, he was followed by the defendant, and that when he got outside the bar, he was hit from behind and knocked down. He was then beaten and kicked by the defendant, and was finally robbed of some personal property. His testimony will further indicate that, after this beating took place, he met one of the other witnesses at another nearby bar and that this other witness took him to the hospital. Both Mr. Lawrence and this other witness will be able to tell you of Mr. Lawrence's condition when they met after Mr. Lawrence had been attacked.

As to the witness Jack Simpson--I believe that his testimony will show that he is a bartender in Cushing and that he personally saw the defendant, Neal Garnett, follow Jim Lawrence out of the bar when Mr. Lawrence left that night.

Our final witness will be Dr. Taylor, who was the physician on duty in the emergency room at the hospital where the victim was taken for treatment of his injuries. This witness will testify as to the extent of James Lawrence's injuries and the medical treatment that was required.

Now, I anticipate that the State will not call any other witnesses, and after we present this case to you, and the defense has done so, too, you will reach a verdict that will find this defendant guilty as charged.

JUDGE: At this stage of the case, Ladies and Gentlemen of the Jury, the defendant has an opportunity to make an opening statement or to reserve this opening statement until a later stage of the proceedings. I now inquire, does the defendant wish to make an opening statement or reserve?

JACKSON: The defendant will reserve, Your Honor.

JUDGE: Fine, then, call your first witness for the State.

Testimony of Victim

PROSECUTOR: Q. State your name please.

A. James Lawrence.

Q. How old are you?

A. Twenty.

Q. And where do you live at the present time?

A. In Cushing.

Q. Are you employed?

A. Yes.

Q. What do you do?

A. I'm a clerk at a store in Cushing.

Q. Directing your attention to the evening of the 12th of November, 1975, did you have occasion to be at the B. & L. Club in Cushing, Oklahoma, on that evening?

A. Yes.

Q. What were you doing there?

A. I was there having a few beers and playing pool.

Q. What time did you get there?

A. Must have been about 7:30.

Q. What happened when you got there?

A. Like I said, I ordered a beer and sat for awhile, then got another beer and started playing pool.

- Q. Who were you playing pool with?
- A. I was playing pool with Neal Garnett, and we had some beers together.
- Q. Had you known the defendant, Neal Garnett, before this evening at the B. & L. Club?
- A. I didn't really know him personally. I had seen him before in bars in Cushing, and had talked to him a little those other times. I knew who he was, but that's about all.
- Q. You said a moment ago that you and Mr. Garnett had some drinks together. Who paid for these drinks?
- A. I did.
- Q. Did you pay for all of them?
- A. Yes.
- Q. Was there any particular reason why you were paying for all the drinks?
- A. Yes. In talking with Neal Garnett, I found out that he was unemployed and hadn't worked for over two months. Since I had some money, and he didn't, I bought the beer for both of us.
- Q. How many drinks would you say you bought?
- A. I'd say about four or five rounds, at least.
- Q. Was the defendant present when you paid for them?
- A. Oh, yes.
- Q. Would you say, then, that the defendant had the opportunity to see that you had money with you?
- A. I suppose so, yes.
- Q. What time did you leave the B. & L. Club that night?
- A. Around 10:30 or 11:00.
- Q. Why did you leave the club?
- A. It was getting late, and I had to get up early the next morning to go to work.

- Q. Now, Mr. Lawrence, what happened when you decided to leave the bar?
- A. I told Neal that I was going to have to leave because of having to get up early the next morning. I got up to leave, and as I was walking out the door, I noticed that he was right behind me.
- Q. Did you think that was strange?
- A. Sort of, at first. Then I thought he must want a ride home.
- Q. Did you have a car or any form of transportation with you?
- A. Yes, I did. I had brought my pickup with me, and I had gotten the keys out of my pocket as I was leaving the bar.
- Q. What happened after you noticed that the defendant was following you outside?
- A. As soon as I got out the door, I started to turn around to ask him if he wanted me to take him home. Just as I began to turn around, I was hit on the head from behind.
- Q. Do you know what you were hit with?
- A. No, I don't, but it knocked me down to the ground, and I was--I guess I was sort of dazed for a minute. The next thing I knew, I looked up and saw Neal Garnett's face and then he kicked me in the face.
- Q. You looked up and saw his face?
- A. Yes.
- Q. You're sure that the person you saw was Neal Garnett, the defendant in this case?
- A. Yes.
- Q. What happened after you were kicked in the face?
- A. I remember being hit again and again, and being kicked some more, in the stomach and on the back. Then I felt my wallet being pulled out of my pocket.
- Q. And then?



A. Then the hitting and kicking stopped for a minute, and I tried to get up.

Q. Were you able to get to your feet?

A. After a few seconds, I was.

Q. Then what did you do?

A. I got up and tried to run away. Once I got away from him, I tried to get as far away as I could. I ran some, then walked, then ran again.

Q. Why did you run away, Mr. Lawrence?

A. I was afraid he'd kill me.

Q. You believed that you might be killed?

A. Yes.

Q. What did you do once you had run away?

A. After I had gone a little way, I figured that I was safe. Then I thought about what to do.

Q. And what did you decide to do?

A. I decided that the best thing I could do would be to keep walking and see if I could get some help from someone.

Q. Did you find someone to help you?

A. Yes. I was walking along and came to another bar, Dorothy's Place, and saw someone standing out front, so I started running again, as best I could.

Q. Did you know the person who was standing in front of this second bar?

A. Yes. It was Bob Farrell, a man I had met through my sister a few months before.

Q. What happened after you saw Mr. Farrell?

A. I walked toward him. He recognized me and asked what in the world had happened. I told him I had been beaten and I needed help.

Q. Were you in pain at this point, Mr. Lawrence?

A. Yes.

- Q. Great pain?
- A. Yes. I could hardly stay on my feet.
- Q. What did Mr. Farrell do?
- A. He helped me get over to his car, and then he took me to the hospital.
- Q. Were you seen by a physician at this hospital?
- A. Yes. I believe his name was Dr. Taylor. He was in the emergency room when I got there.
- Q. How long did you stay at the hospital?
- A. Well, they kept me for five days. Something about-- they said I might have internal injuries. So they kept me.
- Q. Now, Mr. Lawrence, how much money would you say was in your wallet that night, when you decided to go home?
- A. I'd say probably about \$80-\$85.
- Q. How do you come up with that figure?
- A. Because I know how much I started out with, and how much I spent that night.
- Q. Allright, now, did you give anyone permission to remove your wallet that night?
- A. No, sir, I didn't.
- Q. And you are absolutely sure that it was Neal Garnett's face you saw right before being kicked in the face?
- A. Yes.

