Voir Dire Efficacy In Highly Publicized Criminal Cases

David Zimmerman

Graduate Center, City University of New York

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Margaret Bull Kovera

Date

Chair of Examining Committee

Maureen O’Connor

Date

Executive Officer

Brian Cutler
Deryn Strange
Steven Penrod
Bradley McAuliff
Supervisory Committee
THE CITY UNIVERSITY OF NEW YORK

Abstract

VOIR DIRE EFFICACY IN HIGHLY PUBLICIZED CRIMINAL CASES

by

DAVID M. ZIMMERMAN

Adviser: Margaret Bull Kovera

Whether judges and attorneys are able to detect bias among potential jurors (venirepersons) is a pivotal concern in highly publicized cases in which most of the jury pool has been exposed to pretrial publicity (PTP). The current dissertation research addressed 1) whether attorneys and judges can accurately gauge differences in PTP exposure/bias among potential jurors, 2) how potential jurors’ (venirepersons) motivations to serve or not serve on a jury affect attorneys’ and judges’ abilities to detect bias, and 3) whether withholding instructions on the importance of juror impartiality in favor of urging honesty can reduce venirepersons’ abilities to tailor voir dire responses to their specific motivations. In the first phase, I manipulated the amount of negative PTP presented to mock venirepersons and subsequently measured their bias against the defendant. Mock venirepersons were then motivated to be impaneled on or excused from a jury before participating in a simulated voir dire. A mock judge instructed venirepersons before questioning either on the importance of impartiality among ideal jurors (which is standard) or the importance of honesty and a variety of opinions among ideal jurors. Finally, venirepersons watched a videotaped trial and rendered verdicts. Venirepersons motivated to get off the jury subsequently rendered more guilty verdicts than those motivated to get on the jury, and
PTP exposure interacted with venireperson motivation such that venirepersons motivated to get on the jury who were exposed to excessive PTP shifted toward acquittal as compared to the other groups. Implicit associations between the defendant and guilt increased with the level of PTP exposure, and source-memory errors correlated with verdicts and guilt ratings. In the second phase, attorneys and judges viewed videos of the voir dires to gauge whether they 1) accurately judged the extent of venirepersons’ exposure to PTP and their pretrial prejudice and 2) effectively used causal challenges and peremptory strikes to eliminate unfavorable and/or biased venirepersons. Attorneys and judges consistently struck (or allowed strikes) and rated as more biased venirepersons who were motivated to escape jury service, and venireperson motivation and judicial instruction interacted such that motivated venirepersons were more likely to succeed in getting on or off the jury after receiving impartiality versus honesty instructions. The current findings revealed a new potential measure of PTP bias (the IAT) and provided insight into how venirepersons’ motivations and impression management tactics influence judges’ and attorneys’ decisions during voir dire.
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CHAPTER 1: PRETRIAL PUBLICITY AND THE COURTS

Pretrial publicity (PTP) is information about any criminal or civil court case that is presented by the media prior to a trial. PTP may threaten a defendant’s Sixth Amendment right to an impartial jury (Irvin v. Dowd, 1961). PTP can influence both pre-trial judgments of a defendant’s guilt and final verdicts, along with a number of other perceptions that jurors may have of the defendant (Studebaker & Penrod, 1997). Negative PTP significantly increases pretrial judgments of defendant guilt, and these effects become more pronounced as the ecological validity of the PTP presentation (e.g., real versus fictitious PTP) and sample (i.e. jury eligible community members versus students) increases (Steblay, Besirevic, Fulero, & Jimenez-Lorente, 1999). Along with evidence of the biasing effects of PTP, reported incidents of prejudicial PTP have increased in recent decades. Scholars estimate that the number of claims of jury partiality due to negative PTP have increased from around 3,100 claims in the 1980s to well over 7,000 in the decade preceding 2008 (Daftury-Kapur, Dumas, & Penrod, 2010; Minnow & Cate, 2001).

Since the early 1960’s, the courts have considered whether PTP is a threat to a defendant’s 6th Amendment right to an impartial jury. In Irvin v. Dowd (1961) the Supreme Court established that a sufficiently “huge wave of public passion” could override the previously unchallenged assumption that jurors’ assertions of impartiality are reliable (p. 728). In the Irvin decision, the Court gave much attention to the inflammatory content of newspaper, radio, and television reports, and it placed emphasis on feelings aroused by this type of pretrial publicity. In subsequent cases the Supreme Court directly addressed the quality of voir dire questioning and jury selection in highly publicized cases, asserting the
Court’s faith in pre-trial questioning (i.e., voir dire) as an effective tool for identifying an eliminating jurors biased by pretrial publicity. In *Mu’Min v. Virginia* (1991), the Court established that judges are not required to ask content related questions when potential jurors (i.e., venirepersons) report having read information about a case, nor is individual voir dire a necessary protection for defendants in highly publicized cases; judges must only establish that venirepersons have not formed an opinion of guilt. In *Skilling v. United States* (2010), the Supreme Court once again asserted its faith in the efficacy of voir dire as a remedy for the prejudicial impact of negative pretrial publicity. As in *Mu’Min*, the Court asserted that the trial court’s voir dire was adequate to determine which venirepersons had been biased against the defendant by negative pretrial publicity. In her dissent, Justice Sotomayor conveyed dissatisfaction with the majority’s assertion that the relatively minimal voir dire was adequate to detect and eliminate biased venirepersons.

The *Mu’Min* (1991) and *Skilling* (2010) decisions suggested that judges and attorneys can adequately discriminate between biased and unbiased venirepersons—even in cases in which most people in the jury pool have seen or read media reports about the case. The decisions in these cases raise a number of empirical questions about the effects of PTP on juror decision-making and whether voir dire enables judges and attorneys to evaluate the extent to which PTP has influenced individual venirepersons. To what extent does prejudicial PTP affect jurors’ judgments about a defendant’s guilt? Can judges and attorneys accurately distinguish between venirepersons who are marginally versus extremely biased by PTP? Do venirepersons’ motivations to serve on a jury or to avoid jury service influence whether they divulge (or overstate) their exposure to negative PTP?
Finally, in what ways might judges and attorneys improve their abilities to detect venirepersons’ actual biases?
CHAPTER 2: THE EFFECTS OF PTP ON JUROR DECISION MAKING

Negative PTP about a defendant increases the likelihood that jurors will judge the defendant guilty (Steblay et al., 1999). Early experimental studies of the prejudicial effects of PTP manipulated whether jurors were exposed to varying types of PTP, including evidence of a defendant’s confession, connecting the defendant to a weapon from the crime scene, the defendant’s prior criminal record, and other defendant characteristics (Deluca, 1979; Hvistendahl, 1979; Otto, Penrod, & Dexter, 1994; Sue, Smith, & Gilbert, 1974). All of these types of PTP led to significantly more guilty verdicts in simulated trials, suggesting that a wide variety of information in PTP can bias jurors toward guilt.

Not only does case specific information influence juror judgments about the defendant’s guilt, but also general PTP—that is, PTP regarding issues relevant to a certain kind of case, but not related to the specific case of interest—negatively influences juror judgments. For example, exposure to pro-prosecution or pro-defense stories about rape differentially affected jurors’ use and interpretation of evidence in a rape trial simulation that was unrelated to the media stories other than their shared focus on rape (Kovera, 2002). General pretrial publicity on rape appears to have differential effects on men and women, although these effects have been inconsistent. In one study, men exposed to general pretrial publicity about acquaintance rape became more pro-defendant, whereas women were unaffected (Mullin, Imrich, & Linz, 1996). In another study, general PTP about sexual assault reduced the tendency for women to convict more often than men (Woody & Viney, 2007). General PTP about false eyewitness identifications and wrongful convictions also affected mock jurors’ decisions in previous studies. Jurors exposed to information about false identifications leading to wrongful convictions were less likely to
convict than those not exposed (Greene & Loftus, 1984; Greene & Wade, 1988). Thus, information gleaned from news about past cases may affect judgments regarding future unrelated cases.

**Moderators of PTP Effects on Guilt Judgments**

Some experimental studies have examined moderating variables such as pre-existing attitudes (Butler, 2007; Kovera, 2002), and meta-analytic techniques have also yielded information about potential moderators (Steblay et al., 1999). In one study, attitudes moderated the effects of PTP on guilt ratings, with rape attitudes influencing the degree to which PTP shifted jurors’ guilt ratings (Kovera, 2002). A meta-analysis of 44 PTP studies between 1966 and 1997 revealed an overall effect of PTP on pre-judgments of guilt, and these effects persisted post-trial despite a reduction in strength (Steblay et al., 1999). This meta-analysis revealed stronger effects of PTP when studies used community members (vs. students), actual PTP (vs. artificial), longer intervals between exposure and guilt judgments, and multiple points of negative information about the defendant.

The effects of multiple items of negative information are particularly important, as the amount of negative information a juror has acquired about a defendant will be the most variable in actual cases. Increased realism (i.e., community member participants and actual PTP) will not vary in actual cases, and it seems implausible that attorneys and judges would use any slight variations in retention intervals (i.e., length between PTP exposure and jury duty) to judge the impartiality of jurors. Therefore, a manipulation of the *amount of venirepersons’ bias* due to PTP exposure should involve varying the number of negative facts to which individual venirepersons are exposed. Not only should this type of manipulation produce different levels of PTP bias but also voir dire questioning should
reveal the differences in venirepersons’ knowledge about the defendant, providing judges and defense attorneys with information that should enable them to make strike decisions that remove the most prejudiced venirepersons from jury service.

The Underlying Mechanisms of PTP Effects

Pretrial publicity creates prejudice against defendants by changing the way that jurors think about the evidence. For example, one cognitive mechanism that mediates the effects of negative PTP on juror decisions is predecisional distortion (Hope, Memon, & McGeorge, 2004). Predecisional distortion is a process in which people interpret new information to be consistent with an established opinion (Carlson & Russo, 2001). In one study, jurors who viewed negative PTP before viewing a criminal trial interpreted the evidence as more indicative of guilt than did jurors who did not view negative PTP. In a different study, general PTP affected standards of guilt and evidence importance, but cognitive accessibility of the PTP did not mediate the relationship between media exposure and trial judgments (Kovera, 2002).

Source memory errors also appear to contribute to effects; PTP-exposed jurors are more likely than non-exposed jurors to report that PTP information was presented during trial (Ruva & McEvoy, 2008; Ruva, McEvoy, & Bryant, 2007). In one study, critical source memory errors (i.e., misremembering that PTP information was presented in evidence) mediated the relationship between PTP and guilt ratings, suggesting that source memory errors may indeed underlie PTP effects on guilt judgments (Ruva et al., 2007); however, this effect has failed to replicate (Ruva & McEvoy, 2008). Nevertheless, source memory errors represent one possible (and measureable) bias that explains the prejudicial impact of PTP on jurors’ guilt judgments.
CHAPTER 3: REMEDIES AIMED AT REDUCING PTP EFFECTS

The courts have developed a number of safeguards to combat the potential effects of prejudicial PTP. These safeguards include a change of venue or venire, a continuance, judicial admonitions to disregard the publicity, the presentation of trial evidence, deliberation, and voir dire.

Change of Venue or Venire

Both change of venue (moving the trial to a different jurisdiction) and change of venire (empanelling a jury from another jurisdiction) are intuitively appealing options to prevent PTP bias, as they allow the trial court to recruit jurors who have been exposed to less PTP (Studebaker & Penrod, 1997). People from communities in which crimes were committed are more conviction prone than were people from other communities in the vicinity (Moran & Cutler, 1991; Nietzel & Dillehay, 1983). Computer simulations suggest that verdicts are more likely to shift due to change of venue versus scientific jury selection—which focuses on detecting and eliminating biased people from the available venire (Tindale & Nagao, 1986). However, a change of venue or venire is also logistically and financially burdensome, making judges hesitant to grant them. Furthermore, the increasing availability of online news continues to shrink the possibility that the courts can find people who have not been exposed to any information about a specific case.

Continuance

A continuance involves delaying a trial until media coverage of the case has dissipated, which presumably should reduce bias in the community (Studebaker & Penrod, 1997). Experimental evidence suggests that continuances may not reduce bias among jurors. For example, mock jurors who experienced a delay between PTP exposure and a
criminal trial were less guilt-prone than PTP-exposed non-delay mock jurors, but only when the PTP was factual; delay had no effect on guilt judgments when the PTP was emotional (Kramer, Kerr, Carroll, 1990). Further, meta-analytic techniques suggest that a longer delay between PTP exposure and guilt judgments actually increases PTP effects (Steblay et al., 1999). Additionally, a highly publicized case could draw media attention whenever the case moves forward, undermining the entire effort (Daftary-Kapur, Dumas, & Penrod, 2010).

**Judicial Admonitions**

Judicial admonitions also are intended to reduce bias among potential jurors who may have already been exposed to PTP. A judge will instruct jurors to disregard any information they have learned about the case before appearing for jury duty and to avoid exposure to new information outside the court. Judicial admonitions often fail to reduce the effects of PTP and other inadmissible evidence. For example, in one study, negative PTP significantly affected mock jurors’ verdicts and ratings of the prosecution’s case whereas judicial warnings to disregard PTP had no effect (Sue, Smith, & Gilbert 1974). Additionally, even when judicial admonitions reduce the biasing effects of negative PTP by causing mock jurors to reduce guilty verdicts, the effect also occurs for those in non-PTP control conditions; in other words, judicial admonitions to ignore PTP also change the decisions of unbiased jurors (Crocker, 2010; Dexter, Cutler, & Penrod, 1992).

**Trial Evidence and Deliberation**

The presentation of trial evidence and jury deliberation might also reduce the damaging effects of prejudicial PTP (e.g., Studebaker & Penrod, 1997). Both of these safeguards are built-in to the legal system and are rarely manipulated variables in
experimental studies on PTP effects (especially deliberation). However, their absence could reduce the generalizability of finding in PTP studies. Participants only read PTP and made prejudgments of guilt in several early studies on PTP effects, limiting the generalizability of these findings to the courts (e.g., Deluca, 1979; Hvistendahl, 1979). However, in more recent studies presentation of trial evidence did not attenuate PTP effects (Daftary-Kapur, Wallace, & Penrod, 2009; Otto et al., 1994). Further, jury deliberations do not eliminate PTP effects, as PTP-exposed jurors rendered more guilty verdicts than those not exposed to PTP both before and after deliberation (Steblay et al., 1999). Additionally, jury verdicts in this meta-analysis (i.e. group-level outcomes) followed a similar pattern to individual verdicts, whereby PTP-exposed juries rendered more guilty verdicts with a similar effect size. In fact, jurors who deliberated in one study displayed more bias as a function of PTP exposure, suggesting that group polarization processes in deliberation might amplify otherwise trivial individual verdict differences (Kramer et al., 1990). Overall, actual trial evidence and jury deliberation are unlikely to counteract the biasing effects of prejudicial PTP.

**Voir Dire Questioning and Jury Selection**

The Supreme Court has expressed faith in judges’ and attorneys’ abilities to use voir dire to identify and eliminate biased venirepersons from the jury pool in highly publicized cases (*Mu’Min v. Virginia*, 1991; *Skilling v. United States*, 2010). The courts summon venirepersons to the courthouse using voter-registration lists, state identification lists (including drivers licenses), and even unemployment registries. Once venirepersons have assembled at the courthouse, judges and/or attorneys—depending on practices in the jurisdiction—question venirepersons to determine whether they are suitable for jury service
in a process known as voir dire. Some scholars have argued that voir dire is the most important aspect of a criminal trial. Although this assertion may be overstated, voir dire certainly becomes vital in highly publicized cases because PTP consistently biases jurors and the courts rely on voir dire to screen out these biased jurors (Lieberman & Sales, 2007; *Mu’Min v. Virginia*, 1991; *Skilling v. United States*, 2010; Steblay et al., 1999).

Attorneys can remove venirepersons from the jury pool with a *challenge for cause*, if the judge approves the challenge. Typically, judges will grant challenges for cause if venirepersons do not meet some basic requirement for jury service (e.g., comprehension of English), or if they harbor bias that precludes impartiality. Attorneys often have a difficult time successfully striking venirepersons for cause because judges tend to assume that venirepersons can set aside their biases and evaluate the evidence fairly (Kovera & Cutler, 2013). Judges may only grant challenges for cause in such instances when the venireperson asserts strong confidence in his or her inability to set aside previously stated biases. In one study, for example, judges read fictional venirepersons’ accounts of possibly biasing facts (e.g., previous experience with type of crime in the case), and judges deemed venirepersons more likely to be excused for cause when the venireperson expressed strong versus equivocal feelings of partiality (Rose & Diamond, 2008).

Attorneys can use *peremptory challenges* to remove potentially biased jurors without approval from the judge. Given judges’ general hesitance to grant challenges for cause, peremptory strikes allow attorneys the opportunity to remove venirepersons who for one reason or another appear biased but were not excused by the judge for cause (Lieberman & Sales, 2007). Therefore, an attorney might exercise a peremptory strike if a venireperson exhibits bias that he or she claims to be able to set aside. In highly publicized
cases, both sides are typically allowed more peremptory challenges (sometimes upward of 30 or 40), and in criminal cases defense attorneys are typically given more peremptory challenges than the prosecutor (Griffin, 2011; Lieberman & Sales, 2007). For example, in federal felony cases the defense is allowed 10 peremptory challenges to the prosecution’s six (Rule 24 of the Federal Rules of Criminal Procedure, 2010).

Challenges for cause and peremptory challenges provide attorneys with an avenue for eliminating venirepersons who are unfavorable to their respective sides. Therefore, defense attorneys use their challenges to eliminate seemingly pro-prosecution venirepersons, whereas prosecutors challenge venirepersons that appear pro-defense. For example, in actual felony cases defense attorneys were more likely to strike venirepersons high in legal authoritarianism, whereas prosecutors were more likely to strike venirepersons low in legal authoritarianism (Johnson & Haney, 1994). In an earlier study, attorneys also demonstrated the tendency to eliminate jurors that would likely vote against their side, although researchers found no direct evidence that verdict decisions (versus reported attitudes) would be affected by attorneys’ choices. What strategies do attorneys use to determine venirepersons’ leanings and how effective are those strategies?

In one set of studies, attorneys reported the characteristics they would use to judge venirepersons during voir dire (Olczak, Kaplan, & Penrod, 1991). Attorneys focused on basic demographic variables such as age, appearance, and occupation, along with factors like venirepersons’ personal histories with crime and exposure to pretrial publicity. In follow-up studies, attorneys’ strategies proved no more effective than those of college students at distinguishing between favorable and unfavorable venirepersons (Olczak et al., 1991). In another study, attorneys categorized venirepersons into groups as a function of
gender, ideological orientation, age, attitudes toward legal technicalities, and occupation; none of these variables predicted verdicts (Fulero & Penrod, 1990). Attorneys appear to judge venirepersons using stereotypes, folk wisdom, and basic attitudes (e.g., attitudes toward police), and these strategies appear ineffective at distinguishing between conviction-prone and acquittal-prone jurors (e.g., Zeisel & Diamond, 1978; Johnson & Haney, 1994).

