1. PRE-TRIAL PUBLICITY AND JURY BIAS

1.1. Introduction
1.2. Example of mock trial experiment
1.3. References

1.1. INTRODUCTION

Pre-trial publicity (PTP) refers to the information in the media about a trial before it begins. PTP may include facts about the crime and suspect (including details of past offences) (factual PTP) as well as comments and opinions (emotive PTP) (Brewer 2000). For individuals who will act as jurors in such trials, it means that they are not naive to the case.

Especially in high profile cases, it is almost impossible for the jurors to have not seen the PTP. Linz and Penrod (1992), using newspaper cuttings with a mock jury, found that PTP, including prior convictions and "sensational" reporting impacted on the juror decision. There is a legal question of whether jurors should know about the prior convictions of the defendant.

Padawer-Singer and Barton (1974) found 50% more "guilty" decisions by jurors aware of a past criminal record and retracted confession of the defendant, compared to not knowing this information. The judge's instructions to ignore this has little effect (Brewer 2000).

1.2. EXAMPLE OF MOCK TRIAL EXPERIMENT

Concern over the effects of PTP has led to experiments with mock trials to test different variables. For example, Ruva et al (2007) investigated PTP and juror bias using 558 students at the University of South Florida, USA. The participants were placed into groups of 4-6 (juries) randomly. There were twenty-five juries for each of the four conditions of the unrelated design experiment (ie: participants in one condition only). Juries were either given negative PTP about the defendant or unrelated crime articles (first independent variable), and the decision about guilt was made individually or as a group decision (second independent variable).

The mock trial involved a real videotaped criminal trial, lasting thirty minutes, about Daniel Bias pleading not guilty to murdering his wife, Lise (NJ v Bias). He claimed that she was accidentally shot while he was trying to stop her commit suicide.

The negative PTP was created from real stories about
the trial from a local newspaper, and included information not presented at the trial (table 1.1). The non-PTP group were given crime stories from the same newspaper. There was 4-7 days between exposure to the PTP and the "trial".

1. Lise did not know how to use guns and disliked them.
2. Daniel Bias has a bad temper.
3. Lise Bias' body was found in the doorway of the couple's bedroom.
4. The prosecutor questioned why Daniel Bias kept a loaded gun in the house if he believed that his wife was suicidal.
5. Daniel Bias had been drinking alcohol on the night of his wife's death.
6. Just prior to her death Lise had received a promotion at her work.
7. Lise Bias did not leave a suicide note.
8. On the day of her death Daniel and Lise had an argument about Lise buying new clothes.
9. Daniel Bias was also charged with resisting arrest.
10. Daniel had wanted Lise to quit her job and start a family.

(Source: Ruva et al 2007 Appendix A p65)

Table 1.1 - Information only in PTP and not in trial video.

The dependent variables were measured in a number of ways:

i) Verdict - not guilty, hung/undecided, guilty.

ii) Length of prison sentence if guilty - between 30 to 45 years.

iii) Credibility of defendant - this was measured on seven-point Likert scales (table 1.2).

* How biased was defendant’s testimony?
* How intelligent did the defendant appear to be?
* How likely is it that the defendant had ulterior motives for giving his testimony?
* In your opinion, how accurate was the defendant’ testimony?
* How honest did the defendant appear to be?
* How credible did the defendant appear to be?
* How believable was the defendant?

(Source: Ruva et al 2007 Appendix C p 67)

Table 1.2 - Examples of measures of credibility of defendant.

---

1 "Morning Call" in Allentown, Pennsylvania.
iv) Source memory – a memory test about whether information appeared in the trial or the PTP.

It was found that jurors exposed to the PTP were significantly more likely to vote guilty than non-PTP jurors (p<0.01) (figure 1.1).

```
NOT GUILTY (1) ------ HUNG (2) ------ GUILTY (3)

Pre-deliberation: 1.78 non-PTP  2.38 PTP
Post-deliberation: 1.72 non-PTP  2.25 PTP
```

Figure 1.1 - Mean verdicts for PTP and non-PTP conditions.

Where the verdict was guilty, participants in the PTP condition gave significantly longer sentences (mean: 40 vs 37 years; p<0.01). The PTP condition rated the defendant as significantly less credible (mean: 41 vs 50 out of 87).

Jurors in the PTP condition were significantly more likely to attribute information in the PTP to the trial (ie: more source memory errors). In other words, jurors not exposed to PTP identified more information as coming from the trial correctly.

The validity of mock trial experiments has been questioned in a number of ways:

a) Ecological validity

- Are the findings from such experiments applicable to real-life juries?

b) External validity

- Is the behaviour of university students the same as general population jury members?
- Are the findings from smaller groups (4-6 persons) applicable to 12-person juries used in many courts?
- Are the findings from US studies applicable to juries in other countries?
- Experiments are different to trials – eg: shorter; limited exposure to PTP.
c) Internal validity

- Do the participants take the mock trial as seriously as real jurors?

1.3. REFERENCES