PROSECUTOR: Your witness.

- JACKSON: Q. Mr. Lawrence, you testified that you were drinking both before you met Mr. Garnett that night and you were drinking while the two of you were playing pool. Is that right?
- A. Yes, I was drinking beer.
- Q. And how many beers would you say you had during the course of that evening?

- A. About five or six, I think.
- Q. Enough to get you high?
- A. Yes, I suppose so.
- Q. Enough to make you drunk?
- A. No sir. I was not drunk.
- Q. Alright, now, where did you say you were when you were hit the first time?
- A. Outside the B. & L. Club--just outside the door.
- Q. You also said you were dazed for a moment after you were hit the first time. Is that correct?
- A. Yes.
- Q. Do you have any idea what could have gone on while you were dazed at this time?
- A. No sir, I don't.
- Q. Do you have any idea how long you were dazed?
- A. I can't say exactly, but it couldn't have been very long.
- Q. And you're absolutely sure that it was Neal Garnett who kicked you?
- A. Yes.
- Q. Mr. Lawrence, how is it that, after being kicked and hit repeatedly, you were able to get away from your assailant so easily?
- A. I don't know. I guess, after he took my wallet out of my pocket, he was looking through it or something. Maybe he thought I was out and wasn't paying attention.
- Q. Alright, when you got away, why didn't you get in your pickup and drive away, instead of walking?
- A. I was running away--I just wanted to get away from there as fast as I could. Besides, I guess my keys were knocked out of my hand when I was attacked. I had them in my hand when I went through the door on my way outside, but when I got up to try to get away, I didn't have them.

Q. Alright, then what did you do, after you got up and started running?

A. I ran down the street until I saw someone who I thought could help me.

Q. And this was Mr. Farrell?

A. Yes.

Q. How far is it from the B. & L. Club to Dorothy's Place?

A. About five or six blocks, I think.

Q. And how long would you say it took you to get from the B. & L. Club to Dorothy's Place?

A. I don't know. I guess it must have taken about 15 or 20 minutes.

Q. Mr. Lawrence, were you drunk that night?

A. No sir.

JACKSON: I have no further questions.

JUDGE: Any further questions for the State?

PROSECUTOR: No, Your Honor.

JUDGE: You may step down. Next witness.

Testimony of Robert Farrell

PROSECUTOR: Q. State your name, please.

A. Robert Farrell.

Q. How old are you, Mr. Farrell?

A. Thirty years old.

Q. What is your occupation?

A. I own a service station in Cushing.

Q. Do you know James Lawrence?

A. Yes, I do.

- Q. How long have you known him?
- A. I first met him last June. I had known his sister before then, and I met him at her house.
- Q. Mr. Farrell, where were you on the evening of November 12, 1975?
- A. I spent most of the evening at a bar in Cushing called Dorothy's Place.
- Q. And did you see James Lawrence that evening?
- A. Yes, I did.
- Q. Please tell the court the circumstances under which you saw James Lawrence on that evening.
- A. I had been at this bar since about 9:00. I decided to leave about 11:30 and I went outside and all of a sudden I saw Jim walking toward me.
- Q. What kind of condition was he in?
- A. He was all bloody--his head and face had blood all over them, and he was kind of staggering.
- Q. What did you do?
- A. I ran up to him and asked what happened.
- Q. Then what?
- A. He told me what happened and I took him to the hospital.
- Q. In your opinion, Mr. Farrell, after seeing him and talking with him, what would you say his condition was?
- A. He couldn't hardly walk. I could see he was in pain. I had to help him get to my car so I could get help for him.
- Q. So when you saw him, it was obvious to you that he had been hurt--he had blood on him.
- A. Yes, sir.

PROSECUTOR: Your witness.

JACKSON: I have no questions, Your Honor.

JUDGE: Witness is excused. Next witness.

## Testimony of Jack Simpson

PROSECUTOR: Q. State your name, occupation, and place of employment, please.

A. Jack Simpson. I'm a bartender at the B. & L. Club.

Q. Were you working at the B. & L. Club on the evening of the 12th of November, 1975?

A. Yes, I was.

Q. And did you see Jim Lawrence and Neal Garnett there that evening?

A. Yes, I did.

Q. Do you know these two people?

A. Yes, I do. Not very well, but I know them.

Q. How long have you known them?

A. I've seen both of them at the B. & L. before. Jim Lawrence had been in four or five times before, that I know of. And I had seen Neal Garnett a couple of times before that night.

Q. Were the two of them together that night?

A. Well, Jim Lawrence got there before Neal Garnett did. But, yes, after awhile they were drinking together and playing pool.

Q. How long had Jim Lawrence been there when Neal Garnett arrived?

A. Oh, I guess about a half hour or so.

Q. You said they were drinking together. Did you personally serve them these drinks?

A. Yes sir, I sure did.

Q. And you personally took the money paid for the drinks?

A. Yes.

Q. Mr. Simpson, who paid for those drinks?

A. Near as I can remember, Jim Lawrence paid for them.

Q. All of them?

A. I believe so, yes sir.

Q. Did you notice when Jim Lawrence left the B. & L. Club?

A. Yes, I did.

Q. What time was that?

A. I'm not sure, but I think it was about 10:30 or so.

Q. Did he leave alone?

A. No. Neal Garnett was with him.

Q. Was Mr. Garnett in front of him or behind him?

A. Behind him, I think.

Q. And after they left, was that the last time you saw them that night?

A. Yes, sir.

PROSECUTOR: Thank you, Mr. Simpson. Your witness.

JACKSON: Q. Mr. Simpson, how busy were you that night?

A. What do you mean?

Q. How many people were in the B. & L. Club? Did you stay busy serving drinks?

A. Yes, I stayed pretty busy. It was about like any other night, I guess.

Q. So even though you were busy, you still noticed when each of these men arrived at the club and what they did and when they left?

A. Yes, sir.

Q. And you're absolutely sure that Jim Lawrence bought all the drinks that night for the two of them?

A. Yes, sir, pretty sure.

Q. And you clearly remember the two of them leaving?

A. Yes.

Q. And you are certain that they left at the same time and that the defendant, Neal Garnett, was walking behind Jim Lawrence?

A. Yes.

Q. You are sure that you could not be mistaken.

A. Yes, I am sure.

JACKSON: No further questions, Your Honor.

JUDGE: Any re-direct?

PROSECUTOR: No, Your Honor.

JUDGE: You may step down. Next witness.

Testimony of Dr. Hugh Taylor

PROSECUTOR: Q. Your name please?