Attorneys’ use of basic demographic information and their reliance on naïve theories about how the demographics relate to venirepersons’ verdict inclinations may undermine their ability to pose diagnostic questions during voir dire. Indeed, a series of three studies provided evidence of behavioral confirmation during voir dire. Behavioral confirmation is a process whereby people’s expectations about target individuals influence their behavior toward those targets in such a way that the target responds in a hypothesis-confirming manner. In one study, attorneys received information about a venireperson that manipulated their expectations about the venireperson’s legal attitudes. Attorneys then formulated voir dire questions designed to test what attitudes the venireperson held (Crocker, Greathouse, Kennard, & Kovera, under review). Attorneys formed questions that tested hypotheses consistent with their expectations about venirepersons’ attitudes, and these questions biased the conclusions that they made about the venirepersons in the direction of the hypotheses they tested. In other words, attorneys were more likely to conclude that venirepersons were pro-prosecution if they asked questions that tested whether the venireperson was pro-prosecution rather than pro-defense.

In another study, attorneys received information that manipulated their expectations about whether a venireperson was pro-prosecution or pro-defense (Greathouse, Crocker,
Kennard, & Kovera, 2008). Specifically, they read a report that included venirepersons’ scores on an unvalidated “criminal justice attitudes” scale. Unbeknownst to the attorneys, the scores were not generated from responses provided by the venireperson but were randomly assigned and therefore did not necessarily represent their true attitudes. Attorneys formulated voir dire questions and then questioned a venireperson, and their expectations about the venireperson’s attitudes affected their conclusions about the venireperson even after questioning. Specifically, attorneys given the impression that a venireperson was pro-prosecution were more likely to report after voir dire that the venireperson would favor the prosecution versus the defense. Likewise, attorneys given the expectation that a venireperson was pro-defense were more likely to rate the venireperson pro-defense than were those led to believe the venireperson was pro-prosecution. The manipulation of attorneys’ pre-voir dire expectations accounted for a significant and large proportion of the variance in attorneys’ ratings of venireperson attitudes even after controlling for the venireperson’s behavior during voir dire and the venireperson’s post-voir dire attitudes. Similarly, when attorneys received randomly assigned information about venirepersons’ attitudes, this information affected their peremptory challenge decisions (Kennard, Crocker, Austin, Zimmerman, & Kovera, 2010).

Attorneys received demographic information and randomly assigned “attitudes” scores for a panel of 12 potential jurors, after which the attorneys had up to 45 minutes to question the panel. After voir dire, attorneys indicated which six of the 12 venirepersons they would strike based on the information that they gathered during questioning. Defense attorneys were more likely to strike venirepersons whom they expected to be pro-prosecution and prosecuting attorneys were more likely to strike venirepersons they expected to be pro-
defense. Importantly, venirepersons’ actual attitudes pre-voir dire did not affect on attorneys’ strike decisions. These studies provided evidence that behavioral confirmation may be an important factor explaining the general inefficacy of voir dire.

Given questions about the ability of attorneys to generate questions that will effectively gather accurate information from venirepersons about their attitudes, some scholars have identified strategies and/or variables that might assist attorneys with bias detection. For example, one might develop and conduct community surveys with which to identify predictors of bias in the community before voir dire, administer juror questionnaires prior to voir dire, and/or use items from standardized measures during voir dire (Lecci, Snowden, & Morrise, 2004). Standardized measures that may provide useful information about general juror bias include the Juror Bias Scale (Kassin & Wrightsman, 1983) and Pretrial Juror Attitudes Questionnaire (Lecci & Myers, 2008). Case–type specific measures like the Death Penalty Attitudes Questionnaire (O’Neill, Patry, & Penrod, 2004) and Insanity Defense Attitudes-Revised Scale (Skeem, Louden, & Evans, 2004) elicit self-reported attitudes that are tied to more specific legal constructs—which arguably allow for better predictions of behavior (Kraus, 1995). Other researchers have identified variables that would predict a pro-prosecution stance in child sex abuse cases, including high authoritarianism, high dogmatism, low need for cognition, exposure to PTP, and certain demographic characteristics (e.g., race and SES). They also identified case specific variables that might indicate prejudice against an accused sex offender, including fierce prudishness and negative attitudes toward homosexuals. Although they recommended the use of items from validated scales, they acknowledged the difficulty of obtaining accurate information from potential jurors (Cramer, Adams, & Brodsky, 2009).
Standardized measures of juror bias rely on nomothetic analyses of bias. The nomothetic approach (i.e. using aggregate level analyses) to assessing personality factors in juror decision-making is problematic because the basic nomothetic assumptions that 1) everyone possesses the beliefs being assessed on a continuum (e.g., authoritarianism), and 2) covariations found at the population level exist at the individual level, are shaky at best (Stevenson & Caldwell, 2009). Therefore, assessing individual juror’s propensities—like in voir dire—should involve idiographic techniques that better assess jurors’ idiosyncrasies, for example, using Cervone’s (2004) Knowledge-and-Appraisal Personality Architecture model (KAPA) to evaluate the suitability of jurors (Stevenson & Caldwell, 2009).

Participants would write essays about some relevant topic (e.g., obedience to authority figures) and identify which parts of their essays are most central to them, after which the participants would make judgments in a series of relevant legal cases. Presumably, the idiosyncratic views the participants describe as “central” should be more predictive of behaviors when cases are relevant to those views than when the cases are less relevant. Although it seems implausible that this technique could be used as an information-gathering tool during in-person voir dire, future research might benefit from incorporating idiographic measures of juror bias in conjunction with nomothetic measures because attorneys and judges make decisions in voir dire on the individual-juror level; in other words, idiographic measures could strengthen the ecological validity of voir dire research, although no research has tested this proposition to date.
CHAPTER 4: PRETRIAL PUBLICITY AND VOIR DIRE

Voir dire has the potential to remedy the effects of PTP via two mechanisms: a) by helping attorneys and judges identify venirepersons who are prejudiced against the defendant because of PTP exposure, and b) by educating venirepersons about the problems of PTP bias and persuading them to set aside their bias. In one study that examined whether voir dire could de-bias PTP exposed jurors, participants read articles containing negative facts about the defendant or neutral information (Dexter, Cutler, & Moran, 1992). A week later, a mock judge and attorneys conducted either minimal or extended voir dire with participants, after which participants watched a video trial and completed guilt measures. In the minimal voir dire condition, the judge asked participants superficial questions regarding knowledge of the case, prior jury service, and occupation—questioning lasted an average of 15 minutes. In the extended voir dire condition, the judge and attorneys extensively questioned participants about PTP exposure and attempted to rehabilitate them by explaining possible cognitive biases caused by PTP, obtaining public commitments from jurors to disregard PTP, and asking jurors to hold each other accountable for basing verdicts solely on the evidence—questioning in this condition lasted an average of 60 minutes. Participants exposed to negative PTP rendered more guilty verdicts than did those exposed to neutral articles, and extended voir dire did not reduce differences between PTP exposed jurors and non-exposed jurors.

In the most relevant study to the current research, Kerr and his colleagues (1991) examined the efficacy of voir dire as a tool for screening jurors biased by pre-trial publicity. Twenty-seven defense attorneys, 29 prosecutors, and 31 judges watched voir dires of venirepersons who were exposed to factual PTP, emotional PTP, or both factual
and emotional PTP (none were shown videos of venirepersons who had not been exposed to PTP). The verdicts of jurors who had been excused through peremptory challenges or challenges for cause were compared to the verdicts of jurors who survived voir dire, as well as those who were not exposed to any PTP or voir dire. PTP-exposed jurors who were excused were no more likely to vote guilty (55.3%) than were PTP-exposed jurors who survived voir dire (48.4%). More important, PTP exposed jurors who survived voir dire rendered significantly more guilty verdicts (48.4%) than did control jurors who were not exposed to PTP or voir dire (33%). In other words, voir dire screening did not appear to eliminate PTP effects on verdicts. One limitation of this study is that exposure to PTP was confounded with exposure to voir dire. It is impossible to know from these data whether voir dire exposure also increased convictions or whether judges and attorneys were able to discriminate among venirepersons who have varying levels of PTP exposure when exercising challenges during jury selection.

Overall, attorneys and judges do not appear to effectively distinguish between biased and unbiased jurors. Attorneys’ tend to rely on basic demographic information, folk wisdom, and stereotypes to determine whether venirepersons are favorable or unfavorable to their sides, and these methods appear ineffective (Diamond & Zeisel, 1974; Johnson & Haney, 1994; Olczak et al., 1991). Attorneys’ questioning strategies may result in behavioral confirmation processes, which can (in part) explain why attorneys are unable to effectively strike unfavorable venirepersons (Crocker et al., 2009; Greathouse et al., 2008; Kennard et al., 2010). Finally, research examining voir dire and PTP has suggested that voir dire screening and rehabilitation may be ineffective tools for eliminating PTP bias from the venire (Dexter et al., 1992; Kerr et al., 1991).
CHAPTER 5: A POSSIBLE MEASURE OF PTP BIAS

Although scholars have studied possible mediators of PTP effects on guilt judgments, they have yet to examine any non-verdict or guilt-ratings measures of PTP bias. The development of individual PTP bias measures could be useful for trial consultants and the courts more generally, as such measures could be used in place of (or in addition to) questioning to determine when PTP has biased venirepersons’ perceptions of the defendant. Further, developing such a measure of PTP bias will build upon the body of literature examining the underlying mechanisms that drive PTP effects, which in turn may suggest future research and policy directions.

The Implicit Associations Test (IAT)

The Implicit Associations Test may (IAT) be useful as a measure of PTP bias. The IAT(s) is an unobtrusive measure of implicit bias toward a specified target (e.g., members of a specific race) relying on response latencies to stimuli rather than self-reported attitudes (Greenwald, McGhee, & Schwartz, 1998). IAT administration involves presenting words or images on a computer screen and asking participants to press the “e” key for some concepts and “i” key for other concepts. The validity of the IAT rests on the assumption that associated concepts (e.g., related words or pictures like “pleasant” and “flower”) should be easier to sort in this cognitive task when the task requires these related concepts to be categorized using the same response (both using the “i” key) versus a different response (categorizing “pleasant” with the “i” key and “flower” with the “e” key). For example, participants who associate African-Americans with weapons should respond more quickly when photos of African Americans and weapon-related words (e.g., “gun”) must both be categorized using the “i” key as opposed to when African Americans are
categorized with the “i” key and weapons are categorized with the “e” key. Although a number of researchers have called into question the validity of the IAT as an accurate measure of racial attitudes (see Blanton & Mitchell, 2011; Blanton et al., 2009), the IAT has demonstrated greater predictive validity of some criterion behaviors (e.g., drug use, consumer preferences) than self-report measures—and it has become a widely used implicit measure of attitudes (Greenwald, Poehlman, Uhlmann, & Banaji, 2009).

IAT researchers have recently addressed the numerous possible ways that implicit biases as measured by the IAT could affect actors in the legal system, suggesting that implicit attitudes could impact the behaviors of police officers, attorneys, judges, and juries (Kang et al., 2012). Most relevant to the current study, researchers developed a guilty-not guilty race IAT in an attempt to predict black/guilt associations and verdict judgments in a simulated trial (Levinson, Cai, & Young, 2010). Participants demonstrated a weak implicit association between “black” and “guilty,” and these IAT scores predicted an “evidence evaluation” factor. However, the guilty-not guilty IAT did not predict scaled guilt judgments or verdicts.

Potential Directions for the Use of the IAT in PTP Research

IAT researchers recommended against using the race IAT to individually rule out venirepersons during jury selection, mentioning potential reliability issues with the measure (i.e., results for an individual are often inconsistent) and individuals’ potential to overcome behavioral manifestations of implicit attitudes (Kang et al., 2012). Another potential problem with using the IAT is its focus on general attitudes toward groups of people (e.g., African Americans), as it may be difficult on a case-by-case basis to determine exactly what an observed negative association reflects. That is, IAT scores designed to tap racism
might be tapping any number of things (e.g., the influence of social media), many of which do not necessarily indicate prejudice against a specific defendant. However, researchers could measure associations between a specific defendant and guilt related words (e.g., “criminal” or “offender”) that result from exposure to prejudicial PTP in a specific case and in turn use these IAT scores to predict verdicts. An IAT in a case-specific setting with clear sources for the negative associations (i.e., PTP) should reduce concerns regarding construct validity, as the presence of negative PTP would provide a clear source of observed defendant/guilt associations. Further, the incorporation of case-specific IAT data into mediational models of PTP effects may provide evidence of a link between IAT scores and verdicts not found with previous IATs (i.e., Levinson et al., 2010), perhaps allowing for more accurate pretrial bias estimates. Such a measure might be relatively immune to social desirability as well. In the present research, I employed a case-specific IAT measuring associations between the defendant in a fictional criminal case and guilt-related words.
CHAPTER 6: VENIREPERSONS’ MOTIVATIONS DURING VOIR DIRE

In the real world, people may be conflicted about how they should behave during voir dire. On the one hand, the public nature of the interaction and the desire to be a good citizen may encourage venirepersons to present themselves in a positive light. On the other hand, many people have personal obligations and wishes that might motivate them to present themselves as undesirable for jury service in the hope that they will escape jury duty. Jurors’ motivations to be good citizens or to avoid their civic duty may limit the usefulness of information gleaned during voir dire.

Venirepersons’ Motivation to Be Viewed Positively

Venirepersons may withhold information about their biases when they fear being perceived negatively by attorneys and the judge (Lieberman & Sales, 2007; Marshall & Smith, 1986). The proposition that venirepersons tailor their behaviors during voir dire present themselves in the most positive light underlies research examining behavioral confirmation processes during voir dire (Crocker et al., 2009; Greathouse et al., 2008; Kennard et al., 2010). That is, because behavioral confirmation may be at work in voir dire, venirepersons will likely attend to attorneys’ and judges’ behavioral cues to their expectations and adjust their behaviors to match attorneys’ and judges’ expectancies. Presumably, such effects occur because venirepersons wish to provide the correct answers to questions, helping them maintain a positive image with the judge or attorney doing the questioning.

Others have focused on reducing venirepersons’ anxieties about how other jurors view them—again, this line of thinking focuses on venirepersons’ desire to avoid negative evaluations. Because voir dire occurs most commonly with groups of jurors being
questioned simultaneously, questions about sensitive subjects (e.g., marital status, victimization, or criminal history) may lead venirepersons to conceal or obfuscate relevant information (Broeder, 1965; Jones, 1987). In addition to omitting information for fear of negative appraisals, venirepersons may learn the appropriate responses to questions by watching other jurors (Middendorf & Luginbuhl, 1995). Therefore, it appears that other jurors may also exert informational influence by supplying the appropriate answers to voir dire questions. In sum, other jurors may provide both the motivation (along with attorneys and judges) and appropriate informational means for an individual to maintain a positive image during voir dire.

A venireperson’s motivation to present a positive image during voir dire may not always be purely in the interest of avoiding negative appraisals to protect self-esteem, as it is possible that some people want to be empanelled for reasons of vengeance or justice against a defendant. Venirepersons may be more likely to have revenge motives in highly publicized cases, as these are the most likely to evoke strong reactions against one side or the other (or both) prior to trial. The Wounded Knee trials are a prime example of such a case, as numerous members of the venire in this case reported lying to get on the jury—evidently to punish the defendants (Hans & Vidmar, 1986). In cases like the Wounded Knee trials, venirepersons may deliberately conceal their true biases about a particular case to avoid being dismissed from jury service, which could certainly undermine the efficacy of the voir dire process and by extension the pursuit of justice. Unfortunately, no experimental research to date has examined venireperson motivations to be empanelled and their potential effects on the efficacy of voir dire questioning.

**Venirepersons’ Motivation to Be Viewed Unsuitable for Jury Service**
It appears that many people called to jury duty do not wish to serve, and a motivation to evade jury service may compel venirepersons to respond in ways that make them appear *undesirable* as jurors. Thus, people may very well respond insincerely to voir dire questions with the calculated agenda of receiving *negative* evaluations by attorneys and judges. For example, one advice website for escaping jury duty suggests, “Always follow the law when dealing with the judicial system, but cop a serious attitude at the same time. You need to present yourself as unstable and stubborn to avoid any and all jury duty” (http://www.wikihow.com/Get-Out-of-Jury-Duty). In another online list of ways to get out of jury duty, the author advises “Be biased – Be biased against the crime, the location, the race of the perp, the color of the rug in the courtroom. Admittedly, biased people have no place on a jury” (http://www.mytwodollars.com/2010/06/10/ways-to-get-out-of-jury-duty-summons/). For many people, jury duty is an inconvenience for which they will go to great lengths to avoid, including risking negative evaluations by peers and authority figures. In these cases, venirepersons may deliberately feign biases against a defendant (or other party) to avoid jury service, in turn reducing the efficacy of the voir dire process. As with deliberately feigning impartiality, no research to date has examined how manufactured biases affect the processes and efficacy of voir dire proceedings.
CHAPTER 7: SOCIALLY DESIRABLE RESPONDING AND IMPRESSION MANAGEMENT

Venirepersons may reveal information about themselves selectively to be viewed positively by attorneys and judges, and one could broadly categorize such behavior as socially desirable responding. Socially desirable responding is the tendency to present oneself favorably as a function of current social norms and standards and has been observed and acknowledged as far back as the 1920’s (Zerbe & Paulhus, 1987). Recent conceptualizations of socially desirable responding have defined the two mechanisms that underlie the basic phenomenon: 1) self-deception, and 2) impression management (IM) (Paulhus, 2002). Self-deception involves unrealistically positive self-depictions that individuals believe to be true, whereas impression management reflects a more deliberate (or habitual) attempt to present a positive public impression. Although IM does not necessarily reflect deliberate deception or lying, deliberate dishonesty is one possible IM tactic that arises in some contexts. In the context of voir dire questioning, IM is generally a more relevant concept than self-deception because it directly addresses public presentation of personal characteristics, whereas self-deception may very well fit under the broader category of “awareness.” Furthermore, venirepersons may be more likely to engage in deceptive impression management tactics versus self-deception when they feel strongly motivated to get on or off a jury—especially when they sense that revealing their true attitudes will not help them achieve their goals.