A. I am Dr. Hugh Taylor.

Q. What do you do, sir?

A. I am a physician and surgeon.

Q. And where do you practice?

A. Drumright, Oklahoma.

Q. How long have you been practicing there, Dr. Taylor?

A. Since 1969.

PROSECUTOR: I wonder if the defense attorney would be willing to stipulate to the doctor's qualifications?

JACKSON: So stipulated.

JUDGE: Very well.

PROSECUTOR: Q. Dr. Taylor, I'd ask you, in the early morning hours of the 13th of November, 1975, did you have occasion to make an examination of one James Lawrence?

A. Yes, I did.



- Q. And where did this examination take place?
- A. In the Emergency Room at the hospital in Drumright.
- Q. What did you observe about the physical condition of James Lawrence?
- A. The examination revealed bruises about the face, neck, chest, the lower back, the abdomen, both arms and legs, and over the left ear. There was blood draining from the nose and left ear. The eyes were swollen and bruised. The left eardrum was ruptured, the nose was fractured, and there was marked tenderness over the abdomen.
- Q. Now Doctor, do you have an opinion as to whether these injuries had been recently incurred by Mr. Lawrence?
- A. Yes. The blood was fresh.
- Q. And did you prescribe any further treatment for him?
- A. Yes. We admitted him to the hospital because of the abdominal findings. The examination I performed indicated the possibility of inter-abdominal injury, so we put him to bed there in the hospital, so that we could monitor his condition.
- Q. Did you later come to any conclusion regarding the possibility of these further injuries?
- A. Yes. We monitored his blood count closely and watched his progress. There was no indication of internal bleeding, so I transferred his case.

PROSECUTOR: Your witness.

JACKSON: I have no questions.

JUDGE: Witness is excused. Call your next.

PROSECUTOR: If it please the Court, the State rests.

JUDGE: Is the Defense ready to proceed?

JACKSON: Yes, Your Honor.

JUDGE: Do you have an opening statement?

JACKSON: Yes, Your Honor, we do.

JUDGE: Fine, then, you may proceed.

JACKSON: Ladies and Gentlemen of the Jury, I'd like to, if I could, briefly state what evidence we have to present at this time. We are not questioning the fact that Mr. Lawrence was beaten and robbed. The issue in this case is whether or not the defendant, Neal Garnett, was responsible for the beating and robbery.

The basic thrust of the evidence starts the same as the evidence you've already heard from the State. However, I believe that the evidence will show that from the time Jim Lawrence left the B. & L. Club that night, the story is somewhat different. We have only one witness to call for the Defense--the defendant himself. After hearing his testimony, I believe that you will find for the defendant in this case. That is, I believe that you will return a verdict of not guilty. Thank you.

JUDGE: Call your first witness.

#### Testimony of Neal Garnett

JACKSON: Q. State your name and age, please.

A. My name is Neal Garnett, and I am 24 years old.

Q. Now, Mr. Garnett, please tell us where you were in the early evening hours of November 12, 1975.

A. I was at the B. & L. Club in Cushing.

Q. Did you go there alone?

A. Yes, I did.

Q. Did you at any time that evening talk with anyone else?

A. Yes.

Q. Please tell us the circumstances surrounding that conversation.

A. Well, I got there about 7:45 or 8:00 and bought a beer and started playing pool. Then I saw Jim Lawrence and we started talking and we played a couple of games of pool.

Q. Did you drink together?

A. Yes, we were drinking while we talked.

- Q. And who paid for these drinks?
- A. Well, Jim Lawrence paid for them.
- Q. Why did Mr. Lawrence pay for them?
- A. He offered to, and so I thought that I would let him buy the first few, and then I'd buy a few later in the evening.
- Q. And did you buy a few later in the evening?
- A. No. I was going to, but then all of a sudden he said he had to leave, so I didn't.
- Q. Alright, Mr. Garnett. Now, what happened when Mr. Lawrence decided to leave?
- A. I said OK, and he got up and left.
- Q. What did you do?
- A. I went to the restroom. Then when I came out of the restroom, I finished the beer I had and then left.
- Q. How long would you say it was between the time Mr. Lawrence left and the time you left?
- A. Oh, probably at least 20 minutes or so.
- Q. What did you do when you left?
- A. I went to another club.
- Q. And what is the name of this other club?
- A. It's right near the B. & L. The name of it is the Hot Spot, I think.
- Q. Now, Mr. Garnett, after Jim Lawrence left the B. & L. Club that night, did you see him again?
- A. No, I didn't see him any more that night.
- Q. What time did you leave this second bar?
- A. About 11:30.
- Q. What did you do then?
- A. I went home.
- Q. How did you happen to be arrested? I mean, where

were you when you were arrested?

A. It was later that night, or rather early the next morning. The police came to my house and arrested me.

Q. Mr. Garnett, did you attack Jim Lawrence on the night of November 12, 1975?

A. No, I did not.

Q. Did you hit him or kick him?

A. No.

Q. Did you remove any personal property from Mr. Lawrence on that night?

A. No.

Q. And is this testimony that you've given true to the best of your recollection?

A. Yes.

JACKSON: Your witness.

PROSECUTOR: Q. Mr. Garnett, where are you employed?

A. I don't have a job right now.

Q. Do you have any income?

A. Yes, I get unemployment checks.

Q. How much do these checks come to?

A. \$55 a week.

Q. What is your occupation--what did you do when you were employed?

A. I was a car mechanic.

Q. Were you unemployed on November 12 of last year?

A. Yes, I was.

Q. And your only income then was unemployment checks?

A. Yes.

- Q. Now, Mr. Garnett, you stated that when James Lawrence left the B. & L. Club on the evening of November 12 last, that you did not follow him out but instead stayed in the B. & L. for awhile longer, is that right?
- A. Yes.
- Q. And you also testified that when you did leave, you went to another bar and stayed until about 11:30. Is that right?
- A. Yes.
- Q. Tell me, Mr. Garnett, did you see anyone you knew at this second bar?
- A. No. That's why I didn't stay very long.
- Q. Did you buy any drinks at this second bar?
- A. Yes, one.
- Q. Do you remember, or could you identify, the bartender at that second club?
- A. No. It was a woman, but I didn't know her.
- Q. Could that bartender--do you think she would remember you?
- A. No. I just bought one drink, and the place was pretty crowded that night. She was busy.
- Q. Alright, so you say you went to this second bar, but saw no one you knew and no one who would remember seeing you there?
- A. That's right. But I was there.
- Q. OK, Mr. Garnett. You said that when you left the second place, you went home.
- A. That's right.
- Q. Tell me, would you say you were drunk that night?
- A. No drunk. Pretty high, but not drunk.
- Q. Are you married?
- A. No.
- Q. Do you live with anyone?

A. No, I live alone.

Q. And when you got home that night, you went right to bed?

A. Yes.

Q. And the police came and arrested you at your home?

A. Yes.

Q. What were you wearing when you were arrested?

A. I had not changed clothes to go to bed, so I was wearing the same thing I had worn the night before.

Q. You were wearing the same things you had worn on the night of November 12?

A. Yes.

Q. What was the condition of those clothes?

A. What do you mean?

Q. Well, were they clean or dirty, or neat or wrinkled, or what?

A. I guess you could say they were dirty and wrinkled. I'd worn them since the afternoon before, and I'd slept in them.

Q. Were there any stains on them?

A. No.

Q. Tell me, did you have any money in your wallet or in your pockets when you were arrested?

A. Yes, I did.

Q. How much?

A. A little over \$70.

Q. Since you're unemployed, and your only income, you have testified, is \$55 a week from the Employment Commission, how did you happen to have over \$70 on you when you were arrested?

A. I like to carry at least \$50 or so on me all the time.

Q. I see. Now, Mr. Garnett, to sum up, you say that

when you left the B. & L. Club, it was after James Lawrence had left, and you went to another bar, where you stayed for a little while, and then you went home. Is that right?

A. Yes.

Q. You heard the testimony given by Mr. Lawrence, didn't you?

A. Yes.

Q. And you testified that you did not see Mr. Lawrence again, after he left the B. & L. that night?

A. Yes.

Q. Your story is quite different from the story James Lawrence told, isn't it?

A. Yes.

Q. Somebody's not telling the truth.

A. That's right.

PROSECUTOR: No further questions.

JUDGE: Do you have any re-direct, Mr. Jackson?

JACKSON: No, Your Honor.

JUDGE: Alright, witness is excused. Call your next.

JACKSON: Your Honor, we have no further witnesses. The Defense rests.

### Judge's Instructions

Ladies and Gentlemen of the Jury:

The Defendant in this case is charged with having committed the offense of Robbery by Force in this county on or about the 12th day of November, 1975, as set forth in the Information which has been read to you.

To this charge the defendant has entered a plea of not guilty, which casts upon the State the burden of proving the material allegations of the Information to your satisfaction beyond a reasonable doubt before you would be justified in returning a verdict of guilty.

The Information is simply the charge upon which the defendant is placed upon trial, and sets forth in a formal way the offense of which the defendant is accused, and it is in and of itself no evidence of the defendant's guilt, and you should not allow yourselves to be influenced against the defendant by reason of the filing of such an Information.

The defendant is presumed to be innocent of the crime charged against him, and innocent of each and every material element constituting such offense, and this presumption of innocence continues until such time as his guilt is shown to your satisfaction beyond a reasonable doubt. And if, upon a consideration of all the evidence, facts and circumstances in the case, you entertain a reasonable doubt of the guilt of the defendant of the crime charged against him, you must give him the benefit of that doubt and return a verdict of not guilty.

The material allegations of the Information are:

- (1) That the defendant, Neal Garnett, while acting alone;
- (2) Did willfully, unlawfully, intentionally, and feloniously;
- (3) Make an assault upon James Lawrence by kicking him about the head and body and knocking him down onto the ground;
- (4) Did wrongfully take and carry away from the person of James Lawrence money and personal property of value belonging to him as reflected by the evidence;
- (5) That the said taking was against his will and was accomplished by means of force and violence; and
- (6) That the acts aforesaid occurred in Payne County, Oklahoma, on or about the 12th day of November, 1975.

The Statutes of the State provide:

Robbery is a wrongful taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear.

To constitute robbery, the force or fear must be employed either to obtain or retain possession of the property, or to prevent or overcome resistance to the taking. If employed merely as a means of escape, it does not constitute robbery.

When force is employed in either of the ways just above specified, the degree of force employed is immaterial.



When property is taken under the circumstances required to constitute robbery, the fact that the property was of trifling value does not qualify the offense.

Robbery, when accomplished by the use of force, or of putting the person robbed in fear of some immediate injury to his person, is robbery in the first degree. When accomplished in any other manner, it is robbery in the second degree.

Should you find from the evidence, under these instructions, and beyond a reasonable doubt, that the defendant, Neal Garnett, is guilty of Robbery by Force, as charged in the Information, and as defined in these instructions, then you shall find the defendant, Neal Garnett, guilty as charged. But, if you do not so find, or should you entertain a reasonable doubt thereof, then in either of said latter events you shall find the defendant, Neal Garnett, not guilty.

You are the judges of the facts, the weight of the evidence, and the credibility of the witnesses. In determining such weight or credit you may consider: the interest, if any, which the witness may have in the result of the trial; the relation of the witness to the parties; the bias or prejudice, if any has been apparent; the candor, fairness, intelligence and demeanor of the witness; the ability of the witness to remember and relate past occurrences, means of observation, and opportunity of knowing the matters about which the witness has testified. From all the facts and circumstances appearing in evidence and coming to your observation during the trial, aided by the knowledge which you each possess in common with other persons, you will reach your conclusions. You should not let sympathy, sentiment or prejudice enter into your deliberations, but should discharge your duties as jurors impartially, conscientiously and faithfully under your oaths and return such verdict as the evidence warrants when measured by these instructions.

When you have retired to your jury room, you will select one of your number as foreman and enter upon your deliberations, and when you have agreed on a verdict, which must be unanimous, you will cause the same to be signed by your foreman and return it into court.

APPENDIX B

PRIOR RECORD JUDGMENT CERTIFICATE

IN THE DISTRICT COURT OF PAYNE COUNTY, STATE OF OKLAHOMA  
JUDICIAL DISTRICT NO. 9

THE STATE OF OKLAHOMA,

Plaintiff

vs.