Leary and Kowalski (1990) delineated a two-component model of impression management (self-presentation) that includes a motivation component and a construction component. Impression motivation determines the conditions under which people will
attempt to manage the impression that others have of them. People are more motivated to impression manage when 1) they perceive that such impressions will fulfill some goal, 2) the goal has personal value, and 3) there is a discrepancy between the current and desired image. During voir dire, all three determinants of impression motivation are likely to be present. For venirepersons, voir dire can be a goal-oriented process, as they may desire to be empanelled or avoid jury service. With regard to personal value, venirepersons motivated to be empanelled on a jury may intrinsically value their civil duty, whereas those with the desire to escape jury duty may wish to avoid the inconvenience or potential monetary loss resulting from jury service. Finally, regardless of people’s motivations, it is likely that many people perceive a discrepancy between their current images (in the eyes of attorneys and judges) and their desired images, which should encourage them to make active attempts to alter such perceptions.

With regard to impression construction, self-presentation of the desired impression consists of a wide variety of possible behaviors meant to impress both accurate and inaccurate information on target audiences. There are a broad variety of behaviors that might provide a means for producing positive evaluations (Leary & Kowalski, 1990). In the context of voir dire, jurors might achieve the goal of being empanelled by making statements that indicate impartiality and level-headedness—characteristics that are likely to reduce the possibility of challenges by attorneys. Venirepersons wishing to escape jury service may engage in impression construction tactics that are intended to portray negative images, such as appearing racist or biased against the defendant. Anecdotal accounts suggest this phenomenon occurs during voir dire, and relevant experimental research has
demonstrated that people will present themselves negatively if such impressions serve to achieve an explicit goal (Jellison & Gentry, 1978).

**Minimizing Socially Desirable Responding**

A number of tactics might reduce the effects of socially desirable responding in the context of research interviews, and these tactics address the situational determinants of “other deception” (later incorporated into definition of IM) that can be influenced and manipulated by researchers (Nederhof, 1985). Although these tactics for minimizing socially desirable responding apply to research interviews and assume participants’ desire to exude positive impressions, they are relevant to the current discussion.

An appropriate social distance between interviewer and interviewee may be necessary to prevent socially desirable responding (Nederhof, 1985). Establishing “good rapport” with interviewees may increase socially desirable responding (Dohrenwend, Colombotos, & Dohrenwend, 1968; Weis, 1968; Goudy & Potter, 1975), which runs counter to the assumption that less social distance will create a more favorable environment for accurate responding (Scott, 1968). Attorneys may use voir dire as an opportunity for ingratiation (Levine, 2001; Suggs & Sales, 1978a). If rapport building during voir dire reduces the social distance between attorneys and venirepersons, then it could reduce the accuracy of personal information that venirepersons provide through increasing venirepersons’ tendencies to respond in socially desirable ways. However, legally relevant research suggests that attorney-conducted voir dire yields more consistent information (compared with pre-voir dire survey responses) from venirepersons than judge-conducted voir dire (Jones, 1987), and venirepersons’ disclose a greater volume of information to attorneys versus judges perhaps because attorneys are less intimidating than the judge. The
above contradiction is somewhat provocative because the same variable (status of the questioner) appears to predict different outcomes. However, these dissimilarities likely arise from fundamental differences between the research interview and voir dire settings. In voir dire, judges apply normative pressure on venirepersons for the explicit purpose of eliciting socially desirable responses (e.g., “I’m impartial”), whereas attorneys seek honest responses to uncover biases—which would explain why SDR may increase when judges (high status) question venirepersons versus attorneys (low status). In research interviews, ingratiation and reduced social distance may inadvertently increase response distortion instead of decrease it because participants become more motivated to please the friendly interviewer with “correct” responses.

Another solution to reducing socially desirable responding caused by interviewers is to use written questionnaires. Anonymous mass self-administration produces less social desirability distortion than other methods (e.g., Paulhus, 1984). However, the presence and/or proximity of an interviewer may moderate these effects such that participants’ responses may still reflect social desirability considerations when an interviewer is present (Bradburn & Sudman, 1979). The courts in highly publicized cases may very well administer surveys to the venire en masse (as in Skilling), but these surveys are certainly not anonymous. Furthermore, even if authority figures (i.e., attorneys and the judge) are not present for the administration of juror surveys, the specter of defending or clarifying their answers to survey responses during subsequent in-court questioning might affect venirepersons’ responses. Therefore, written voir dire questionnaires may not reduce socially desirable responding in the same way that anonymous written questionnaires have done in previous studies.
Some question formats may reduce the effects of socially desirable responding (Nederhof, 1985). The forced choice method matches items or statements that are considered equally desirable or undesirable, forcing a person to choose which option he or she prefers. Theoretically, this method should nullify the effects of social desirability, but critics have noted the difficulty in judging two items to be equal in social desirability (Scott, 1963). In the context of voir dire, attorneys and judges could use the forced choice method to obtain diagnostic information from venirepersons. However, forcing venirepersons to choose from a set of options resembles the common technique of using yes/no questions during voir dire—a technique that critics have argued reduces the usefulness of information gleaned during voir dire (Lieberman & Sales, 2007). These critics argue that open-ended questioning is a better way to obtain useful information from venirepersons. For example, in one study participants more readily admitted biases when asked open-ended questions versus more directive questions that suggested possible response options (Middendorf & Luginbuhl, 1995).

Instead of matching answer choices that are equally desirable or undesirable, one could develop questions that are simply devoid of any obvious social desirability influence (i.e., neutral questions). Critics have argued that the tactic of picking questions/items that are neutral in social desirability is ill advised, as it is difficult to find items whose answers do not suggest the possibility of negative evaluations by perceivers (Nederhoff, 1985). Nevertheless, attorneys and judges could attempt to develop items for voir dire that do not suggest an obvious “correct” answer.
CHAPTER 8: MOTIVATIONS TO DISSEMBLE IN NON-VOIR DIRE CONTEXTS: THE EMPLOYMENT INTERVIEW

Fundamentally, voir dire questioning is analogous to an employment interview because the entire purpose of voir dire questioning is to distinguish and select venirepersons that are most suitable for the “job” of jury service. As such, attorneys and judges examine venirepersons’ credentials, ask venirepersons job-relevant questions, and reduce the jury pool to a smaller number of people who appear most suitable for the job. Therefore, despite some clear distinctions between voir dire and employment interviews (e.g., many venirepersons don’t want the job!), applied research on employment interviews may suggest some possible angles from which to approach voir dire questioning.

Faking/IM in the Employment Interview.

Levashina and Campion (2007) defined faking in the employment interview as “deceptive impression management or the conscious distortions of answers to the interview questions in order to obtain a better score on the interview and/or otherwise create favorable impressions” (p.1639). Although an individual’s general use of impression management may not be an entirely conscious process, the concept of faking assumes the use of conscious deception. There is a difference between role faking and faking the “ideal self,” according to these authors. Role faking involves tailoring behaviors to specific behavioral prescriptions (i.e., the “good” employee). People will fake in job-desirable ways, which does not completely overlap with social desirability. Therefore, the interviewee’s understanding of the “best” candidate (right or wrong) will dictate the ways in which the interviewee chooses to present himself or herself, and the general concept of socially desirable responding will become secondary to job-specific presentation concerns.
Role faking in employment interviews better characterizes impression management behavior in voir dire than does faking the “ideal self.”

Levashina and Campion (2006) also delineated an exhaustive model of faking in employment interviews, hypothesizing that people are more willing to fake when the perceived likelihood of being caught is low (Kane, 1994; Vroom, 1964; Tourangeau, Smith, & Rasinski, 1997). Additionally, more opportunities for faking exist 1) during unstructured interviews, 2) when questions are transparent, hypothetical, internal, subjective, and unverifiable (versus historical, external, objective, and verifiable), 3) when questions are situational instead of past-behavioral, 4) during shorter interviews, and 5) when background information about the interviewee is withheld. Are any of these predictions applicable to faking during voir dire questioning? If so, how might attorneys and judges adjust their practices to reduce venireperson faking during voir dire?

People should be more likely to fake when it appears they will not be caught (Levashina & Campion, 2006). For example, in one study participants reported more sensitive personal behaviors in a survey (e.g., illicit drug use) when experimenters told them their lies could be detected using a physiological recording device—a bogus pipeline (Tourangeau, Smith, & Rasinski, 1997). Theoretically, judges and attorneys could similarly reduce disingenuous responding by telling venirepersons that legal authorities are experienced lie detectors. Although inserting such an instruction into the voir dire process might prevent venirepersons from faking out of fear of getting caught, this tactic does not address venirepersons’ motivations to lie or their knowledge of the “correct” responses. Therefore, effects on faking could be minimal if venirepersons do not accept judges and attorneys as expert lie detectors.
Because people successfully fake more often in unstructured versus structured interviews (Levashina & Campion, 2006), faking is a likely problem in the voir dire context because voir dire questioning often lacks a set structure. The cognitive demands on interviewers can be high, and interviewers may revert to using heuristics in unstructured interviews—even though they know respondents might be lying (Goffman, 1959; Schlenker & Leary, 1982). Perceivers are generally bad at detecting intentional response distortion, especially when they are cognitively busy (Gilbert & Krull, 1988; Gilbert, Krull, & Pelham, 1988). Judges and attorneys are certainly cognitively busy during voir dire proceedings because they are forced to interact with and distinguish between many venirepersons throughout the course of questioning. Most courts conduct voir dire with large groups of venirepersons (e.g., 30 people at a time), and the attorneys must remember people’s responses and strike the appropriate ones afterward. Even when the courts use prevoir dire questionnaires that include a standard/structured set of questions, subsequent in-court questioning often ensues in an unstructured format.

Along with using a structured format, the faking model proposed that certain question-types might reduce opportunities for faking, and such question-types might be helpful in voir dire questioning (Levashina & Campion, 2006). Interviewers should avoid the use of transparent questions, instead using subtle questions that obscure the obvious desirable answers. Across numerous studies, the effects of faking on responses to scale items were less pronounced when the measured constructs were less obvious to respondents (Alliger & Dwight, 2000). Attorneys and judges could attempt to develop questions that do not implicitly suggest a specific desirable response, but (as mentioned before) this strategy might prove a difficult task.
Historical and external questions that make reference to real-life situations (as opposed to thoughts, attitudes, and opinions) might also limit faking (Levashina and Campion, 2006). For example, in one study people faked less when given past behavioral questions (what did you do in some job-relevant situation in the past?) versus situational questions (what would you do in some job-relevant situation?) (Levashina and Campion, 2007). In another study, participants were given content-matched questions that were either situational or experienced based, after which the interviewers rated the employees (Pulakos & Schmitt, 1995). Interviewers’ ratings were related to subsequent job performance (i.e. supervisor ratings) only when interviewers employed experienced-based questioning—situational interviews did not correlate with job performance. In the context of voir dire, asking venirepersons about past experiences and behaviors could yield more accurate information about their future behaviors as jurors than seeking out their thoughts and opinions. The faking model also predicts that longer interviews and some prompting or follow-ups reduce faking as compared to shorter interviews without follow-up questions, mainly because respondents can more easily maintain a uniform, desired image in a shorter interview (Levashina & Campion, 2006). Thus, extended voir dire is likely to produce more accurate information from venirepersons, especially in highly publicized cases, as more extensive questioning might allow attorneys and judges to detect inconsistencies in venirepersons’ responses. However, this aspect of the model does contradict other research that demonstrated follow-up questioning allowed more opportunities for faking (Levashina & Campion, 2007), as well as research demonstrating no added benefits of respondent elaboration (Schmitt et al., 2003). In sum, there is somewhat mixed evidence regarding the efficacy of longer interviews versus shorter interviews. Therefore, attorneys and judges
may wish to obtain additional information to clarify venirepersons’ answers to questions, but they should use caution in framing the questions to avoid the introduction of unnecessary biases.

Providing (versus withholding) interviewers with interviewees’ background (ancillary) information reduces faking behaviors (Gilmore & Ferris, 1989; Schlenker, 1980). Specifically, providing interviewers with factual information about the candidate (e.g., work history) can reduce faking by indicating to the candidate that the “interviewer is aware of relevant information and that the candidate must be consistent with that information” (p. 309). Furthermore, having information about the candidate arguably reduces the superficiality of the interviewer/candidate relationship, which reduces the likelihood of pretense by deepening the relationship (Buss & Briggs, 1984). However, interview impressions based on ancillary information might cause interviewers to use a hypothesis-confirming questioning strategy that results in behavioral confirmation (Snyder & Swan, 1978). In other words, interviewers’ knowledge of background information could taint the information gathering process because this knowledge affects the interviewers’ perceptions and behaviors, as opposed to the candidates’ faking behaviors. Perhaps giving candidates the impression that interviewers possess ancillary information about them—without actually providing interviewers the information—might reduce candidate faking while preventing the undesirable effects of interviewer knowledge (Levashina & Campion, 2006). Applied to voir dire, attorneys and judges could inform venirepersons that the court has their background information without actually viewing that information, which might reduce faking and prevent behavioral confirmation processes.
CHAPTER 9: AN ALTERNATIVE FOR REDUCING SDR, IMPRESSION MANAGEMENT TACTICS, AND FAKING IN VOIR DIRE

Most of the above suggestions for reducing socially desirable responding, impression management tactics, and faking in the employment interview have limited practicality for use in voir dire questioning. For example, attorneys likely have neither the time nor the expertise to control for social desirability by matching options on forced choice items that are equal on social desirability. Furthermore, experience-based questioning may indeed yield more diagnostic information from job candidates, but venirepersons are unlikely to have relevant experience in jury service that would be analogous to items used by interviewers during personnel selection. For this reason, attorneys and judges (with some exceptions) often must rely on transparent, hypothetical, internal, subjective and unverifiable items while questioning venirepersons. Even during extended voir dire, attorneys and judges conduct relatively short interviews with venirepersons, as they are forced to evaluate many more candidates at a given time than the average person conducting personnel selection. In short, practical matters likely stand in the way of uniformly implementing most of these methods during voir dire questioning, although appropriately trained attorneys and judges could tailor voir dire questions using some or all of these methods on a case by case basis.

A Blanket Approach to Controlling IM and Faking During Voir Dire?

Attorneys and judges might be able to employ the previously discussed methods as ways for reducing faking and impression management during voir dire. All of these methods assume that the interviewees/venirepersons possess accurate knowledge about the “best” candidate for jury service and will use this knowledge to present themselves as fair
and impartial (or biased and partial). Indeed, judges sometimes inform venirepersons before voir dire questioning about the attributes of an ideal juror (Skillings v. U.S., 2010), suggesting that venirepersons (regardless of their motivations) are likely to possess specific knowledge that will enable them to produce “job-desirable” (or undesirable) responses during questioning. Therefore, a biased venireperson who wishes to be empanelled on a jury will know to fake impartiality and fairness, whereas somebody wishing to escape jury service will know to fake bias against one party or the other. In short, judges’ instructions on the ideal juror may unwittingly arm motivated venirepersons with the appropriate tools for impression construction (Leary & Kowalski, 1990).

Changing the content of judges’ instructions about the traits of an ideal juror represents an intuitively appealing answer to the above conundrum, as venirepersons should generally find more difficulty in successfully constructing job-desirable (or job-undesirable) impressions when they are not instructed about desirable traits immediately before questioning. For example, a judge could replace instructions describing the ideal “fair and impartial” juror with instructions on the importance of complete honesty among ideal jurors, emphasizing the need for a jury with a wide range of views on the case and the legal system. These alternative instructions should provide the impression that ideal jurors are vocal and honest about their prejudices and contain no reference to impartiality as an ideal juror trait. Using an instructions-based approach to minimizing the effects of faking and impression management during voir dire might allow attorneys and judges to circumnavigate the issue without facing the impracticality of most of the previously mentioned methods. Therefore, in the current research I tested an alternative instruction
(along with standard instructions) that emphasized the importance of honesty and diversity of opinions among ideal jurors.
CHAPTER 10: THE PRESENT RESEARCH

The present research built upon previous work (Kerr et al., 1991). To more directly address the long standing assumption that judges and attorneys can tell the difference between biased and unbiased jurors in cases receiving substantial pretrial publicity, I employed a PTP manipulation designed to directly influence the degree of venirepersons’ bias. Kerr et al.’s (1991) PTP manipulation was tailored to a slightly different research question (factual PTP vs. emotional PTP vs. both), complicating any attempt to clearly interpret relationships between judges’ and attorneys’ challenges and amount of venireperson bias. Along the same lines, I collected measures of individual venireperson bias to examine whether decision makers can accurately discriminate among venirepersons with different levels of bias—that is, I did not simply use manipulations of PTP exposure as my metric of bias, nor did I rely on differences in verdicts for establishing whether there were differences in bias between groups.

In the current study I measured source-monitoring errors as a metric for bias, as such errors have been associated with PTP exposure (Ruva & McEvoy, 2008). In previous studies examining the effects of PTP on source memory errors, PTP-exposed jurors were also more likely to make source-monitoring errors (report that they had heard information presented in the PTP during the presentation of trial evidence) and vote guilty (Ruva, McEvoy, & Bryant, 2007; Ruva & McEvoy, 2008) than were those who did not read PTP. Thus, source memory errors represent one form of bias through which PTP can affect impartiality, as jurors may treat information from PTP as evidence of guilt—without recognizing that PTP facts never appeared in trial. In addition to measuring source
memory errors, I used a customized implicit association test (IAT) to measure negative attitudes toward the defendant (Greenwald, McGhee, & Schwartz, 1998; Nosek, Greenwald, & Banaji, 2007). Although the use of the IAT in this setting was novel, the measure appears to be relatively immune to faking (Banse, Seise, & Zerbes, 2001; Kim, 2003). Convergence of these two measures should provide evidence that bias was reliably measured, and the use of multiple individual-level measures of bias represents a major innovation in the study of PTP bias. Relatively few studies to date have examined the cognitive mechanisms that underlie PTP effects on guilt judgments, and none have used multiple measures while also manipulating the amount of PTP to which mock jurors were exposed. Additionally, the use of individual-level PTP bias measures represents a more externally valid approach to bias detection in voir dire, as attorneys’ and judges’ must eliminate individual jurors on a case-by-case basis (Stevenson & Caldwell, 2009).

To extend earlier research, I also manipulated venirepersons’ motivation to get on or off the jury, as these motivations should affect the overall efficacy of voir dire questioning because 1) the system encourages attorneys and judges to take venirepersons’ statements at face value (e.g., the Skilling voir dire), and 2) even if attorneys and judges generally sought to detect venirepersons’ deception, most people are not very good deception detectors (e.g., DePaulo, Stone, & Lassiter, 1985). Finally, based on the idea of impression construction (Leary & Kowalski, 1990), I put in place manipulations to test whether changes in the content of pre-voir dire judicial instructions on the importance of juror impartiality might dampen the effects of venirepersons’ motivations to provide inaccurate information in an attempt to get on or off a jury.
I conducted a two-phased study to examine the interactions among PTP exposure, venireperson motivation, and content of pre-voir dire instructions to determine under which conditions judges and attorneys can best predict venirepersons’ actual individual biases (as gauged by our two PTP bias measures and verdicts). The design of the study allowed me to 1) gauge the biasing effects of differential exposure to PTP on juror decision making, 2) determine whether judges and attorneys can detect these differential biases and use challenges to remove the most biased venirepersons, 3) determine the effects of venirepersons’ motivations on the usefulness of information gleaned during voir dire, and 4) examine whether pre-voir dire instruction on the importance of honesty—as opposed to instruction on the importance of impartiality—can reduce venirepersons’ tendencies to misrepresent their biases during voir dire.