No. 70-10294

Neal Garnett

Defendant

JUDGMENT AND SENTENCE

Now, on this 17th day of February, 1970, the same being a judicial day of said Court, and the time duly appointed for judgment in the above entitled cause, and said cause coming on for judgment, and the defendant, Neal Garnett being personally present in open Court with his court-appointed Attorney, Raymond L. Martin and having been legally charged with the offense of Arson

and having been duly informed of the nature of the charge and having been duly arraigned thereon, and having duly and properly entered

his plea of Not Guilty to the crime of Arson

as charged in the Information herein after having been duly advised of his rights and the effect of such plea; and it appearing to the Court that the defendant is of the age of Eighteen Years; and the defendant having been asked by the Court whether he has any legal cause to show why judgment and sentence should not be pronounced against him, and he stating no sufficient cause why judgment and sentence should not be pronounced, and none appearing to the Court, it is the judgment of the Court that said defendant is guilty of the crime of Arson

(Deliberately set fire to warehouse owned by complainant, resulting in total loss of building and contents; no injuries)  
as charged in the Information.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED BY THE COURT that the Sheriff of Payne County, Oklahoma, transport said defendant to the said State Penitentiary at McAlester, Oklahoma, and that the Department of Corrections do detain the said defendant according to this judgment, sentence and order, and that the Clerk of this Court do immediately certify under the Seal of the Court and deliver to the Sheriff of Payne County, Oklahoma, two copies of this judgment, sentence and order, one of the copies to accompany the body of the said defendant to said penitentiary at McAlester, Oklahoma, and to be left therewith at the said penitentiary, said copy to be warrant and authority for the imprisonment of the said defendant and the other copy to be warrant and authority of said Sheriff of Payne County, Oklahoma, for the transportation and imprisonment of the said defendant, as hereinbefore provided; said last named copy to be returned to the Clerk of said Court with the proceedings thereunder endorsed thereon.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED BY THE COURT THAT at such time as the defendant herein is released from confinement by the Department of Corrections of the State of Oklahoma, he shall be released to the Sheriff of Payne County to be returned to this Court to either pay or otherwise liquidate the costs of this action, all without prejudice to trusty or other prison rewards.

  
DISTRICT JUDGE

## APPENDIX C

### SUMMARY OF JUDGE'S INSTRUCTIONS AND INFORMATION ABOUT SENTENCING

Your decision as to the defendant's guilt or innocence should be based only on the evidence you have heard during the trial. He is presumed to be innocent unless and until you are convinced beyond a reasonable doubt that he is guilty of the crime for which he is being tried. You should not let prejudice or sympathy enter into your consideration, but should discharge your duties faithfully and conscientiously, under your oaths.

If you find that the defendant is guilty, you will then recommend sentence. By Oklahoma Statute, anyone who is found guilty of Robbery by Force is punishable by imprisonment for not less than five years nor more than fifty years. The sentence you recommend, then, must be between 5 and 50 years.

APPENDIX D

VERDICT AND SENTENCING FORMS

IN THE \_\_\_\_\_ DISTRICT \_\_\_\_\_ COURT OF PAYNE COUNTY, STATE OF OKLAHOMA

STATE OF OKLAHOMA	}	Case No. <u>75-41207</u>
vs. Plaintiff		
NEAL GARNETT		
		Defendant

**VERDICT**

WE, THE JURY, Empaneled and sworn to try the issues in the above entitled cause, do upon our oaths, find that the defendant, Neal Garnett, is \_\_\_\_\_ of Robbery by Force as set forth in the Information.

\_\_\_\_\_ Foreman

IN THE \_\_\_\_\_ DISTRICT \_\_\_\_\_ COURT OF PAYNE COUNTY, STATE OF OKLAHOMA

STATE OF OKLAHOMA	}	Case No. <u>75-41207</u>
vs. Plaintiff		
NEAL GARNETT		
		Defendant

**VERDICT**

WE, THE JURY, Empaneled and sworn to try the issues in the above entitled cause, do upon our oaths, find that the defendant, Neal Garnett, is Guilty of Robbery by Force as set forth in the Information, and we further fix and assess his punishment at imprisonment in the State Penetentiary for a period of \_\_\_\_\_.

\_\_\_\_\_ Foreman

## APPENDIX E

### EVIDENCE IMPORTANCE INSTRUMENT

Below is a random listing of nine items of evidence and information which were presented in the trial. Please indicate which of these items is most important by placing a "1" in the blank beside it. Then select the second most important item and place a "2" beside it. Continue in this fashion until all items are marked, from "1" (most important) to "9" (least important).

Please mark all items, and use each number only once.

- \_\_\_\_\_ Amount of money found on the defendant when arrested
- \_\_\_\_\_ Physician's testimony
- \_\_\_\_\_ Victim's claim that he saw defendant's face during the attack
- \_\_\_\_\_ Amount of alcohol consumed by victim and defendant
- \_\_\_\_\_ Defendant's lack of corroboration for his account of his own activities on the night of the crime
- \_\_\_\_\_ Bartender's testimony
- \_\_\_\_\_ Defendant's prior criminal record
- \_\_\_\_\_ Absence of stains on defendant's clothes when arrested
- \_\_\_\_\_ Defendant's account of his own activities on the night of the robbery

APPENDIX F

GENERAL QUESTIONNAIRE

Instructions

On the following pages, you will be asked to give your opinions and observations about certain aspects of the trial you have been considering. Some of these questions will ask for answers in the form of scales that look like this:

Very Certain	_____	_____	_____	_____	_____	_____	_____	Very Uncertain
-----------------	-------	-------	-------	-------	-------	-------	-------	-------------------

To answer these questions, you will be asked to check one of the blanks--the blank which best fits your opinion or feeling. In answering, it is important that you check only one blank, and that you not mark between blanks.

For example, suppose you were asked the question: "How certain are you that gasohol will become an important energy alternative?"

Very Certain	_____	_____	_____	_____	_____	✓	_____	_____	Very Uncertain
-----------------	-------	-------	-------	-------	-------	---	-------	-------	-------------------

If you are relatively uncertain, but not extremely uncertain, that gasohol will become an important alternative, you might mark the blank which is marked above. If you are extremely certain, you would mark the blank directly under "Very Certain." If you are somewhat certain, you would mark the fourth blank from the left, and so on.

You should mark the blank which best fits your feeling or opinion. Please remember that it is important that you mark only one blank for each question, and that you not mark between blanks.

Date: \_\_\_\_\_

Deliberation Room Number \_\_\_\_\_

1. Classification (Circle One): Fresh. Soph. Jr. Sr.

2. Sex (Circle One): Male Female

3. How many males are in your jury? \_\_\_\_\_

How many females are in your jury? \_\_\_\_\_

4. What was the initial split when your jury voted the first time? \_\_\_\_\_ guilty; \_\_\_\_\_ not guilty

5. What was the final verdict found by your jury? \_\_\_\_\_

6. Was this final verdict the same as, or different from, the way you voted on the first ballot? (Circle One)

Same As

Different From

7. How certain do you feel that the verdict found by your jury represents the "truth" in this case? That is, how certain are you that your jury's verdict is the correct one?

Very  
CertainVery  
Uncertain

\_\_\_\_\_

8. How relevant were the judge's instructions in your consideration of the testimony and information given in the trial?

Very  
RelevantVery  
Irrelevant

\_\_\_\_\_

9. To what extent did you consider the defendant's prior criminal record as affecting his credibility as a witness? That is, how relevant was it in deciding whether the defendant was telling the truth or not?

Very  
RelevantVery  
Irrelevant

\_\_\_\_\_

10. To what extent did you consider the defendant's prior criminal record as evidence of his guilt in the present case? How relevant was it as evidence of his guilt for the present crime?

Very  
Relevant

Very  
Irrelevant

— — — — — — — —

11. How well did the Prosecutor handle this case? How capable was he in presenting evidence and challenging Defense testimony?

Very  
Capable

Very  
Incapable

— — — — — — — —

12. How capable was the Defense attorney in presenting evidence and challenging Prosecution witnesses?

Very  
Capable

Very  
Incapable

— — — — — — — —

13. How certain are you that the defendant's testimony was the absolute truth?

Very  
Certain

Very  
Uncertain

— — — — — — — —

14. How certain are you that the victim was telling the absolute truth (that he was not deliberately lying)?

Very  
Certain

Very  
Uncertain

— — — — — — — —



15. How certain are you that the victim was not mistaken in his identification of the defendant as his assailant?

Very  
Certain

Very  
Uncertain

— — — — — — — —

16. How certain are you that the bartender was telling the absolute truth (that he was not deliberately lying)?

Very  
Certain

Very  
Uncertain

— — — — — — — —

17. How certain are you that the bartender was not mistaken in his testimony?

Very  
Certain

Very  
Uncertain

— — — — — — — —

APPENDIX G

EVIDENCE RECALL

Please indicate whether each item is True or False by circling the "T" or "F" beside each item.

- T F 1. The crime you have been considering occurred just outside a bar. (N\*)
- T F 2. The victim testified that he had 7 or 8 drinks on the night of the crime. (G)
- T F 3. The bartender testified that there were hardly any customers at all in the bar the night of the crime--he was not at all busy. (NG)
- T F 4. The victim had never met the defendant before the night the crime took place. (G)
- T F 5. The crime occurred in November of 1975. (N)
- T F 6. The lighting outside the bar was somewhat dim. (NG)
- T F 7. Altogether, there were five witnesses who testified for the State. (G)
- T F 8. The defendant had been unemployed for about two months before the crime occurred. (G)
- T F 9. No objections from either attorney were heard on the tape. (N)
- T F 10. Two witnesses testified for the Defense. (N)
- T F 11. The victim paid for all the drinks for both himself and the defendant. (G)
- T F 12. The defendant's income was \$55 per week. (G)

\*N=Neutral Item; G=Item indicates Guilty; NG=Item indicates Not Guilty

- T F 13. The name of the second bar that the defendant went to on the night of the crime was Dorothy's Place. (NG)
- T F 14. The defendant was arrested on the afternoon of November 13. (NG)
- T F 15. The defendant testified that he went home immediately after the victim left him on the night of the crime. (NG)
- T F 16. The victim's name was James Lawrence. (N)
- T F 17. The crime occurred in Perkins, Oklahoma. (N)
- T F 18. Bob Farrell had never met the victim before the night of the robbery. (N)
- T F 19. The defendant stayed in the hospital for five days after the crime occurred. (N)
- T F 20. The victim was certain of his identification of his assailant. (G)
- T F 21. The victim admitted that he was dazed and lying on the ground when he saw the defendant's face during the robbery. (NG)
- T F 22. The physician had practiced medicine in Drumright since 1969. (N)
- T F 23. The defendant had about \$95 on him when he was arrested. (G)
- T F 24. The defendant stated that he did not change clothes after going home on the night of the crime. (NG)
- T F 25. The bartender did not wear glasses during his testimony at the trial. (N)
- T F 26. The crime occurred at about 12:30 at night. (N)
- T F 27. The bartender testified that he had not known the victim and defendant before the night of the crime. (G)
- T F 28. The defendant did not have any stains on his clothing when he was arrested. (NG)
- T F 29. The victim and defendant arrived at the bar together. (N)

- T F 30. The Defense attorney made his opening statement immediately after the Prosecutor had finished his opening statement. (N)
- T F 31. The victim testified that the defendant was immediately behind him when he was leaving the bar. (G)
- T F 32. The victim assumed that the defendant did not have money to pay for his own drinks; the defendant had not told him so. (NG)
- T F 33. The hospital where the victim was taken was located in Drumright, Oklahoma. (N)
- T F 34. The reason your jury was a 6-person jury, not a 12-person jury, was because the death penalty was not at issue in this case. (N)
- T F 35. The defendant stated that he remained in the B. & L. Club for about one hour after the victim left, then went to a second bar. (NG)

APPENDIX H

VERBAL INFORMATION AND INSTRUCTIONS

PRESENTED DURING EXPERIMENTAL

SESSIONS

Orientation Information

Thank you all for appearing today to fulfill the obligation you contracted when you agreed to sign up for this study. The research you are participating in is a jury study which involves an important and meaningful research question. The results of this study may have direct application in the criminal justice system in Oklahoma, so we hope you will take your role as jurors seriously.

My role is that of Officer of the Court, and at various times during this session I will give information and instructions which you are to consider as if they came from the Judge himself.



As a duly designated Officer of this, the Ninth Judicial District, which includes both Logan and Payne Counties, I wish to thank you for fulfilling the summons which notified you to appear as a prospective juror.

Jury service is both a privilege and a responsibility. Exceptions to jury duty are infrequent. They are given for the infirm, care of minor children, or other hardship cases. Do any of you wish at this time to petition this Court for relief of duty as a juror? (Pause)

Since this criminal case does not involve the death penalty, juries of six members will be used. Three juries have been randomly formed, and alternates, who will serve in case of illness of a juror, are present. If no juror becomes ill, the alternates will remain in this room for further instructions after the juries have retired to deliberate.

Shortly, you will be examined to determine your fitness to serve as a fair and impartial juror in this criminal case. As an Officer of this Court, I will ask you a series of questions during the voir dire. Voir dire is a Latin term which means "to speak the truth."

Now, before we begin the voir dire, I will ask each of you to state your name, residence, and college major. (Pause for this information.)

### Voir Dire

We have in the legal philosophy upon which our justice system is based, the presumption of innocence. This presumption stays with the defendant throughout the trial until that point at which you are convinced, beyond a reasonable doubt, that he is guilty. Do you have any quarrel with this philosophy? (Pause)

Do you believe that the burden of proof should be on the State to convince you, beyond reasonable doubt, that the defendant is guilty as charged in the indictment? (Pause)

If you had to vote right now, how would you vote? (Ask two jurors directly, making the point that, if they had to vote now, they would have to vote "not guilty," since no evidence has yet been presented.)