In the first phase of the study, I manipulated the amount of negative PTP presented to mock venirepersons and their motivation to be impaneled on a jury (i.e., motivate them to get on the jury or to be excused). After completing a measure assessing their bias against the defendant (a case-specific IAT), mock venirepersons participated in a videotaped mock voir dire with one of two confederate attorneys. Before questioning a mock judge provided instructions on the importance of either impartiality or honesty and full disclosure—which should affect venirepersons’ motivation for impression construction during questioning (see Leary and Kowalski, 1990). Finally, all participants watched a videotaped trial, rendered verdicts, and completed a source memory test. In the second phase of the study, videos of the voir dires were presented to attorneys and judges to gauge whether they could 1) accurately judge the extent of venirepersons’ exposure to
PTP and 2) effectively use causal challenges and peremptory strikes to eliminate the most unfavorable and/or biased venirepersons.

Although the primary purpose of this study was to examine whether judges and attorneys can recognize venirepersons who have been biased by PTP and effectively use challenges to remove the most biased venirepersons, it is worth noting that my voir dire manipulations (along with PTP exposure) are also relevant to juror decision-making. Thus, the dataset from this study not only allowed for inferences about the information gathering aspect of voir dire, but also provided information about how voir dire process might influence jurors’ subsequent decision making. For example, providing instructions on the ideal of honesty (versus impartiality) before voir dire questioning might lessen venirepersons’ abilities to adequately construct their desired impression (good or bad for jury service), but these instructions may also influence jurors’ approaches to subsequent decision making.
CHAPTER 11: PHASE ONE METHOD

Participants

Participants were 409 jury eligible community members from the New York City area who received $20 for their participation. I recruited them using an advertisement on Craigslist.org. Participants had a mean age of 37 years old (SD = 14), were 56% female, 41% Caucasian, 30% African-American, 8% Asian, 12% Hispanic, and 8% “Other.”

Design and Materials

Participants were randomly assigned to conditions in a 2 (PTP Bias: High, Low) X 2 (Venireperson Motivation: On Jury, Off Jury) X 2 (Pre-Questioning Instructions: Impartiality Instructions, Honesty Instructions) + 2 (High and Low PTP Bias without motivation or impartiality/honesty instructions) between subjects factorial design.

Pretrial publicity bias manipulation. A meta-analysis of PTP studies found that PTP effects were stronger when venirepersons were exposed to more pieces of information about the defendant and the crime (Steblay et al., 1999). Thus, I manipulated the extent of the PTP bias among participants by creating a pool of 10 articles with distinct negative PTP that included specific information about the defendant or crime (e.g. prior record, confession, arrest information). All participants read 10 articles in total, but the number of negative PTP articles varied as a function of condition. In the low bias condition, participants received two articles containing negative PTP. Both articles were randomly picked from the pool of 10 articles for each participant. In the high bias condition, participants read eight articles with specific negative PTP, randomly picked from the pool of 10. The negative PTP contained a wide range of potentially biasing information, such as...
reports of the defendant’s inadmissible confession, prior criminal record, and inadmissible inculpatory evidence. In both PTP conditions, each article focused on a different aspect of the case, such that biasing information across articles did not overlap. In both PTP conditions, randomly drawn neutral articles constituted the remaining 8 (low bias) and 2 (high bias) articles each participant read. See Appendix A for PTP articles.

**Venireperson motivation manipulation.** Before voir dire, participants read and heard instructions to answer the attorney’s questions with the purpose of either 1) getting on the jury or 2) getting out of jury service. Participants were free to answer the questions in whatever way they saw fit. To ensure the effectiveness of this manipulation, I provided an additional $10 incentive. See Appendix B for full motivation instructions. If participants were successful at their assigned task (i.e., they were chosen when they were instructed to be chosen and excused when they were instructed to try to get off the jury), they received an extra $10. Participants were considered successful if a simple majority of judges and attorneys watching the video of their voir dires voted them on or off (depending on condition).

**Pre-questioning judicial instructions.** Directly before voir dire questioning, a mock judge instructed venirepersons via videotape either on the importance of impartiality when evaluating the evidence and applying the law or the importance of complete honesty when answering voir dire questions. These instructions informed venirepersons (as they did in *Skilling*) about the ideal candidate for jury service. In the impartiality condition, the mock judge provided instructions based on the District Court’s instructions in the *Skillig* (2010) case that the judge gave to the jury before voir dire. In the impartiality condition the judge instructed the venirepersons on the importance of impartiality, the presumption of
innocence, and stressed that the “bottom line is that we want jurors who will faithfully, conscientiously, and impartially serve if selected” (823a-824a). In the honesty condition, the judge instructed venirepersons on the importance of complete honesty among ideal jurors, emphasizing the need for a jury with a wide range of views on the case and the legal system. These instructions provided the impression that ideal jurors are vocal and honest about their prejudices and contained no reference to impartiality as an ideal juror trait. See Appendix C for full judge’s instructions.

**Voir dire questioning.** A mock attorney conducted individual voir dire questioning, modeled after the questioning done in Kerr et al.’s (1991) study, in a separate room. Participants first provided demographic information, after which one of two mock attorneys asked 1) if they read or saw anything on the news about the case or the defendant, and they were asked to describe what that may have been, 2) whether they had formed an opinion about the guilt or innocence of the defendant, 3) whether they had discussed this case with friends, relatives, or others, and 4) whether they could put out of their minds any information they read or heard about the case or defendant. These voir dires were videotaped, and these videotapes were the main stimuli in the second phase of the study.

**Trial stimulus.** The case was a robbery-assault trial in which the defendant allegedly entered a convenience store, robbed the cashier, and then shot and severely injured him. The trial video was 31 minutes in length, and it contained all relevant elements of a real trial, including opening statements, presentation of prosecution and defense cases, closing arguments, and instructions on the law by the judge. I collected pilot data to ensure that the trial evidence, independent of the PTP manipulations, was ambiguous enough to yield adequate verdict variability. Absent the presentation of
negative PTP, the trial yielded 63% guilty verdicts (N = 25), which allowed room for both the low and high bias PTP conditions to shift verdicts in the direction of guilt. For a full version of the trial transcript, see Appendix D.

**Dependent Measures**

PTP bias (IAT). The first measure, completed by the participants before voir dire questioning, was an adapted Implicit Association Test (IAT; Nosek, Greenwald, & Banaji, 2007). I used Inquisit 3 (2012) software to collect IAT data (see www.millisecond.com/about/publications.aspx). Participants heard instructions to press the left response key on a laptop computer when innocence-related words appeared (faultless, law-abiding, blameless, pure, acquit) and the right response key when guilt-related words appeared (criminal, offender, corrupt, delinquent, convict). In the second block, participants were instructed to press the left response key when the defendant’s name appeared (Donald Ray Braswell, Donald Ray, Mr. Braswell) and the right response key when other names appeared (e.g. James Lynn Smith, James Lynn, Mr. Smith). In the first combined block, participants were instructed to press the left response key when the defendant’s name or innocence-related words appeared, and the right response key when guilt-related words or other names appeared—thus, *incompatible* words appeared on the same side of the screen. In the fourth block, the original innocence/guilt task was reversed. In the final block, participants were instructed to press the left key for guilt/defendant name, and the right key for innocence/other names—that is, *compatible* words appeared on the same side of the screen. The program counterbalanced the order of the compatible versus incompatible trials across, such that half the participants received the incompatible test first, whereas the other half received the compatible test first. Differences in latencies between the two combined tasks
represented bias against the defendant. Quicker response times represented anti-defendant bias when guilt-related words and the defendant’s name were on the same key, and slower response times represented anti-defendant bias when guilt related words and the defendant’s name were on separate keys. Consistent with previous research using the IAT (Greenwald, Nosek, & Banaji, 2003), the main outcome was a D score ranging from -2 (strong associations between innocence-related words and the defendant’s name) to 2 (strong associations between guilt-related words and the defendant’s name). The Inquisit program calculates D scores by dividing the difference between mean latencies in the two combined blocks by the standard deviation of all latencies across both combined blocks.

**Verdicts and guilt ratings.** Participants rendered their verdict after viewing the trial by circling “guilty” or “not guilty” in response to the verdict item on the post-trial questionnaire. Additionally, they rated their confidence in the verdict they chose and the likelihood that the defendant committed the crime on 100-point scales. See Appendix E for the verdict form.

**PTP bias (source memory).** After viewing the trial, participants completed a source memory test (Johnson, Hashtroudi & Lindsay, 2003). They determined whether particular statements were part of the trial, pretrial articles, or neither. Statements were drawn from the PTP articles (10 items), the neutral articles (10 items), cycling news articles that no participants read (5 items), and the trial (10 items). For each statement, participants indicated the source of the statement (trial or not) and their confidence (5 point Likert-type) in their SM judgment. The number of statements from negative PTP articles categorized as “part of the trial” represented bias against the defendant. See Appendix F for the full source-memory test.
Manipulation Checks. Participants indicated whether the experimenter instructed them before voir dire questioning to “try to get on the jury,” “try to get out of jury service,” or participants indicated they received no instruction. Further, they indicated whether the judge instructed them before voir dire questioning that ideal jury consists of people who are “fair and impartial, not leaning toward one side or the other,” “honest and forthright, holding a wide variety of possible views,” or they indicated they received no instruction. Due to concerns regarding participants’ actual intentions and behaviors (versus recall of instruction content) during voir dire, I added an item assessing whether participants answered questions with the intent of “getting on the jury,” “getting off the jury,” or “neither getting on or off the jury.” I added this item part-way through data collection so only N = 283 received this item.

Bias Ratings (Voir Dire Videos). To determine whether actual biases as measured by verdicts, guilt ratings, and our bias measures (IAT and source memory) predicted the appearance of bias displayed by venirepersons in the mock voir dires, two independent raters watched the voir dire videos of those venirepersons who passed manipulation checks and rated the venirepersons’ 1) bias against the defendant and 2) bias against the state using 7-point Likert-type scales, with a score of 1 indicating “unbiased” and a score of 7 indicating “very biased.” Higher scores indicated increased bias.

Procedure

I recruited community members using an advertisement on craigslist.org for a study of perception and decision-making. Respondents who were jury eligible received a link to either the high bias or low bias PTP stimuli containing the 10 randomly drawn articles—I used Qualtrics survey software to deliver the articles (http://www.qualtrics.com).
Participants viewed each article individually, answering a recall question after each article to ensure they had read the article. I eliminated 13 participants who do not answer at least 70% of the questions correctly, as adequate recall of PTP information was vital for the efficacy of the PTP manipulation. Forty-eight hours after participants received the PTP articles, they arrived to the lab for their in-person sessions, which contained groups of up to 16. After being informed that the study involved participating in a mock voir dire and simulated trial, they individually completed the IAT. After completing the IAT, participants received instructions on the importance of impartiality or honesty before participating in the mock voir dire. After the voir dire, participants watched the video trial, rendered verdicts and other ratings of the trial, completed the source memory test, answered manipulation checks, and were then debriefed, paid, and dismissed.

**Hypotheses**

H1: Participants in the high bias PTP conditions should render more guilty verdicts and rate the defendant to be more culpable than those in the low bias conditions.

H2: Participants in the high bias PTP conditions should exhibit more anti-defendant bias on the IAT measure and exhibit more source monitoring errors than those in the low bias conditions.

H3: Source monitoring errors and IAT scores should mediate the relationship between amount of PTP exposure and mock jurors’ verdicts/guilt rating
CHAPTER 12: PHASE 1 RESULTS

Data Analytic Strategy

I conducted a logistic regression to examine the main and interactive effects of PTP (High Bias, Low Bias), venireperson motivation instructions (On Jury, Off Jury), and pre-voir dire judicial instructions (Impartiality, Honesty) on dichotomous verdicts. I also conducted several 2 (PTP Bias: High, Low) X 2 (Venireperson Motivation: On Jury, Off Jury) X 2 (Pre-Questioning Instructions: Impartiality, Honesty) between-subjects factorial ANOVA’s to test the main an interactive effects of these variables on “likelihood of guilt” ratings, source memory outcomes and confidence, and coders’ ratings of bias against the defendant and state.

Additionally, I conducted a logistic regression to test the interaction between PTP exposure and the presence of pre-voir dire instructions, as the presence of motivation and judicial instruction could disrupt standard PTP effects. I also conducted a 2 (PTP Bias: High, Low) X 2 (Received Pre-Voir Dire Instructions: Yes, No) factorial ANOVA to test the interaction between PTP bias and exposure to pre-voir dire instructions on “likelihood of guilt” ratings, source memory outcomes, and source memory confidence.

I used Analysis of Covariance (ANCOVA) to test the effects of PTP exposure on IAT D scores while controlling for the effect of test-block order, as test-block order slightly confounded PTP bias condition. Additionally, I conducted correlations between IAT D scores, source memory errors, verdicts, and guilt ratings, as I expected relationships between PTP bias measures and guilt indices.

Manipulation Checks and Exclusions
Because both the venireperson motivation instructions and pre-voir dire judicial instructions on the ideal qualities of a juror could potentially influence juror decision making, I eliminated those jurors who incorrectly responded to one or both of the items assessing whether they correctly recalled the instructions they received. Of the 329 who received pre-voir dire instructions, 224 passed both manipulation checks (see Table 1 for the number of participants by conditions). Eighty participants received only the PTP manipulation before participating in voir, resulting in a sample of 304 participants when combined with those who passed the instruction manipulation check.

Table 1.

<table>
<thead>
<tr>
<th>Juror Motivation</th>
<th>Judicial Instruction</th>
<th>PTP Condition</th>
<th>Count (Excluded)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Get On Jury</td>
<td>Impartiality</td>
<td>Low Bias</td>
<td>35 (6)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>High Bias</td>
<td>31 (6)</td>
</tr>
<tr>
<td></td>
<td>Honesty</td>
<td>Low Bias</td>
<td>18 (22)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>High Bias</td>
<td>23 (18)</td>
</tr>
<tr>
<td>Get Off Jury</td>
<td>Impartiality</td>
<td>Low Bias</td>
<td>33 (7)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>High Bias</td>
<td>35 (10)</td>
</tr>
<tr>
<td></td>
<td>Honesty</td>
<td>Low Bias</td>
<td>25 (15)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>High Bias</td>
<td>24 (16)</td>
</tr>
</tbody>
</table>

Although I also considered eliminating those who did not report behaviors consistent with their motivation instructions—or did not receive that manipulation check (N = 165), analyses yielded identical results on verdicts and likelihood of guilt ratings whether or not these participants were included in the sample. I therefore conducted all analyses excluding only those that did not accurately report the instructions they received.
(N = 304). Therefore, unless otherwise indicated, the analyses reported below include all participants who accurately indicated the instructions they received prior to voir dire.

**Verdicts**

To test the effects of PTP (high bias, low bias), venireperson motivation instructions (on Jury, off Jury), and pre-voir dire judicial instructions (impartiality, Honesty) on jurors’ verdicts, I conducted a logistic regression using the backward Wald entry method. This analysis revealed a main effect of juror motivation on verdicts, $B = -0.82$, S.E. = .39, Wald’s $\chi^2 (1, N = 224) = 4.46$, $p = .035$, exp ($B$) = .44, 95% CI [.21, .94]. Jurors who were instructed to try to get off the jury rendered more guilty verdicts (36%) than did those instructed to get on the jury (31%). The main effect was qualified by a significant juror motivation by PTP condition interaction, $B = .94$, S.E. = .44, Wald’s $\chi^2 (1, N = 224) = 4.60$, $p = .032$, exp ($B$) = 2.57, 95% CI [1.08, 6.07]. See Table 2 for all percentages.

Among jurors instructed to get off the jury, those in the low PTP bias condition rendered an equal amount of guilty verdicts (35%, N = 58) to those in the high PTP bias condition (37%, N = 59), $\Phi = .01$, 95% CI [-.17, .19], $p = .90$. Among those jurors given instructions to get on the jury, those in the low PTP bias condition rendered more guilty verdicts (40%, N = 53) than those in the high PTP bias condition (20%, N = 54), $\Phi = -.21$, 95% CI [.07, -.30], $p = .03$. 


Table 2.
Percentage Guilty Verdicts Across PTP and Juror Motivation Conditions

<table>
<thead>
<tr>
<th>PTP Condition</th>
<th>Juror Motivation</th>
<th>% Guilty (n)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Bias</td>
<td>Get On Jury</td>
<td>40% (53)a</td>
</tr>
<tr>
<td></td>
<td>Get Off Jury</td>
<td>35% (58)</td>
</tr>
<tr>
<td>High Bias</td>
<td>Get On Jury</td>
<td>20% (54)ab</td>
</tr>
<tr>
<td></td>
<td>Get Off Jury</td>
<td>37% (59)b</td>
</tr>
</tbody>
</table>

*Note:* Groups with matching letter are significantly different.

These results contradicted my hypothesized main effect that jurors in the high bias condition would render significantly more guilty verdicts than those in the low PTP bias condition, suggesting that pre-voir dire instructions may be interfering with the expected biasing effects of high versus low PTP exposure. Therefore, I conducted an additional logistic regression on verdicts testing the interaction between PTP bias and exposure to pre-voir dire instructions, revealing a non-significant interaction between the two variables, $B = -3.56$, S.E. = .13, Wald’s $\chi^2$ ($1, N = 304) = 2.47, p = .116$ exp ($B) = .52, 95\% CI [0.23, 1.18].

See Table 3 for percentages. My a-priori prediction that high PTP bias jurors would render more guilty verdicts than low PTP bias jurors warranted an additional analysis of PTP effects among those not receiving instructions prior to voir dire. Jurors were not significantly more likely to render guilty verdicts in the high bias condition (32%, N = 41) than in the low bias condition (23%, N = 40), $\Phi = .10, 95\% CI [-.12, .31], p = .352,$ although the percentages reflected the predicted pattern.
Table 3.
*Percentage Guilty Verdicts Across Instruction/No-Instruction and PTP Conditions*

<table>
<thead>
<tr>
<th>Received Instructions</th>
<th>PTP Condition</th>
<th>% Guilty(n)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Low Bias</td>
<td>38% (111)</td>
</tr>
<tr>
<td></td>
<td>High Bias</td>
<td>29% (113)</td>
</tr>
<tr>
<td>No</td>
<td>Low Bias</td>
<td>23% (40)</td>
</tr>
<tr>
<td></td>
<td>High Bias</td>
<td>32% (41)</td>
</tr>
</tbody>
</table>

**Guilt Ratings**

To test the effects of PTP, venireperson motivation instructions, and pre-voir dire judicial instructions on jurors’ 100-point likelihood of guilt ratings, I conducted a 2 (PTP bias: high, low) X 2 (Venireperson Motivation: on jury, off jury) X 2 (Pre-Questioning Instructions: impartiality, honesty) between-subjects factorial ANOVA. This analysis revealed no significant main effects or interactions. See Table 4 for descriptive statistics and Table 5 for inferential statistics and effect sizes. Among these jurors, guilt ratings strongly correlated with verdicts, $r = .75, p < .001$, 95% CI [.69, .80].
Table 4.  
"Likelihood of Guilt Ratings" Across Experimental Conditions Instruction.

<table>
<thead>
<tr>
<th>Juror Motivation</th>
<th>Judicial Instruction</th>
<th>PTP Condition</th>
<th>Mean</th>
<th>SD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Get On Jury</td>
<td>Impartiality Instruction</td>
<td>Low Bias</td>
<td>53</td>
<td>36</td>
</tr>
<tr>
<td></td>
<td></td>
<td>High Bias</td>
<td>45</td>
<td>32</td>
</tr>
<tr>
<td></td>
<td>Honesty Instruction</td>
<td>Low Bias</td>
<td>54</td>
<td>34</td>
</tr>
<tr>
<td></td>
<td></td>
<td>High Bias</td>
<td>49</td>
<td>30</td>
</tr>
<tr>
<td>Get Off Jury</td>
<td>Impartiality Instruction</td>
<td>Low Bias</td>
<td>56</td>
<td>35</td>
</tr>
<tr>
<td></td>
<td></td>
<td>High Bias</td>
<td>54</td>
<td>32</td>
</tr>
<tr>
<td></td>
<td>Honesty Instruction</td>
<td>Low Bias</td>
<td>42</td>
<td>29</td>
</tr>
<tr>
<td></td>
<td></td>
<td>High Bias</td>
<td>47</td>
<td>35</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Judicial Instruction Main Effect</th>
<th>PTP Condition</th>
<th>Mean</th>
<th>SD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impartiality</td>
<td>Low Bias</td>
<td>51</td>
<td>34</td>
</tr>
<tr>
<td></td>
<td>High Bias</td>
<td>49</td>
<td>32</td>
</tr>
<tr>
<td>Honesty</td>
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</table>

<table>
<thead>
<tr>
<th>Judicial Instruction Main Effect</th>
<th>Juror Motivation</th>
<th>Mean</th>
<th>SD</th>
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</thead>
<tbody>
<tr>
<td>Impartiality</td>
<td>Get On</td>
<td>50</td>
<td>33</td>
</tr>
<tr>
<td></td>
<td>Get Off</td>
<td>51</td>
<td>33</td>
</tr>
<tr>
<td>Honesty</td>
<td></td>
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Table 5.
Inferential Statistics For “Likelihood of Guilt” Ratings

<table>
<thead>
<tr>
<th>Main Effects and Interactions</th>
<th>df</th>
<th>F</th>
<th>p</th>
<th>Partial $\eta^2$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Juror Motivation</td>
<td>1</td>
<td>.01</td>
<td>.94</td>
<td>.00</td>
</tr>
<tr>
<td>Judicial Instruction</td>
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<td>.78</td>
<td>.38</td>
<td>.00</td>
</tr>
<tr>
<td>PTP Condition</td>
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<td>.21</td>
<td>.65</td>
<td>.00</td>
</tr>
<tr>
<td>Juror Motivation*Judicial Instruction</td>
<td>1</td>
<td>2.10</td>
<td>.15</td>
<td>.01</td>
</tr>
<tr>
<td>Juror Motivation*PTP Condition</td>
<td>1</td>
<td>.90</td>
<td>.34</td>
<td>.00</td>
</tr>
<tr>
<td>Judicial Instruction*PTP Condition</td>
<td>1</td>
<td>.35</td>
<td>.55</td>
<td>.00</td>
</tr>
<tr>
<td>Juror Motivation<em>Judicial Instruction</em>PTPCondition</td>
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<td>.03</td>
<td>.86</td>
<td>.00</td>
</tr>
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<td>Error</td>
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</tbody>
</table>

As with verdicts, these results contradicted my hypothesis that jurors in the high bias condition would be significantly more guilt-prone than those in the low PTP bias condition. I conducted a 2 (PTP Bias: High, Low) X 2 (Received Pre-Voir Dire Instructions: Yes, No) factorial ANOVA to test the interaction between PTP bias and exposure to pre-voir dire instructions on “likelihood of guilt” ratings. This analysis revealed no significant main effect for pre-voir dire instructions, $F(1, 297) = .015, p = .90, d = .01, 95\% \text{CI} [-.03, .05]$, and no significant main effect for PTP condition, $F(1, 297) = 1.90, p = .17, d = .06, 95\% \text{CI} [.03, .1]$. However, there was a marginally significant interaction between PTP bias and exposure to pre-voir dire instructions, $F(1, 297) = 3.59, p = .059, \text{partial } \eta^2 = .012$. Because I predicted differences in guilt-judgments across PTP bias conditions a-priori, I tested the simple main effects of PTP bias on guilt ratings. Jurors
receiving pre-voir dire instructions produced similar likelihood of guilt ratings across the low bias (M = 51, SD = 34) and high bias conditions (M = 49, SD = 32), F (1, 221) = .236, p = .628, d = .07, 95% CI [.02, .11]. However, jurors who did not receive pre-voir dire instructions provided significantly higher likelihood of guilt ratings in the high bias (M = 57, SD = 26) versus low bias condition (M = 43, SD = 29), F (1, 76) = 4.74, p = .033, d = .50, 95% CI [.44, .56]. Pre-voir dire instructions mitigated the hypothesized PTP effects, as jurors in the high bias condition produced significantly higher guilt ratings than those in the low bias condition—but only in the absence of pre-voir dire instructions. Among this subsample, guilt ratings also strongly correlated with verdicts, r = .75, p < .001, 95% CI [.64, .83].

**IAT Scores**

**Preliminary Analyses.** Consistent with previous IAT research, I eliminated responses with latencies of less than 150 milliseconds and latencies greater than 10,000 milliseconds; this correction reduces error associated with exceedingly fast and exceedingly slow responses during trials, and it is standard practice among IAT researchers (Greenwald et al., 2003). The distribution of IAT scores was negatively skewed. To normalize the distribution, I transformed the data by adding two to each score in order to eliminate negative values, resulting in a range of scores from 0 to 4. I then reflected the data by subtracting each value from 5 (i.e. the maximum possible value +1) and conducted a log10 transformation, resolving the skew (Shapiro-Wilk = .995, p = .183). I conducted all analyses both on the raw IAT scores and the transformed scores, revealing consistent results across both the transformed and non-transformed data. I therefore have reported only the statistics on the raw scores to ease interpretation of the findings.
**Test Block Order.** I first examined whether the order of the test blocks affected jurors’ IAT scores, because half of the participants received the incompatible test first (innocence words on the same key as the defendant) whereas the other half received the compatible test first (guilt words on the same key as the defendant). An independent samples t-test indicated a significant effect of test-block order, \( t(407) = 6.81, p < .001, d = .68, 95\% \text{ CI} [.63, .73] \). Jurors produced significantly higher IAT scores when the compatible test was given first (\( M = .47, SD = .50 \)) versus when the incompatible test was given first (\( M = .13, SD = .52 \)), indicating stronger associations between guilt words and the defendant’s name when those categories were paired in the first test block.

Because the order of the test blocks was assigned randomly to participants—and because test block order strongly affected IAT scores—it was necessary to assess whether test block order differed across PTP bias conditions to rule out a potential confound. To that end, I examined whether the compatible test block (i.e., guilt words on the same key with the defendant’s name) occurred first more often in the high bias versus low bias condition. A slightly higher percentage of jurors in the high bias condition received the compatible test first (54%) as compared to those in the low bias (46%), although a chi-square analysis indicated that the high bias and low bias conditions did not significantly differ as a function of test block counterbalancing order, \( \chi^2(1, N = 409) = 1.78, p = .20, \Phi = .07 \). Nevertheless, it was necessary to account for test block order when assessing PTP effects on IAT scores.

**PTP Bias Effects.** To minimize concerns regarding the interpretation of PTP effects given the strong effect of test block order and the slight confounding of test block order with PTP condition, I conducted an ANCOVA testing the effects of PTP on IAT
scores with test-block order as the covariate. This analysis revealed that PTP bias condition significantly affected IAT scores while controlling for test-block order, \( F(1, 404) = 3.15, p = .04, d = .21, 95\% \text{ CI } [.16, .27] \). Jurors in the high bias condition yielded higher IAT scores \((M = .36, SD = .53)\) than jurors in the low bias condition \((M = .25, SD = .54)\). Thus, jurors exposed to larger amounts of PTP had stronger associations between guilt-related words and the defendant’s name than did jurors exposed to less PTP.

**IAT D Scores and Juror Decision Making.** Because I hypothesized that IAT scores would mediate any observed relationship between PTP exposure and measures of guilt (i.e., verdicts, likelihood of guilt ratings), I first conducted a series of correlations to determine whether IAT scores predicted these guilt measures. IAT scores were not significantly correlated with verdicts among the whole sample of 409 jurors, \( r = .06, p = .12, 95\% \text{ CI } [-.04, .10] \). IAT scores were also not significantly correlated with verdicts among those who passed manipulation checks and received motivation and ideal juror instructions \((N = 224), r = .01, p = .439, 95\% \text{ CI } [-.12, .14] \). However, IAT scores were marginally significantly correlated with verdicts among jurors who did not receive pre-voir dire instructions, \((N = 81), r = .17, p = .066, 95\% \text{ CI } [-.06, .43] \). Thus, the customized IAT had some predictive utility for verdicts when jurors were not given pre-voir dire instructions on their motivations and ideal qualities of a juror.

I also correlated IAT scores with likelihood of guilt ratings. IAT scores were not significantly correlated with guilt ratings among the whole sample of 409 jurors, \( r = .03, p = .252, 95\% \text{ CI } [-.065, .132] \), nor were IAT scores significantly correlated with guilt ratings among those who passed manipulation checks and received motivation and ideal juror instructions \((N = 224), r = -.01, p = .438, 95\% \text{ CI } [-.14, .12] \). IAT scores also were not
significantly correlated with guilt ratings among jurors who did not receive pre-voir dire instructions, \((N = 80), r = .12, p = .148, 95\% \text{ CI} [-.13, .41]\). Again, the strongest correlation between IAT scores and guilt ratings was among those jurors not receiving pre-voir dire instructions; although this correlation did not reach traditional levels of significance it did represent a small effect size according to conventions (Cohen, 1992).

Despite the small relationship between IAT scores and ratings of guilt among those jurors who did not receive pre-voir dire instructions, IAT scores could not mediate the effects of PTP on verdicts or guilt ratings because there was not a statistically significant relationship between PTP exposure and IAT scores among this subsample, perhaps due to low statistical power. Among jurors not receiving pre-voir dire instructions, IAT scores in the high bias condition \((M = .31, SD = .57)\) were higher than those in the low bias condition \((M = .16, SD = .52)\) but not significantly so, \(F (1, 78) = 1.42, p = .238, d = .27, 95\% \text{ CI} [.15, .39]\).

Source Memory

**PTP Mistaken for Trial Evidence.** There were 10 items in the source memory test that contained information from each of the 10 PTP articles. I was primarily interested in whether jurors mistakenly identified these PTP items as containing information that was presented at trial. Therefore, I created a 10-point scale for each juror indicating the number of PTP items mistakenly marked as having been presented during trial, with higher scores indicating more errors. I then subjected these scores to a 2 (PTP Bias: High, Low) X 2 (Venireperson Motivation: On Jury, Off Jury) X 2 (Pre-Questioning Instructions: Impartiality, Honesty) between-subjects factorial ANOVA. This analysis revealed a significant main effect of PTP on source memory errors, \(F (1, 205) = 7.81, p = .006, d = \)
.32, 95% CI [.23, .41]. Paradoxically, jurors in the low bias condition ($M = .38, SD = .72$) were more likely to mistake information from an article as having been presented in trial than were jurors in the high bias condition ($M = .16, SD = .66$). The main effect was qualified by a significant PTP by judicial instruction interaction, $F (1, 205) = 5.91, p = .016$, partial $\eta^2 = .028$. When the judge instructed jurors on the ideal of honesty, jurors in the low bias condition ($M = .56, SD = .88$) were more likely to make source memory errors than were jurors in the high bias condition ($M = .09, SD = .28$), $F (1, 87) = 11.84, p = .001$, $d = .74, 95\% \text{ CI } [.61, .87]$. When the judge instructed jurors on the ideal of impartiality, source memory errors were equally likely in the low bias condition ($M = .25, SD = .54$) and high bias conditions, ($M = .22, SD = .83$), $F (1, 124) = .061, p = .805$, $d = .05, 95\% \text{ CI } [-.08, .17]$. No other main effects or interactions were significant (see Table 6). Overall, scores on this source memory item were very low ($M = .27, SD = .69$), indicating that it was very unlikely—regardless of experimental condition—for jurors to misremember PTP information as having been presented in trial.
Table 6. 
*Inferential Statistics For “PTP Mistaken for Trial”*

<table>
<thead>
<tr>
<th>Main Effects and Interactions</th>
<th>df</th>
<th>F</th>
<th>p</th>
<th>Partial $\eta^2$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Juror Motivation</td>
<td>1</td>
<td>.03</td>
<td>.86</td>
<td>.00</td>
</tr>
<tr>
<td>Judicial Instruction</td>
<td>1</td>
<td>1.18</td>
<td>.28</td>
<td>.01</td>
</tr>
<tr>
<td>PTP Condition</td>
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<td>7.81</td>
<td>.006</td>
<td>.04</td>
</tr>
<tr>
<td>Juror Motivation*Judicial Instruction</td>
<td>1</td>
<td>1.73</td>
<td>.19</td>
<td>.01</td>
</tr>
<tr>
<td>Juror Motivation*PTP Condition</td>
<td>1</td>
<td>3.09</td>
<td>.08</td>
<td>.02</td>
</tr>
<tr>
<td>Judicial Instruction*PTP Condition</td>
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<td>5.91</td>
<td>.02</td>
<td>.03</td>
</tr>
<tr>
<td>Juror Motivation<em>Judicial Instruction</em>PTP Condition</td>
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<td>0.07</td>
<td>.79</td>
<td>.00</td>
</tr>
<tr>
<td>Error</td>
<td></td>
<td>205</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**PTP Item Source Confidence.** Overall, jurors reported high confidence in their responses to source memory items containing PTP information ($M = 4.39, SD = .55, N = 213$)—a score of 5 indicated a juror was “extremely confident” in the source of a piece of information. To test whether confidence in memory source of PTP items differed as a function of experimental condition, I conducted a 2 (PTP Bias: High, Low) X 2 (Venireperson Motivation: On Jury, Off Jury) X 2 (Pre-Questioning Instructions: Impartiality, Honesty) between-subjects factorial ANOVA. This analysis revealed no significant main effects or interactions (see Table 7). Thus, although some differences in source accuracy occurred as a function of manipulated variables, jurors were equally confident in their responses across conditions.
Table 7.  
Inferential Statistics For “PTP Mistaken for Trial” Confidence

<table>
<thead>
<tr>
<th>Main Effects and Interactions</th>
<th>df</th>
<th>F</th>
<th>p</th>
<th>Partial η²</th>
</tr>
</thead>
<tbody>
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<td>.08</td>
<td>.78</td>
<td>.00</td>
</tr>
<tr>
<td>Judicial Instruction</td>
<td>1</td>
<td>.71</td>
<td>.40</td>
<td>.00</td>
</tr>
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<td>PTP Condition</td>
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<td>2.65</td>
<td>.11</td>
<td>.01</td>
</tr>
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<td>Juror Motivation*Judicial Instruction</td>
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<td>.88</td>
<td>.35</td>
<td>.00</td>
</tr>
<tr>
<td>Juror Motivation*PTP Condition</td>
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<td>.49</td>
<td>.49</td>
<td>.00</td>
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<tr>
<td>Judicial Instruction*PTP Condition</td>
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<td>.00</td>
<td>1.00</td>
<td>.00</td>
</tr>
<tr>
<td>Juror Motivation<em>Judicial Instruction</em>PTP Condition</td>
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<td>.01</td>
<td>.95</td>
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</tr>
<tr>
<td>Error</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

PTP Mistaken for Trial and Confidence Without Motivation and Judicial Instruction. To test whether PTP affected key source memory errors differently in the absence of other experimental manipulations, I conducted a 2 (PTP Bias: High, Low) X 2 (Received Pre-Voir Dire Instructions: Yes, No) factorial ANOVA on the “PTP Mistaken for Trial” variable. The interaction between PTP and pre-voir dire instructions was not significant $F (1, 286) = .54, p = .47$, partial $η^2 = .002$. The interaction between PTP and pre-voir dire instructions on confidence in responding to these items was also not significant $F (1, 285) = .89, p = .35$, partial $η^2 = .003$.

Correctly Identifying Trial Information. There were 10 items in the source memory test containing information presented exclusively in the video trial. I created a 10-point scale indicating how many of these 10 items were correctly attributed to the trial;
higher scores indicated higher source accuracy. There were no significant main effects or interactions of my manipulated variables, suggesting that jurors’ source-recall for trial information was not affected by my experimental manipulations (see Table 8). Overall, source accuracy was high for information presented in the trial ($M = 8.8$, $SD = 1.1$, $N = 216$).

Table 8.

*Inferential Statistics For “Trial Accuracy”*

<table>
<thead>
<tr>
<th>Main Effects and Interactions</th>
<th>$df$</th>
<th>$F$</th>
<th>$p$</th>
<th>Partial η$^2$</th>
</tr>
</thead>
<tbody>
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<td>2.26</td>
<td>.13</td>
<td>.01</td>
</tr>
<tr>
<td>Judicial Instruction</td>
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<td>3.34</td>
<td>.07</td>
<td>.02</td>
</tr>
<tr>
<td>PTP Condition</td>
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<td>.11</td>
<td>.74</td>
<td>.00</td>
</tr>
<tr>
<td>Juror Motivation*Judicial Instruction</td>
<td>1</td>
<td>.54</td>
<td>.46</td>
<td>.00</td>
</tr>
<tr>
<td>Juror Motivation*PTP Condition</td>
<td>1</td>
<td>.12</td>
<td>.73</td>
<td>.00</td>
</tr>
<tr>
<td>Judicial Instruction*PTP Condition</td>
<td>1</td>
<td>.04</td>
<td>.85</td>
<td>.00</td>
</tr>
<tr>
<td>Juror Motivation<em>Judicial Instruction</em>PTP Condition</td>
<td>1</td>
<td>.20</td>
<td>.66</td>
<td>.00</td>
</tr>
<tr>
<td><strong>Error</strong></td>
<td>207</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Trial Item Source Confidence.** Overall, jurors reported very high confidence in their responses to source memory items containing trial information ($M = 4.63$, $SD = .41$). I tested whether confidence in memory source of trial items differed as a function of experimental condition, but this analysis revealed no significant main effects or interactions.
(see Table 9). Thus, confidence—along with source recall accuracy—did not differ for trial items across experimental conditions.