Do you promise not to make up your mind regarding guilt or innocence until you have heard all the evidence? (Pause) Do you promise not to allow the personalities of either the Prosecutor or the Defense Attorney influence your decision? (Pause) Do you have any fixed opinion at this time regarding the guilt or innocence of the defendant, Mr. Neal Garnett? (Pause)

Alright, now we will proceed with a more specific voir dire.

1. Have any of you ever served on a jury before? (How long ago?)
2. Do you know the defendant in this case, Neal Garnett?
3. Do you know the victim, James Lawrence?
4. Do you have any relatives or close friends who are law enforcement officers? (What is the relationship? How close are you? Etc.)

5. Have you ever been the victim of a robbery? (How long ago? Was physical force used during the robbery? Etc.)
6. Do you know anyone who is an Officer or employee of the Court? (What is the relationship? How well do you know them? How close are you to them? Etc.)
7. Do you know anyone who has been tried or convicted of a felony? (How long ago? Was it a friend? Etc.)
8. Have you ever been a witness in a criminal action? (When? Did you testify for the Prosecution or the Defense? How was the case resolved?)
9. Is there any reason why you cannot give the evidence in this case a fair hearing?
10. Is there any reason why you cannot give the State of Oklahoma and the Defendant a fair trial?

(At this point, substitute jurors with alternates, if necessary.)

Now that we have formed permanent juries, you will see the trial.

### Introduction of Prior Record

(After stopping videotape at beginning of Defendant's cross-examination, hand out judgment certificates and say:)

Please look over this legal document for a moment.  
(Wait 30 seconds.)

You will notice that this document is a judgment certificate attesting to the fact that the defendant, Neal Garnett, was previously convicted of the crime of (Crime) in that (Read description of crime). On that occasion, he was sentenced to prison, but part of the sentence was suspended by the Judge.

This information is being provided to you in compliance with Federal rules of evidence, which state that, if a defendant takes the stand in his own defense, prior convictions for felonies or crimes of moral turpitude may be introduced during cross-examination in order to affect the defendant's credibility as a witness. This means that you, as jurors, are allowed to be informed of his prior criminal record, and to consider that record while you are hearing his testimony and deliberating for this present trial.

You may consider this information in making a judgment of the defendant's credibility as a witness, but not as evidence of guilt for the present crime. Do you understand the proper use of this information? (Pause)

Now we will continue with the trial. (Finish playing tape.)

### Closing Information

(Give out Summary of Judge's Instructions and Information About Sentencing sheet.)

This is a short summary statement of the judge's instructions which you have heard, and includes information about sentencing. Let me read the final paragraph, which relates to sentencing. (Read final paragraph.)

Now that you have heard the evidence and judge's instructions in this case, please go into the room we have designated for your deliberations. In the deliberation room, you will find individual ballot pads and pencils. Please use these materials for your individual voting. When you have reached a unanimous verdict, please record it on the verdict form provided.

If you find the defendant not guilty, please open the door to the deliberation room so that we will know you are finished. If you find the defendant guilty, you will then decide on his punishment, within the statutory limits. Please record this decision on the form provided for recommendation of punishment, which is the second sheet, attached to the verdict form. Once this is done, you may open the door so that we will know that you are finished. Please do not throw away or destroy any materials you use during your deliberation. Are there any questions?



APPENDIX I

GROUP DATA

Grp Num	Males/ Fem	Independent Variables		Dependent Variables				
		Sever	Nature	Initial Vote (G/NG)	Verdict	Del Time Verdict	Sentence	Del Time Sentence
1	3/3	Low	Prop.	4/2	NG	15 min.	-	-
2	1/5	Low	Prop.	4/2	NG	14 min.	-	-
3	5/1	Low	Prop.	3/3	NG	22 min.	-	-
4	3/3	Low	Prop.	4/2	NG	24 min.	-	-
5	4/2	Low	Prop.	6/0	G	18 min.	5 yrs.	7 min.
6	2/4	Low	Prop.	0/6	NG	18 min.	-	-
7	4/2	Low	Per.	0/6	NG	12 min.	-	-
8	2/4	Low	Per.	6/0	G	15 min.	20 yrs.	5 min.
9	1/5	Low	Per.	4/2	G	29 min.	5 yrs.	1 min.
10	2/4	Low	Per.	0/6	NG	20 min.	-	-
11	5/1	Low	Per.	2/4	NG	53 min.	-	-
12	2/4	Low	Per.	5/1	G	14 min.	5 yrs.	2 min.
13	3/3	High	Prop.	3/3	NG	23 min.	-	-
14	4/2	High	Prop.	6/0	G	6 min.	25 yrs.	4 min.
15	3/3	High	Prop.	3/3	NG	28 min.	-	-
16	1/5	High	Prop.	4/2	G	27 min.	5 yrs.	2 min.
17	2/4	High	Prop.	2/4	NG	24 min.	-	-
18	2/4	High	Prop.	3/3	NG	15 min.	-	-
19	1/5	High	Per.	4/2	NG	22 min.	-	-
20	1/5	High	Per.	4/2	G	8 min.	5 yrs.	1 min.
21	4/2	High	Per.	5/1	G	21 min.	30 yrs.	3 min.
22	3/3	High	Per.	4/2	G	26 min.	15 yrs.	3 min.
23	2/4	High	Per.	6/0	G	6 min.	18 yrs.	2 min.
24	4/2	High	Per.	4/2	NG	89 min.	-	-

Grp Num	Males/ Fem	Independent Variables		Dependent Variables				
		Sever	Nature	Initial Vote (G/NG)	Verdict	Del Time Verdict	Sentence	Del Time Sentence
25	2/4	Control	Group	5/1	NG	18 min.	-	-
26	4/2	Control	Group	6/0	G	8 min.	5 yrs.	2 min.
27	3/3	Control	Group	1/5	NG	27 min.	-	-
28	1/5	Control	Group	2/4	NG	5 min.	-	-
29	1/5	Control	Group	4/2	NG	34 min.	-	-
30	3/3	Control	Group	2/4	NG	16 min.	-	-