Table 9.

<table>
<thead>
<tr>
<th>Main Effects and Interactions</th>
<th>df</th>
<th>F</th>
<th>p</th>
<th>Partial η²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Juror Motivation</td>
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<td>1.48</td>
<td>.23</td>
<td>.01</td>
</tr>
<tr>
<td>Judicial Instruction</td>
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<td>3.50</td>
<td>.06</td>
<td>.02</td>
</tr>
<tr>
<td>PTP Condition</td>
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<td>.02</td>
<td>.90</td>
<td>.00</td>
</tr>
<tr>
<td>Juror Motivation*Judicial Instruction</td>
<td>1</td>
<td>.00</td>
<td>.97</td>
<td>.00</td>
</tr>
<tr>
<td>Juror Motivation*PTP Condition</td>
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<td>1.50</td>
<td>.22</td>
<td>.01</td>
</tr>
<tr>
<td>Judicial Instruction*PTP Condition</td>
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<td>.16</td>
<td>.69</td>
<td>.00</td>
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<td>Juror Motivation<em>Judicial Instruction</em>PTPCondition</td>
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<td>.94</td>
<td>.33</td>
<td>.01</td>
</tr>
<tr>
<td>Error</td>
<td></td>
<td>207</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Correctly Identifying Trial Information and Confidence Without Motivation and Judicial Instruction. I tested whether PTP affected accurate recall of trial information differently in the absence of other experimental manipulations but the interaction between PTP and pre-voir dire instructions on accurate recall of trial information was not significant $F (1, 289) = .60, p = .44$, partial $\eta^2 = .002$. As with those receiving pre-voir dire instruction, accurate recall of trial information was high among those not receiving pre-voir dire instruction ($M = 8.76, SD = 1.63$). The interaction between PTP and pre-voir dire instructions on confidence in responding to trial items was also not significant $F (1, 288) = .89, p = .78$, partial $\eta^2 = .00$. 
PTP Mistaken For Trial and Guilt Measures. I calculated several correlations to examine the relationship between source memory errors and judgments of guilt. Among all participants receiving instructions prior to voir dire on their motivation during voir dire and the ideal qualities of a juror, the amount of PTP information mistaken for trial evidence was not significantly related to verdicts (N = 311, r = .07, p = .104, 95% CI [-.04, .18]) and marginally significantly related to likelihood of guilt ratings (N = 310, r = .09, p = .06, 95% CI [-.02, .20]). Among participants receiving pre-voir dire instructions who accurately identified the instructions they received, the amount of PTP information mistaken for trial evidence was not significantly related to verdicts (N = 213, r = .04, p = .569, 95% CI [-.09, .17]) and not significantly related to likelihood of guilt ratings (N = 212, r = .04, p = .523, 95% CI [-.09, .17]). Among those jurors not receiving pre-voir dire instructions, the amount of PTP information mistaken for trial evidence was significantly related to both verdicts (N = 78, r = .22, p = .027, 95% CI [.00, .42]) and likelihood of guilt ratings (N = 77, r = .25, p = .014, 95% CI [.03, .45]). Therefore, in the absence of pre-voir dire instructions, jurors who mistakenly attributed PTP information to the trial were more likely to render guilty verdicts and rate the likelihood of the defendant’s guilt higher. None of the other source memory measures significantly correlated with verdicts or guilt judgments.

Voir Dire Bias Ratings

Two independent coders watched the voir dire videos of those venirepersons that received pre-voir dire instructions, passed manipulation checks (i.e., correctly identified the pre-voir dire instructions they received), and produced a video without technical errors. (N = 218). The coders provided 7-point Likert-type ratings indicating perceived 1) bias against the defendant and 2) bias against the state. Reliability indices for bias against the
defendant (Cronbach’s α = .95, ICC = .90) and bias against the state (Cronbach’s α = .89, ICC = .80) were both high; therefore, I created composite scores for both measures by averaging the two raters’ scores.

**Perceived Bias Against The Defendant.** I tested the effects of the independent variables on the appearance of bias against the defendant among all who accurately recalled pre-voir dire instructions. There was a significant main effect of PTP bias condition on the appearance of bias in voir dire, $F(1, 210) = 4.5, p = .035, d = .28, 95\% \text{ CI} [-.06, .62]$. Venirepersons appeared more biased in the high bias condition ($M = 2.87, SD = 2.18$) than in the low bias condition ($M = 2.28, SD = 1.94$). Additionally, this analysis revealed a significant main effect of juror motivation on the appearance of bias in voir dire, $F(1, 210) = 54.47, p < .001, d = 1.07 95\% \text{ CI} [.83, .1.31]$. Venirepersons appeared much more biased against the defendant when motivated to get out of jury service ($M = 3.54, SD = 2.30$) than when motivated to get on the jury ($M = 1.58, SD = 1.19$). Finally, juror motivation and judicial instruction significantly interacted to influence the appearance of bias in voir dire, $F(1, 210) = 5.68, p = .018$, partial $\eta^2 = .03$. For those motivated to get on the jury, venirepersons receiving instructions on the ideal of honesty appeared significantly more biased against the defendant ($M = 1.87, SD = 1.48$) than did those receiving instructions on the ideal of impartiality ($M = 1.40, SD = .95$), $F(1, 105) = 1.14, p = .04, d = .41 95\% \text{ CI} [.19, .63]$. For those motivated to get off the jury, venirepersons receiving instructions on the ideal of impartiality appeared more biased against the defendant ($M = 3.87, SD = 2.41$) than those receiving instructions on the ideal of honesty ($M = 3.12, SD = 2.10$), $F(1, 109) = 2.96, p = .09, d = .33 95\% \text{ CI} [-.09, .75]$; although the effect did not reach traditional levels of significance, the effect was small to moderate in size. Therefore, standard
instructions on impartiality appear to have made venirepersons more apt to display behaviors that would help them achieve their goals to either get on or off the jury. No other main effects or interactions approached significance.

**Perceived Bias Against The State.** A test of the effects of the independent variables on the appearance of bias against the state among all who accurately recalled pre-voir dire instructions revealed a significant main effect of venireperson motivation on the appearance of bias against the state, $F (1, 210) = 8.04, p = .005, d = .41$ 95% CI [.29, .54]. Venirepersons were more likely to appear biased against the state when motivated to get out of jury service ($M = 1.55, SD = 1.22$) than when motivated to get on the jury ($M = 1.15, SD = .58$). No other main effects or interactions approached significance.
CHAPTER 13: PHASE 1 DISCUSSION

Although I designed Phase 1 as a foundation upon which I could examine the efficacy of attorney and judge decision making during voir dire, my PTP and voir dire manipulations also potentially provided valuable information about juror decision making. More specifically, I was able to test the effects of differential PTP exposure on verdicts and guilt ratings, along with the effects of PTP exposure on two potential mediators of PTP bias—implicit associations and source memory errors. I also was able to test whether venirepersons’ motivations to get on or off the jury and pre-voir dire judicial instructions affected subsequent decision-making at trial. I predicted that participants in the high bias PTP condition would render more guilty verdicts and rate the defendant to be more culpable than those in the low bias condition. Additionally, I predicted that participants in the high bias PTP condition would exhibit more bias as measured by the IAT measure and source monitoring errors than would those in the low bias condition. Finally, I predicted that source monitoring errors and IAT scores would mediate the relationship between amount of PTP exposure and mock jurors’ verdicts/guilt ratings. I did not provide any specific hypotheses regarding the effects of venireperson motivation and pre-voir dire judicial instruction on verdicts and guilt ratings.

Verdicts and Guilt Ratings

Venirepersons motivated to get out of jury service during voir dire rendered more guilty verdicts as jurors than those motivated to get on the jury. Self-perception processes (Bem, 1967) may account for this effect such that jurors inferred their attitudes about the defendant’s guilt from their previous behaviors during voir dire—which tended to be anti-
defendant among those motivated to get out of jury service. However, self-perception processes require that an individual not attribute past behaviors to an outside source, and it is unclear whether the $10 incentive to get on or off the jury was sufficient as an external justification for venirepersons’ biased behaviors during voir dire.

The motivation to get on or off the jury interacted with PTP exposure to affect verdicts in an unexpected manner. Guilty verdicts did not differ between low-bias jurors attempting to get on or off the jury, nor did high-bias jurors attempting to get off the jury differ from the low-bias groups. However, high-bias jurors attempting to get on the jury showed a significant reduction in guilty verdicts compared to the other groups. The pattern of verdicts is most consistent with verdict shifts in previous research (Crocker, 2010) interpreted through the lens of the Flexible Correction Model (FCM, Wegener & Petty, 1997). It is possible that jurors believed their behaviors subsequent to voir dire might also have affected judges’ and attorneys’ judgments of them, as I never made explicitly clear to them that judges and attorneys would not also view their verdict forms. If jurors in the high-bias condition who were motivated to get on the jury had some lingering suspicion that their individual verdicts might influence whether they were ultimately judged suitable for jury service by attorneys and judges in future sessions, the jurors might have attempted to correct their PTP biases by rendering not-guilty verdicts—hypothetically making them more desirable candidates in the eyes of attorneys and judges. The FCM suggests that awareness of bias and motivation to correct for bias are baseline conditions for bias correction. High-bias jurors were more likely aware than low-bias jurors that the information they read had biased them against the defendant, and this awareness may have
motivated them to shift verdicts toward acquittal if they suspected a guilty verdict might prevent them from being judged suitable by attorneys or judges.

In the absence of pre-voir dire instructions on motivation and the ideal qualities of a juror, PTP affected verdicts and likelihood of guilt ratings in a more interpretable pattern. Jurors who did not receive the pre-voir dire instructions did not render significantly more guilty verdicts in the high-bias condition than in the low-bias condition, but they produced significantly higher likelihood of guilt ratings in the high bias condition versus low bias condition. Therefore, independent of pre-voir dire instructions, the PTP bias manipulation appeared to shift guilt judgments in a direction consistent with my hypothesis, but it appears that the manipulation was too weak to significantly affect verdicts. Perhaps the addition of a no-PTP control group would have provided a better reference for evaluating the bias produced by PTP exposure.

**PTP Exposure and PTP Bias Measures**

**IAT Scores.** I designed the IAT for this study as a measure of associations between the defendant and guilt-related words (criminal, offender, corrupt, delinquent, convict. Although IAT scores did not mediate the relationship between PTP exposure and verdicts or guilt judgments, exposure to prejudicial publicity modestly increased associations between the defendant and guilt-related words. Controlling for test-block order, PTP exposure significantly predicted IAT scores among the entire sample, suggesting that people in highly publicized cases may develop more implicit biases against defendants than those in less publicized cases. Further, although IAT scores indicated relatively weak overall associations between the defendant and guilt, it is likely that real cases would lead to much stronger biases than those elicited in the artificial lab environment. My
participants read a maximum of 8 short articles about the case, whereas inflammatory publicity can continue over a span of months or years and contain impassioned accounts of the events and the people involved.

**PTP Mistaken for Trial.** Jurors mistook PTP as having been presented in trial more often in the low bias condition than in the high bias condition, particularly after hearing pre-voir dire judicial instruction on the ideal of honesty. This unexpected finding might reflect a process akin to observations in classic research examining misinformation effects (Lindsay, 2008; Loftus et al., 1978), as most PTP information that was presented in the source-memory test was new information for those in the low bias condition that plausibly could have appeared in the trial; whereas, jurors in the high bias condition had viewed most PTP information prior to trial and could accurately attribute that information to the articles from session 1. The fact that the PTP effect was mainly isolated to those jurors instructed on the ideal of honesty may simply reflect an increased likelihood that those jurors would admit knowledge (or belief in knowledge) of biasing information in that condition.

These data were inconsistent with previous research demonstrating an increased likelihood for mock jurors to attribute PTP information to the trial with increased PTP exposure (Ruva, et al., 2007; Ruva & McEvoy, 2008). In previous research, participants read PTP four or five days before watching a trial and completing source memory exams, whereas participants waited only two days before the second session in the present study. Further, PTP articles in the present study were short (only a few paragraphs), and participants immediately answered multiple-choice recall questions about key information in each article to ensure they read the articles. In contrast, previous researchers used longer
packets of articles (e.g., 10 pages) and did not use a multiple-choice manipulation check to ensure participants had read the vital information. Therefore, the paradoxical effect of PTP exposure (or lack thereof) on source-memory errors may have been due to jurors’ better memory for article-information in the present study.

**PTP Bias Measures and Guilt Measures**

Both PTP bias measures significantly correlated with guilt measures in the absence of pre-voir dire instructions. IAT scores modestly but significantly correlated with verdicts among jurors exposed only to PTP, although they did not mediate any relationship between PTP exposure and guilt measures. The present results demonstrated that an IAT can be sensitive to PTP exposure and possibly predictive of guilt judgments, suggesting that a case-specific, guilt/defendant IAT has the potential to predict decision-making in an individual criminal case.

In the absence of pre-voir dire instruction, jurors who indicated that PTP was presented at trial were more likely to render guilty verdicts and provide higher likelihood of guilt ratings. Thus, as in previous research examining PTP exposure, mistakenly attributing PTP information as having been presented in trial was associated with increased belief in the defendant’s guilt; this relationship simply did not mediate the relationship between PTP exposure and guilt judgments (Ruva et al., 2007). Given that the source memory test came subsequent to guilt measures, I cannot powerfully argue that these key source memory errors caused an increase in guilty verdicts and belief in the defendant’s guilt, as it is difficult to rule out the possibility that responses to the guilt measures in some way influenced jurors to endorse PTP information as having been presented in trial. In
sum, it appears that IAT scores and source memory errors independently predicted verdicts and guilt judgments in the absence of pre-voir dire instructions.

**Voir Dire Bias Ratings**

Several factors affected the degree to which venirepersons appeared biased against the defendant during voir dire. Venireperson motivation to get on or off the jury was the strongest determinant of whether potential jurors communicated bias against the defendant during questioning. Venirepersons motivated to get out of jury service exhibited more biased behavior against the defendant, as measured by objective coders of the videos, than did those motivated to get on the jury. Therefore, despite promising to respond truthfully, motivated venirepersons are able to shape responses to voir dire questions to achieve their goals regarding participation on a jury. The effect of venireperson motivation represented the one bias that paralleled actual biases in guilt judgments among jurors; that is, venirepersons motivated to get off the jury also rendered more guilty verdicts than those motivated to get on the jury. Jurors strategically expressing biases against the defendant during voir dire with the goal of avoiding jury service might review their voir dire behavior when evaluating the defendant’s guilt and perceive themselves as holding anti-defendant attitudes. When subsequently choosing a verdict, jurors could conclude that the anti-defendant voir dire behavior means that they believe the defendant is guilty, resulting in a choice of a guilty verdict. Thus, self-perception may have played a role in jurors’ verdicts (Bem, 1967).

Venirepersons in the high bias PTP condition communicated significantly more bias against the defendant during voir dire than did those in the low bias condition. Although the magnitude of this effect was smaller than that of juror motivation, venirepersons
exposed to large amounts of prejudicial information about the defendant prior to jury selection were more likely to communicate bias against the defendant than were those exposed to a minimal amount of prejudicial publicity. Therefore, the standard line of questioning during the voir dires elicited responses diagnostic of venirepersons’ levels of PTP exposure—and this effect was independent of juror motivation and pre-voir dire judicial instruction. PTP effects on venirepersons’ communicated biases against the defendant did not subsequently influence verdicts or guilt ratings as venireperson motivation effects may have.

Juror motivation and judicial instruction interacted to influence perceived bias against the defendant suggests that standard instructions on the ideal of impartiality cue venirepersons to the answers they need to give to achieve their goals. Among venirepersons motivated to get on the jury, those who received impartiality instructions appeared less biased against the defendant than did those who received instructions on the ideal of honesty. In contrast, among venirepersons motivated to get out of jury service, those who received impartiality instructions appeared somewhat more biased against the defendant than did those who received honesty instructions. As with the effects of PTP on perceived bias against the defendant, this interaction was not obtained for participants’ subsequent guilt judgments. However, standard instructions on impartiality given prior to voir dire (relative to an emphasis on honesty) bolstered venirepersons’ abilities to shape observers’ impressions of them, consistent with Leary and Kowalsky’s (1990) framework of impression management. That is, standard impartiality instructions provided cues that allowed venirepersons to engage in effective impression construction during voir dire. If judges wish to reduce the obfuscating effects of venirepersons’ motivations during voir
dire, then judges should highlight the importance of honesty among ideal jurors while de-emphasizing the importance of impartiality until after voir dire ends and the trial begins.

As with perceived bias against the defendant, jurors motivated to get out of jury service appeared more biased against the state than did those motivated to get on the jury. Therefore, it appears that jurors attempting to get out of jury service strategically expressed anti-prosecution biases along with biases against the defendant, although behavioral indicators of anti-prosecution biases were much less common overall. Given that most of the information in PTP unequivocally pointed toward the defendant’s guilt, it is unlikely that anti-prosecution bias arose from exposure to information about the case in PTP. More likely, venirepersons communicated anti-prosecution bias because they already held schemas about strategies for dissembling in jury duty, perhaps including making negative statements about the law, police, or prosecutors (http://www.wikihow.com/Get-Out-of-Jury-Duty). Further, many citizens in New York City hold negative views of the law and law enforcement due to stop and frisk policies and highly publicized cases that question police conduct (e.g., the Sean Bell case); therefore, it seems plausible that some venirepersons strategically expressed such pervasive biases against the state in lieu of—or in combination with—anti-defendant bias.

Conclusions

Caution is warranted when interpreting the effects of PTP on implicit associations. The observed effect was small, only reaching statistical significance with the entire sample of participants. In part, the small size of the effect can be attributed to the weakness of the PTP manipulation, as all participants read at least some external information suggesting the defendant’s guilt. However, the decision to manipulate PTP exposure by varying the
number of anti-defendant articles the jurors read reflected the applied consideration that highly publicized cases often lead to PTP saturation among the venire, making the amount PTP bias—as opposed to the mere presence of PTP bias—the vital concern in voir dire proceedings. Regardless, systematic replication using different manipulations, stimuli, explicit bias measures, and IAT’s is warranted before strong conclusions can be drawn about the utility of an implicit test of PTP prejudice.