APPENDIX J

CORRELATION COEFFICIENTS

	General Questionnaire Items													
	Fin Ver	Ver Chng	Cer Ver	Rel Ins	PR Cred	PR Glt	Cap Pros	Cap Def	Cer Def	Vic Tru	Vic Mis	Bar Tru	Bar Mis	
Ini Ver	.41 **	.26 **		-.19 *	.19 *				-.42 **	.26 **	.45 **	.25 **	.41 **	
Fin Ver	-	.28 **	.31 **		.41 **	.31 **	.39 **	-.18 *	-.29 **	.32 **	.45 **	.30 **	.49 **	
Change		-	-.44 **	.18 *			-.20 *							
Sent			.36 **										.27 *	
Cer Ver			-			.28 **		.20 *	.27 **	.23 *	.24 **	.22 *		
Rel Instr				-										
PR Cred					-.56 **			-.16 *	.21 *	.39 **	.36 **	.48 **		
PR Guilt					-					.25 **		.31 **		
Cap Pros							-			.36 **	.26 **	.34 **	.31 **	
Cap Def								-.28 **						
Cer Def								-		-.21 *	.16 *			
Vic Tru									-	.42 **	.55 **	.46 **		
Vic Mis										-	.41 **	.65 **		
Bar Tru											-	.66 **		
Bar Mis												-		
Money														
Phys Test														
Vic ID														
Alcohol														
Corrob														
Bar Test														
Def PR														
Stains														
Alibi														
TP-Glt														
TP-MGlt														
TP-New														
TP-Relev														

\*  $r < .05$   
\*\*  $r < .005$

	Evidence Importance Instrument								Evidence Recall					
	Money	Phys Test	Vic ID	Alco	Corr	Bar Test	Def PR	Stain	Alibi	TF-Glt	TF-NGlt	TF-Neu	TF-Rel	TF-Ovrll
Ini Ver	.26 **	-.16 *		.29 **		-.31 **		.46 **					-.19 *	
Fin Ver	.34 **	-.20 *	-.30 **	.41 **	-.26 **	-.38 **		.66 **				.18 *		
Change								-.18 *				-.21 *		-.20 *
Sent														
Car Ver										-.17 *				
Rel Instr		-.23 **												
PR Cred	.17 *		-.19 *	.23 **	-.17 *	-.26 **	-.47 **	.47 **	.18 *					
PR Guilt	-.17 *		-.25 **	.24 **		-.17 *	-.47 **	.34 **						
Cap Pros					-.18 *	-.24 **		.32 **						
Cap Def										-.19 *	-.33 **		-.28 **	
Car Def			.17 *	-.37 **	.21 *	.23 **		.37 **	-.20 *		-.25 **			
Vic Tru			-.30 **			-.31 **		.42 **	.16 *					
Vic Wis	.16 *		-.21 **	.34 **	-.27 **	-.29 **	-.20 **	.57 **						
Bar Tru			-.27 **	.27 **		-.34 **	-.16 *	.40 **	.26 **					
Bar Wis	.19 *		-.32 **	.32 **	-.23 **	-.29 **	-.21 *	.58 **	.16 *					
Money	-		.16 *	-.25 **				-.26 **	-.29 **					
Phys Test		-	-.19 *											
Vic ID			-	-.41 **		.28 **	.19 *	-.40 **	-.17 *					
Alcohol				-	-.19 *	-.42 **	-.22 **	.39 **						
Corrob								-.34 **						
Bar Test						-	.19 *	-.41 **	-.16 *	.21 *				
Def PR							-	-.18 *						
Stains												.20 *		
Alibi											-.18 *			
TF-Glt										-	.16 *	.63 **	.50 **	
TF-NGlty											-	.26 **	.75 **	.64 **
TF-Neu												-	.31 **	.79 **
TF-Relev													-	.83 **

\*  $p < .05$   
\*\*  $p < .005$

APPENDIX K

ANALYSES FOR ALTERNATES

Relevance of Prior Record in Determining Guilt

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	5.66	.84	NS
Nature	1	.53	.08	NS
Severity X Nature	1	26.74	3.97	*
Error	11	74.00		

\*  $p < .07$

( $M_s$  for low-severity = 3.0 and 4.0 for crime/property and crime/person, respectively;  $M_s$  for high-severity = 9.0 and 2.0 for crime/property and crime/person, respectively)

Certainty that Victim Was Not Mistaken

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	8.33	2.70	NS
Nature	1	19.20	6.21	*
Severity X Nature	1	12.07	3.90	**
Error	11	34.00		

\*  $p < .03$

( $\bar{M}_s = 5.0$  and  $7.4$  for crime/property and crime/person, respectively)

\*\* $p < .074$

( $\bar{M}_s$  for low-severity =  $4.0$  and  $7.3$  for crime/property and crime/person, respectively;  $\bar{M}_s$  for high-severity =  $9.0$  and  $8.0$  for crime/property and crime/person, respectively)

Physician's Testimony

Source	D.F.	Sum of Squares	F-Value	PR > F
Model:				
Severity	1	28.81	7.33	*
Nature	1	5.63	1.43	NS
Severity X Nature	1	6.07	1.54	NS
Error	11	43.73		

\* $p < .02$

( $\bar{M}_s = 6.1$  and  $2.0$  for low-severity and high-severity, respectively)

Defendant's Lack of Corroboration

Source	D.F.	Sum of Squares	F-Value	PR > F
<b>Model:</b>				
Severity	1	.064	.02	NS
Nature	1	.833	.31	NS
Severity X Nature	1	24.797	9.20	*
Error	11	29.639		

\*  $p < .01$

( $\bar{M}_s$  for low-severity = 4.3 and 4.9 for crime/property and crime/person, respectively;  $\bar{M}_s$  for high-severity = 8.0 and 1.0 for crime/property and crime/person, respectively)

VITA<sup>2</sup>

Dianna Marie Bedrick

Candidate for the Degree of

Doctor of Philosophy

**Thesis:** JURY BEHAVIOR AS A FUNCTION OF THE SEVERITY AND NATURE OF THE DEFENDANT'S PRIOR CRIMINAL RECORD

**Major Field:** Psychology

**Biographical:**

**Personal Data:** Born in Tioga, Texas, January 6, 1946, the daughter of Mr. and Mrs. R. J. Bedrick.

**Education:** Graduated from Denton Senior High School, Denton, Texas, in May, 1964; received Bachelor of Arts Degree in Psychology from North Texas State University in 1973; received Master of Science Degree in Psychology from Oklahoma State University in May, 1980; completed requirements for the Doctor of Philosophy Degree at Oklahoma State University in December, 1980.

**Professional Experience:** Psychiatric Aide, Timberlawn Psychiatric Hospital, 1972-1973; Intake Counselor, Family Service Center of Harris County, 1973-1976; graduate research assistant, Oklahoma State University Department of Psychology, 1976-1977; graduate teaching assistant, Oklahoma State University Department of Psychology, 1977-1978; member, Research Finance Committee, Psychology Graduate Students Association, Oklahoma State University, 1978-1979; Extension Instructor, Oklahoma State University Department of Psychology, 1978; graduate teaching assistant, Oklahoma State University Department of Psychology, 1979-1980; Teaching Associate, University of Texas at San Antonio Division of Social Sciences, 1980.