In spite of these limitations, this first phase of the study provided useful information about the effects of PTP and voir dire on juror biases and guilt judgments. PTP exposure predicted IAT scores, implicating implicit associations as a potential mechanism through which PTP might affect guilt judgments. In the absence of motivation and pre-voir dire judicial instruction on the ideal qualities of a juror, PTP significantly affected guilt ratings. Although IAT scores did not mediate guilt ratings, IAT scores did predict verdicts in this subsample; although the effect did not reach traditional levels of significance ($p = .066$, $r = .17$). Phase 1 also replicated previous studies linking source memory errors to guilt judgments in highly publicized cases, although source memory errors did not mediate the PTP/guilt judgments link. Finally, the introduction of new information in the post-trial source memory test led to increased false reports of PTP information having been presented in trial, suggesting that source-memory mistakes among juror might be more likely when they are exposed to external information after the start of the trial.

While the main and interactive effects of venireperson motivation, PTP, and judicial instruction on raters’ perceptions of venireperson bias were compelling, these measures are not sufficient to make strong inferences about attorneys’ or judges’ perceptions of bias during voir dire. Based on these data, I cannot infer whether attorneys and judges will
perceive the same biases, nor can I determine how such perceptions would affect strike decisions. Therefore, in phase 2 of my dissertation research, I presented voir dire videos from phase 1 to attorneys and judges, gathering both their perceptions of venireperson bias and their ultimate judgments of whether venirepersons’ behaviors warranted peremptory strikes or strikes for cause.
CHAPTER 14: PHASE 2 METHOD

Participants

Attorneys. Fifty-eight attorneys taking the role of prosecutor and 44 attorneys taking the role of defense attorney participated in the study. To recruit attorneys, I used a chain-referral sampling technique by sending messages to defense and prosecuting attorney associations that were forwarded to members. All attorneys received an email explaining the purpose of the study and a link to the survey. Prosecuting attorneys who provided the state in which they practice (N = 48) were from Texas (41), New York (2), Massachusetts (1), and Louisiana (4). Defense attorneys that provided the state in which they practice (N = 37) were from Minnesota (11), Mississippi (6), New York (4), South Carolina (2), Texas, (5), Virginia (3), Florida (1), Georgia (1), Louisiana (1), New Jersey (1), Nevada (1), and Tennessee (1). One participating prosecutor and two participating defense attorneys reported lacking voir dire experience. All attorneys completing the survey and providing an address received $25 for their participation. See Table 10 for attorney demographics.

Table 10. Attorney and Judge Demographics (Only Those Who Provided)

<table>
<thead>
<tr>
<th>Attorney Side (N)</th>
<th>% Male</th>
<th>% White</th>
<th>Average Age (SD)</th>
<th>Years Experience M (SD)</th>
<th>Voir Dires Conducted M (SD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defense (38)</td>
<td>73</td>
<td>90</td>
<td>40 (11)</td>
<td>11 (11)</td>
<td>29 (54)</td>
</tr>
<tr>
<td>Prosecution (51)</td>
<td>53</td>
<td>92</td>
<td>37 (9)</td>
<td>10 (8)</td>
<td>49 (51)</td>
</tr>
<tr>
<td>Judge (31)</td>
<td>87</td>
<td>97</td>
<td>59 (8)</td>
<td>17 (9)</td>
<td>173 (305)</td>
</tr>
</tbody>
</table>

Judges. A total of 37 state trial court judges participated in the study. I recruited judges using the most recent edition of the American Bench, sampling from several states in various geographic locations. Judges who provided the state in which they preside (N = 20) were from Georgia (5), Kansas (5), Missouri (2), New York (3), and Washington State.
Due to the small sample size and general difficulty in recruiting judges, I did not exclude judges who did not report voir dire experience. Because judges are unlikely to accept monetary compensation for participation due to ethical concerns, I did not offer monetary compensation for their participation. See Table 13 for judge demographics.

**Design and Materials**

Judges and attorneys observed 10 voir dires (one from each cell) in a 2 (PTP Bias: High, Low) X 2 (Venireperson Motivation: On Jury, Off Jury) X 2 (Pre-Questioning Instructions: Impartiality Instructions, Honesty Instructions) + 2 (High and Low PTP Bias without motivation or impartiality/honesty instructions) design. Voir dire videos were randomly selected from each cell such that attorneys and judges viewed one of many possible voir dires from each cell. To control for order effects, I used a Latin Square procedure—therefore, each attorney and judge was exposed to all experimental conditions in one of 10 possible orders. See Table 11 for the number of attorneys and judges fully or partially completing the study in each of the 10 possible condition-orders established using the Latin-Square procedure. All independent observations were nested within decision-maker, and decision-maker (prosecutor, defense) was treated as a level-2 predictor in HLM analyses for attorney data.
Table 11.
*Amount of Attorneys and Judges Fully or Partially Completing Survey.*

<table>
<thead>
<tr>
<th>Latin-Square Survey Version</th>
<th>Defense Attorneys</th>
<th>Prosecutors</th>
<th>Judges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complete</td>
<td>Partial</td>
<td>Complete</td>
<td>Partial</td>
</tr>
<tr>
<td>1</td>
<td>4</td>
<td>1 (5)</td>
<td>4</td>
</tr>
<tr>
<td>2</td>
<td>4</td>
<td>0</td>
<td>5</td>
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<tr>
<td>3</td>
<td>4</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>4</td>
<td>4</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>5</td>
<td>3</td>
<td>3 (2, 7, 8)</td>
<td>5</td>
</tr>
<tr>
<td>6</td>
<td>4</td>
<td>1 (6)</td>
<td>5</td>
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<tr>
<td>7</td>
<td>4</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>8</td>
<td>4</td>
<td>0</td>
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</tr>
<tr>
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<td>4</td>
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<td>6</td>
</tr>
<tr>
<td>10</td>
<td>4</td>
<td>0</td>
<td>4</td>
</tr>
</tbody>
</table>

*Note:* Numbers in parentheses indicate number of videos viewed by participants who did not complete entire survey.

**Preliminary Materials.** Judges and attorneys read a written synopsis containing basic information about the case, including details of the crime, the presence of an eyewitness, a police-conducted lineup, and information about the litigation strategies both sides would use in the trial. They also read that there was extensive publicity surrounding the case and received a synopsis of the PTP to which venirepersons may have been exposed. The synopsis included summaries of PTP outlining details of the crime, inadmissible evidence, the defendant’s criminal history, and negative character information about the defendant. These materials were designed to give participants the same basic information that judges and attorneys have going into jury selection. See Appendix G for the full version of these materials.

**Voir Dires.** Each participant viewed 10 randomly selected voir dire videos—one from each cell in the design. I only included videos of Phase 1 participants who accurately indicated in manipulation checks which motivation instruction (get on or off the jury) and judge’s instruction (impartiality and honesty) they received, and the venireperson also must
have indicated that they did attempt to get on or off the jury (congruent with motivation condition) to be included in Phase 2 \( (N = 176) \). Each video was randomly selected to be in one of the 10 versions of the survey generated by the Latin Square procedure. All participants made relevant judgments after each video. As summarized above, the voir dire began with each venireperson answering basic demographic questions—including age, occupation, marital status, and number of children—and the four questions regarding PTP exposure and impartiality.

**Dependent Variables**

**Demographic Information.** Each participant provided basic demographic information, including age, gender, and an estimate of the number of voir dires in which they have participated.

**Attorneys.** Both defense and prosecuting attorneys indicated whether they would seek a challenge for cause for each venireperson. They also rated the extent to which each venireperson appeared to favor a side using 7-point Likert-type scales, with a score of 1 indicating “Definitely Defense” and a score of 7 indicating “Definitely Prosecution.” Attorneys also provided a brief open-ended response to the question, “If you think this venireperson definitely favors the defense or prosecution, indicate which side and why.”

Two research assistants who were blind to experimental condition coded the judges’ explanations, using categories derived common themes in attorneys’ responses and analyzing the frequencies of categories across experimental conditions. These categories included venireperson attitudes favoring the prosecution and defense, venirepersons stating they cannot be impartial, demographic characteristics, other venireperson behaviors (e.g., discussing case with friends), good-juror statements, venireperson’ knowledge of case
facts, and statements suggesting the need for rehabilitation. After viewing all 10 videos, attorneys indicated which three of the venirepersons they would strike using a peremptory challenge assuming none of the challenges for cause were granted. These outcome variables and the open-ended response coding scheme are presented in Appendices I and J.

Judges. Because their respective roles differ, judges and attorneys responded to different questions that were relevant to their roles in the courtroom. The main dependent variables for judges was a dichotomous measure indicating whether the judge would grant a challenge for cause for each venireperson. Additionally, judges rated the extent to which the venireperson was biased against the defendant and against the state using 7-point Likert-type scales. Judges also provided open-ended responses indicating why they would or would not allow a challenge for cause for each venireperson. All responses were given after presentation of each individual voir dire. These outcome variables were similar to those used in the Kerr et al. (1991) study and are presented in Appendix H.

Procedure

I contacted all attorneys and judges via email to participate in an online jury selection study, along with a link to the study. Aside from recruitment, the procedures for attorneys and judges were virtually identical. All participants first read the preliminary materials (case facts, synopsis of PTP) and then imagined that they were conducting a voir dire for this highly publicized case. Judges and attorneys then viewed each video and provide ratings for each venireperson, with attorneys indicating peremptory strikes after viewing all 10 videos. When they completed all judgments, they provided demographic information and were scheduled for payment.
Hypotheses

My hypotheses stemmed from previous research on voir dire efficacy (e.g., Johnson & Haney, 1994; Kerr et al., 1991) and a review of faking behavior/impression management during employment interviews (Levashina & Campion, 2006).

H1: When venirepersons received pre-voir dire instruction on the ideal of honesty, judges and attorneys should be more likely to seek/grant a challenge for cause for venirepersons who were exposed to more PTP than for those who were exposed to less PTP (i.e., they will accurately gauge exposure). Venireperson motivation should not affect judges’ and attorneys’ ratings when venirepersons received honesty instructions.

H2: When venirepersons received pre-voir dire instructions to be impartial, judges’ and attorneys’ challenge decisions should be insensitive to levels of PTP exposure. Instead, when venirepersons received pre-voir dire impartiality instructions, judges and attorneys should be less likely to seek/grant challenges for venirepersons who were motivated to be empaneled versus those venirepersons who were motivated to get out of jury service.

H3: Judges and attorneys should provide estimates of venireperson bias that follow a similar three-way interaction pattern predicted for challenges for cause and peremptory strikes (above).
CHAPTER 15: PHASE 2 RESULTS

Analytic Strategy

Because all observations were nested within decision-maker (individual attorneys and judges), I used multi-level modelling (SPSS Version 20) to test the effects of PTP, venireperson motivation instructions, pre-voir dire judicial instructions, and attorney role (when applicable) on relevant outcomes. For dichotomous outcomes (e.g., attorney challenges for cause and peremptory strikes, judges granting challenges, and open-ended response data), I used multi-level logistic regression modes. Occasionally, dichotomous outcomes were constant in one or more cells (e.g., all 0’s), and I added half a case to each cell in order eliminate this variability issue as it arose (Goodman, 1970). For continuous outcomes (e.g., attorney favorability indices, judge estimates of bias), I used multi-level ANOVAs. I provided each attorney and judge a discrete ID to account for within-decision-maker random effects. I analyzed data from attorneys and judges whether they had completed the experiment in part or completely. Analyses excluding participants who did not report voir dire experience led to identical outcomes.

Attorney Outcomes

I organized attorney results first by independent variable, creating subsections examining each outcome; PTP, venireperson motivation, and judicial instruction often yielded similar patterns among the various outcome variables in my experiment. I first examined patterns in strikes and favorability ratings, followed by descriptives and patterns of attorneys’ open-ended responses regarding venireperson biases.

PTP Effects and Interactions on Attorneys’ Strikes and Reported Favorability Ratings
Challenges for Cause. A multi-level logistic regression revealed that venirepersons’ PTP exposure did not affect attorneys’ decisions to challenge for cause among venirepersons in the fully-crossed design, nor did PTP interact with the other variables to affect attorneys’ challenge decisions (p's > .09). I conducted another multi-level logistic regression to examine whether venireperson PTP exposure interacted with the presence of pre-voir dire instructions and attorney role on seeking challenges for cause. This analysis revealed a significant main effect for presence of pre-voir dire instruction (B = -.65, S.E. = .46 Wald’s $\chi^2 (1, N = 957) = 4.76, p = .029, \Phi = -.06, 95\% \text{ CI } [-.12, .00]$, such that attorneys were more likely to challenge for cause those venirepersons receiving pre-voir dire instruction (24%, N = 767) than those not receiving pre-voir dire instruction (17%, N = 190). PTP did not interact with presence of instructions (B = -.20, S.E. = .68 Wald’s $\chi^2 (1, N = 957) = 1.38, p = .241$) nor was there a three-way interaction between PTP, presence of instructions, and attorney role (B = -.61, S.E. = .86 Wald’s $\chi^2 (1, N = 957) = .50, p = .478$).

These results contradicted my hypothesis that attorneys would exercise more challenges for cause in the high bias condition than low bias condition when venirepersons heard instructions on the ideal of honesty.

Peremptory Strikes. A multi-level logistic regression revealed that venirepersons’ PTP exposure did not affect attorneys’ decisions to use peremptory strikes among venirepersons in the fully-crossed design, nor did PTP interact with the other variables to affect attorneys’ peremptory strike decisions (p’s > .105). I conducted another multi-level logistic regression to examine whether venireperson PTP exposure interacted with the presence of pre-voir dire instructions and attorney role on peremptory strikes. No
main effects or interactions were significant ($p’s > .072$). Again, these results contradicted my hypothesized interaction between judicial instruction and PTP exposure.

**Favorability Ratings.** Analysis of attorneys’ ratings of venireperson favorability revealed a significant main effect of venireperson PTP exposure on attorneys’ favorability ratings, $F(1, 750) = 20.61, p < .001, d = .33, 95\% CI [.23, .43]$. Attorneys rated venirepersons in the high bias condition ($M = 4.76, SD = 1.43$) as significantly more favorable to the prosecution than they rated those in the low bias condition ($M = 4.3, SD = 1.40$). This main effect was qualified by a significant interaction between PTP and venireperson motivation, $F(1, 750) = 18.23, p < .001, \eta^2_p = .02$. When venirepersons were motivated to get on the jury, attorneys rated them as equally favorable in the low bias condition ($M = 4.09, SD = .90$) and high bias ($M = 4.12, SD = .98$) conditions, $F(1, 377) = .061, p = .804, d = .03, 95\% CI [-.06, .13]$. In contrast, when venirepersons were motivated to get off the jury, attorneys rated them as significantly more favorable to the prosecution in the high bias ($M = 5.38, SD = 1.52$) than in the low bias ($M = 4.51, SD = 1.73$), $F(1, 385) = 27.77, p < .001, d = .53, 95\% CI [.37, .70]$. Thus, venirepersons motivated to get out of jury service more successfully communicated pro-prosecution bias when they were exposed to excessive as opposed to minimal amounts of PTP.

Additionally, PTP significantly interacted with judicial instruction on attorneys’ favorability ratings, $F(1, 750) = 11.62, p = .001, \eta^2_p = .02$. When venirepersons heard judicial instructions on the ideal of impartiality, attorneys rated venirepersons as more favorable to the prosecution when they had been exposed to high levels of PTP ($M = 4.99, SD = 1.47$) than when they had been exposed to lower levels of PTP ($M = 4.21, SD = 1.45$), $F(1, 386) = 28.09, p < .001, d = .54, 95\% CI [.39, .68]$. In contrast, when venirepersons
heard judicial instruction on the ideal of honesty, attorneys rated venirepersons to be equally favorable irrespective of whether they read more PTP ($M = 4.51$, $SD = 1.35$) or less PTP ($M = 4.39$, $SD = 1.33$), $F (1, 376) = .755, p = .385, d = .09, 95\% \text{ CI} [-.05, .22]$. The PTP effect on favorability ratings amongst those given impartiality instructions appeared mainly driven by ratings for venirepersons attempting to get off the jury ($M = 5.85$ in high bias, $M = 5.14$ in low bias) versus on the jury ($M = 4.14$ in high bias, $M = 3.85$ in low bias), although the three-way interaction between PTP, judicial instruction, and motivation was not significant ($p = .494$).

An analysis to test whether venireperson PTP exposure interacted with the presence of pre-voir dire instructions and attorney role to affect favorability ratings revealed a main effect of PTP exposure ($F (1, 947) = 12.25, p < .001, d = .31, 95\% \text{ CI} [.23, .40]$) consistent with prior analyses. Importantly, PTP did not interact with presence of instructions, $F (1, 947) = .231, p = .631, \eta^2_p = .00$, nor was there a three-way interaction between PTP, presence of instructions, and attorney role, $F (1, 947) = 1.10, p = .294, \eta^2_p = .00$, on attorneys’ ratings of venireperson favorability. No other main effects or interactions were significant.

**Venireperson Motivation Effects and Interactions on Strikes and Favorability Ratings**

**Challenges for Cause.** Analyses revealed a significant main effect of venireperson motivation on attorneys seeking a challenge for cause, $B = 1.65$, S.E. = .66 Wald’s $\chi^2 (1, N = 767) = 82.35, p < .001, \Phi = .42, 95\% \text{ CI} [.41, .53]$. Attorneys were more likely to seek a challenge for cause when the venireperson was attempting to get out of jury service (41%, $N = 387$) than when the venireperson was attempting to get on the jury (6%, $N = 380$).
**Peremptory Strikes.** Analyses revealed a significant main effect of venireperson motivation on attorneys exercising a peremptory strike, $B = -.03$, S.E. = .48 Wald’s $\chi^2 (1, N = 729) = 24.95, p < .001, \Phi = .20$, 95% CI [.13, .27]. Attorneys were more likely to exercise a peremptory strike when the venireperson was attempting to get out of jury service (34%, $N = 365$) than when the venireperson was attempting to get on the jury (17%, $N = 364$). Venireperson motivation also interacted with attorney-role to effect peremptory strikes, $B = 1.26$, S.E. = .71 Wald’s $\chi^2 (1, N = 729) = 6.09, p = .014$. Defense attorneys were much more likely to exercise a peremptory strike when the venireperson was attempting to get out of jury service (40%, $N = 156$) than when the venireperson was attempting to get on the jury (13%, $N = 156$), $\Phi = .31$, 95% CI [.21, .41], $p < .001$. Prosecuting attorneys were also more likely to exercise a peremptory strike when the venireperson was attempting to get out of jury service (30%, $N = 209$) than when the venireperson was attempting to get on the jury (20%, $N = 208$), $\Phi = .11$, 95% CI [.02, .20], $p = .03$; however, the magnitude of the effect for prosecutors was diminished.

**Favorability Ratings.** Venireperson motivation had a main effect on attorneys’ ratings of venireperson favorability, $F (1, 750) = 78.9, p < .001, d = .62$, 95% CI [.52, .71]. Attorneys rated venirepersons motivated to get out of jury service ($M = 4.95$, $SD = 1.69$) as significantly more favorable to the prosecution than venirepersons motivated to get on the jury ($M = 4.11$, $SD = .94$). Venireperson motivation and judicial instructions also significantly interacted to effect attorneys’ ratings of venireperson favorability, $F (1, 750) = 17.15, p < .001, \eta^2_p = .02$. When venirepersons were motivated to get on the jury, attorneys rated them as more favorable to the prosecution when they received honesty instructions ($M = 4.24$, $SD = 1.02$) versus impartiality instructions ($M = 3.98$, $SD = .83$), $F$
(1, 377) = 7.26, p = .007, d = .28, 95% CI [.19, .37]. In contrast, when venirepersons were motivated to get off the jury, attorneys rated them as more favorable to the prosecution when they received impartiality instructions ($M = 5.23$, $SD = 1.76$) versus honesty instructions ($M = 4.66$, $SD = 1.56$), $F (1, 385) = 11.11, p = .001, d = .34, 95\% \text{ CI } [.18, .51]$. Thus, venirepersons instructed on the ideal of impartiality appeared more able to present themselves in a manner consistent with their motivations to either get on or off the jury—a result consistent with my hypothesis that judicial instruction and venireperson motivation would interact to affect attorneys’ bias judgments.

**Attorney Role Main Effects on Strikes and Favorability Ratings**

**Challenges for Cause.** Attorney role had a main effect on attorney’s challenges for cause, $B = -.90$, S.E. = .45 Wald’s $\chi^2 (1, N = 767) = 10.01, p = .002, \Phi = .16, 95\% \text{ CI } [.09, .23]$. Defense attorneys sought challenges for cause significantly more often (31%, N = 329) than prosecuting attorneys (18%, N = 438).

**Favorability Ratings.** Attorney role also had a main effect on favorability ratings, $F (1, 750) = 7.56, p = .006, d = .18, 95\% \text{ CI } [.08, .28]$. Defense attorneys rated venirepersons as more favorable to the prosecution ($M = 4.68$, $SD = 1.42$) than did prosecuting attorneys ($M = 4.42$, $SD = 1.43$).

**Correlations between Attorney Strikes and Favorability Ratings**

I conducted additional analyses examining the relationships among strikes for cause, peremptory strikes, and favorability ratings. Attorneys’ were more likely to use peremptory strikes on those venirepersons they had indicated they would attempt to strike for cause, $r = .385, p < .001, 95\% \text{ CI } [.33, .44]$. Attorneys use of strikes for cause also correlated with increased favorability toward the prosecution, $r = .30, p < .001, 95\% \text{ CI}$
Peremptory strikes were not significantly related to favorability ratings, $r = .04$, $p = .20$, 95% CI [-.02, .10].

**Attorneys’ Open-Ended Explanations of Venireperson Bias: Coding and Descriptives**

Two coders blind to experimental condition classified attorneys’ open-ended responses to the question of why they believed that a venireperson favored a particular side (see Appendix J). Using the formula $C = 2(C_{1,2})/(C_1 + C_2)$, I calculated concordance rates. In the formula $C$ indicated agreement between coders, with $C_{1,2}$ representing the number of categories agreed upon by both coders and $C_1$ and $C_2$ representing the number of categories marked by each coder. Codes did not match if one coder marked a category and the other coder did not, or if subordinate categories did not match. Overall, average concordance was good between coders (.80; Range = 0.0 – 1.00), and a third coder blind to experimental condition resolved disagreements.

**Did Attorneys Provide a Response?** Overall, attorneys only provided responses in 283 of 774 possible cases (36%) in the fully-crossed design. I created a dichotomous measure indicating whether attorneys provided an open-ended explanation of which side the venireperson favored and why, subjecting that measure to analyses.

**Venireperson Attitudes.** Out of the 283 attorney statements, attorneys cited venirepersons’ attitudes more often than any other category ($N = 241$). Among those statements, attorneys most often suggested that venirepersons expressed pro-prosecution attitudes (80%), as opposed to pro-defense (17%) attitudes, with a few suggesting opinions with no clearly favored side (< 1%). See Table 12 for percentages across entire sample of attorney statements.
**Venireperson Cannot Be Impartial.** Of 283 total statements, attorneys indicated that the venireperson could not be impartial 40 times. Among those statements, attorneys cited that the venireperson could not set aside his/her opinion 28% of the time, and 58% of the time they suggested that the venireperson could not be (or will have difficulty being) fair or impartial—see Table 12.

**Demographic characteristics.** Of 283 total statements, attorneys cited venirepersons’ demographic characteristics in their statements 47 times. Of those statements, 40% mentioned age, 23% mentioned race, 9% mentioned gender, and 62% mentioned occupation (see Table 12).

**Venireperson Behavior.** Attorneys mentioned venirepersons’ behaviors 50 times out of 283 explanations of bias. Most of these statements referenced venireperson demeanor (88%), with a few referring to venirepersons discussing the case with friends/relatives (12%; see Table 12).

**Good Juror Statements.** Attorneys made statements suggesting venirepersons would be good jurors (i.e., neutral, impartial) in 17 of the 283 total statements (See Table 12).

**Pretrial Publicity/Case Knowledge.** Attorneys cited venirepersons exposure to PTP and/or knowledge of case facts as indicative of bias 87 of the 283 possible times (see Table 12).

**Other.** Attorneys produced 48 open-ended responses that did not fit any other classification or were in some way ambiguous. Statements such as “not enough information” that did not specifically suggest rehabilitation were classified as “other,” along with other non sequiturs (See Table 12).
Table 12.  
**Overall Percent of Attorneys’ Statements (N = 283) Including Coded Categories**

<table>
<thead>
<tr>
<th>Coded Category</th>
<th>% (Overall)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Venirepersons’ attitudes</td>
<td>85</td>
</tr>
<tr>
<td>A.1 Favors prosecution</td>
<td>8</td>
</tr>
<tr>
<td>A.1.1 Venireperson indicated D is guilty</td>
<td>34</td>
</tr>
<tr>
<td>A.1.2 Venireperon’s personal/family history with victimization</td>
<td>7</td>
</tr>
<tr>
<td>A.2 Favors defense</td>
<td>14</td>
</tr>
<tr>
<td>A.2.1 Venireperson indicated D is not guilty</td>
<td>4</td>
</tr>
<tr>
<td>A.2.2 Doesn’t trust cops</td>
<td>2</td>
</tr>
<tr>
<td>A.3 Formed an opinion about the case but unclear which side</td>
<td>3</td>
</tr>
<tr>
<td>B. Venireperson cannot be impartial</td>
<td>14</td>
</tr>
<tr>
<td>B.1 Venireperson cannot set aside opinion</td>
<td>4</td>
</tr>
<tr>
<td>B.2 Venireperson indicated cannot be fair/impartial</td>
<td>8</td>
</tr>
<tr>
<td>DC. Venireperson Demographic Characteristics</td>
<td>17</td>
</tr>
<tr>
<td>DC.1 Age</td>
<td>7</td>
</tr>
<tr>
<td>DC.2 Race</td>
<td>4</td>
</tr>
<tr>
<td>DC.3 Gender</td>
<td>1</td>
</tr>
<tr>
<td>DC.4 Occupation</td>
<td>10</td>
</tr>
<tr>
<td>VB. Venireperon Behavior</td>
<td>18</td>
</tr>
<tr>
<td>VB.1 Discussed case with friends/relatives</td>
<td>2</td>
</tr>
<tr>
<td>VBD.2 Demeanor</td>
<td>16</td>
</tr>
<tr>
<td>G. Good juror statement (neutral, impartial, etc.)</td>
<td>6</td>
</tr>
<tr>
<td>P. Pretrial publicity/prior knowledge of the case facts</td>
<td>31</td>
</tr>
<tr>
<td>O. Other</td>
<td>17</td>
</tr>
</tbody>
</table>

*Note:* Counts do not sum exactly because statements could be coded in multiple categories.

**PTP Effects and Interactions on Attorneys’ Open-Ended Responses**

**Did Attorneys Provide a Response?** PTP exposure interacted with attorney role to affect whether attorneys provided open-ended explanations of venireperson bias, \( B = -.43, \) S.E. = .49 Wald’s \( \chi^2 (1, N = 774) = 3.83, p = .05 \). In the low PTP bias condition, defense attorneys (35%, \( N = 168 \)) were not more likely to provide open-ended explanations of bias than were prosecuting attorneys (36%, \( N = 221 \)), \( \Phi = .01, 95\% \) CI \([- .09, .11]\), \( p = .803 \). In the high bias PTP condition, defense attorneys (44%, \( N = 168 \)) were significantly more likely to provide open-ended explanations of the bias than were prosecuting attorneys (33%, \( N = 217 \)), \( \Phi = -.11, 95\% \) CI \([.01, .21]\), \( p = .029 \).
I conducted an additional analysis testing whether venireperson PTP exposure interacted with the presence of pre-voir dire instructions and attorney role to affect whether attorneys provided open-ended responses. This analysis revealed no significant main effects or interactions (p’s > .10).

**Venireperson Attitudes.** Analyses revealed a main effect of PTP on whether attorneys reported venireperson attitudes as evidence of their bias, $B = .28$, S.E. = .63 Wald’s $\chi^2 (1, N = 283) = 7.82$, $p = .005$, $\Phi = .14$, 95% CI [.02, .25]. Attorneys reported venirepersons’ attitudes as indicative of bias more often when venirepersons were in the high bias (77%, N = 146) versus low bias (65%, N = 137) condition. An analysis testing whether PTP exposure interacted with the presence of pre-voir dire instructions and attorney role to affect attorneys’ reports of attitudinal biases revealed no significant main effects or interactions (p’s > .10).

**Venireperson Cannot Be Impartial.** Analyses indicated PTP exposure did not affect attorneys’ reports that venirepersons could not be impartial, nor did PTP exposure interact with the presence of pre-voir dire instructions and attorney role (p’s > .075).

**Demographic characteristics.** Analyses indicated a main effect of PTP exposure on whether attorneys mentioned demographic information in open-ended statements, $B = .54$, S.E. = .64 Wald’s $\chi^2 (1, N = 283) = 4.90$, $p = .027$, $\Phi = -.09$, 95% CI [-.2, .03]. Attorneys were more likely to mention demographic information when venirepersons were in the low bias condition (16%, N =137) than in the high bias condition (10%, N = 146). Qualifying the PTP main effect, attorney role also interacted with PTP condition to affect the frequency with which attorneys mentioned demographic information, $B = .25$, S.E. = .81 Wald’s $\chi^2 (1, N = 283) = 4.65$, $p = .031$. Prosecuting attorneys mentioned demographic
information equally often in the high bias (10%, N = 72) versus low bias conditions (11%, N = 79), Φ = -0.03, 95% CI [-0.19, .13], p = .739; defense attorneys mentioned demographic information significantly more often in the low bias (22%, N = 58) versus high bias (11%, N = 74) condition, Φ = -0.16, 95% CI [-0.32, .01], p = .007. Defense attorneys took note of demographic information more often when PTP biases were low or ambiguous, whereas prosecuting attorneys did not.

I conducted another analysis to examine whether venireperson PTP exposure interacted with the presence of pre-voir dire instructions and attorney role to affect whether attorneys’ mentioned demographic information in their responses. This analysis revealed a significant interaction between PTP and the pre-voir dire instruction on whether attorneys mentioned demographic information, B = -2.16, S.E. = 1.03 Wald’s $\chi^2$ (1, N = 346) = 4.39, p = .036. As revealed above, when venireperson received pre-voir dire instructions, attorneys mentioned venireperson demographics more often in the low bias (16%, N = 137) versus the high bias condition (10%, N = 146), Φ = -0.09, 95% CI [-0.2, .03], p = .027. When venirepersons did not receive pre-voir dire instruction, attorneys did not mention venireperson demographics significantly more often in the high bias condition (21%, N = 33) than in the low bias condition (10%, N = 30), Φ = .15, 95% CI [-0.10, .38], p = .224—although statistical power may account for this null effect. No other main effects or interactions reached significance (p’s > .097).

**Venireperson Behavior.** Analyses indicated PTP exposure did not affect attorneys’ reports of venirepersons’ behaviors, nor did PTP exposure interact with the presence of pre-voir dire instructions and attorney role (p’s > .075).
**Good Juror Statements.** Analyses indicated PTP exposure did not affect whether attorneys made “good juror” statements, nor did PTP exposure interact with the presence of pre-voir dire instructions and attorney role ($p’s > .058$).

**Pretrial Publicity/Case Knowledge.** Analyses revealed a significant interaction between PTP exposure and judicial instruction on whether attorneys who provided open-ended responses cited venireperson exposure to PTP or case knowledge in those responses, $B = -1.83, S.E. = .78$ Wald’s $\chi^2 (1, N = 283) = 4.17, p = .041$. When venirepersons were in the low bias condition, attorneys cited publicity exposure and case knowledge more often when venirepersons received honesty instructions (32%, $N = 65$) versus impartiality instructions (17%, $N = 72$), $\Phi = .18, 95\% CI [.01, .34], p = .033$. When venirepersons were in the high bias condition, attorneys cited publicity exposure and case knowledge equally when venirepersons received honesty instructions (26%, $N = 62$) versus impartiality instructions (30%, $N = 84$), $\Phi = -.04, 95\% CI [-.20, .12], p = .599$.

Another analysis to examine whether venireperson PTP exposure interacted with the presence of pre-voir dire instructions and attorney role to affect whether attorneys cited venireperson exposure to PTP or case knowledge revealed no significant main effects or interactions ($p’s > .093$).

**Venireperson Motivation Effects and Interactions on Attorneys’ Open-Ended Responses**

**Did Attorneys Provide a Response?** Analyses revealed a significant main effect of venireperson motivation on attorneys’ open-ended explanations of venireperson bias, $B = -.83, S.E. = .42$ Wald’s $\chi^2 (1, N = 774) = 76.64, p < .001, \Phi = .35, 95\% CI [.28, .41]$. Attorneys were more likely to provide open-ended explanations of venireperson bias when
venirepersons were attempting to get out of jury service (53%, N = 390) than when
venirepersons were attempting to get on the jury (20%, N = 384).

Also, venireperson motivation interacted with pre-voir dire judicial instruction to
affect whether attorneys provided open-ended bias explanations, $B = -1.04$, S.E. = .45
Wald’s $\chi^2 (1, N = 774) = 6.14$, $p = .013$. When venirepersons were attempting get on the
jury, attorneys were equally likely to make statements about their biases when
venirepersons received impartiality instruction (19%, N = 195) versus honesty instructions
(21%, N = 189), $\Phi = .021$, 95% CI [-.08, .12], $p = .683$. When venirepersons were
attempting to get off the jury, attorneys made more statements about their biases when
venirepersons received impartiality instructions (60%, N = 197) rather than honesty
instructions (46%, N = 193), $\Phi = -.15$, 95% CI [-.25, -.05], $p = .003$.

**Venireperson Attitudes.** Venireperson motivation significantly affected attorneys’
reports of venirepersons attitudes, $B = .18$, S.E. = .93 Wald’s $\chi^2 (1, N = 283) = 23.71$, $p < .001$, $\Phi = .29$, 95% CI [.18, .39]. Attorneys reported venirepersons’ attitudes as indicative
of bias more often when venirepersons were motivated to get off the jury (79%, N = 207)
versus when they were motivated to get on the jury (50%, N = 76).

Analyses also revealed a significant three-way interaction between venireperson
motivation, attorney role, and judicial instructions, $B = -3.35$, S.E. = 1.64 Wald’s $\chi^2 (1, N =
283) = 6.83$, $p = .009$. Defense attorneys uniformly reported more biased attitudes among
venirepersons motivated to get off the jury, $\Phi = .31$, 95% CI [.15, .46], $p < .001$. On the
other hand, prosecuting attorneys reported more attitudinal biases among venirepersons
motivated to get on the jury when those venirepersons received honesty versus impartiality
instructions, $\Phi = .35$, 95% CI [.15, .46], $p = .027$; conversely, prosecuting attorneys did not
report more attitudinal biases among venirepersons motivated to get off the jury when those venirepersons received impartiality instructions versus honesty instructions, Φ = -.14, 95% CI [-.38, .05], p = .151. See Table 13 for percentages and N’s. Overall, it appears defense attorneys reported attitudes more broadly among venirepersons motivated to get out of jury service versus on the jury, whereas prosecutors were only sensitive to biased attitudes that arose from venireperson motivation when venirepersons received instructions on impartiality.

Table 13. *Percentage Venirepersons Cited With Biased Attitudes Across Attorney Role, Venireperson Motivation, and Judicial Instruction.*

<table>
<thead>
<tr>
<th>Attorney Role</th>
<th>Venireperson Motivation</th>
<th>Judicial Instruction</th>
<th>%</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defense</td>
<td>Impartiality</td>
<td>Get On</td>
<td>50a</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Get Off</td>
<td>79a</td>
<td>52</td>
</tr>
<tr>
<td></td>
<td>Honesty</td>
<td>Get On</td>
<td>50b</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Get Off</td>
<td>84b</td>
<td>44</td>
</tr>
<tr>
<td>Prosecution</td>
<td>Impartiality</td>
<td>Get On</td>
<td>32c</td>
<td>19</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Get Off</td>
<td>82c</td>
<td>67</td>
</tr>
<tr>
<td></td>
<td>Honesty</td>
<td>Get On</td>
<td>67</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Get Off</td>
<td>71</td>
<td>44</td>
</tr>
</tbody>
</table>

*Note:* Percentages with same letters indicate significant differences as a function of venireperson motivation.

**Demographic characteristics.** Venireperson motivation significantly affected whether attorneys mentioned demographic information in statements, \( B = 1.10, \) S.E. = .72 Wald’s \( \chi^2 (1, N = 283) = 17.34, p < .001, \) Φ = -.29, 95% CI [-.39, -.18]. Attorneys
mentioned venirepersons’ demographic information more often when venirepersons were motivated to get on the jury (29%, N = 76) versus when they were motivated to get off the jury (7%, N = 207). Venireperson motivation also interacted with pre-voir dire judicial instruction to affect whether attorneys mentioned demographic information, $B = 1.33$, S.E. = 1.06 Wald’s $\chi^2 (1, N = 283) = 4.14, p = .042$. When venirepersons received honesty instructions, attorneys did not mention demographics significantly more often when venirepersons were motivated to get on the jury (26%, N = 39) than off the jury (13%, N = 88), $\Phi = -.16, 95\% CI [-.33, .01], p = .066$. When venirepersons received impartiality instructions, attorneys mentioned demographics significantly more often when venirepersons were motivated to get on the jury (32%, N = 37) than off the jury (3%, N = 119), $\Phi = -.41, 95\% CI [-.53, -.27], p < .001$. Venireperson motivation had a larger effect on attorneys’ use of demographics when venirepersons received impartiality instructions.

**Venireperson Behavior.** Analyses revealed a significant interaction between venireperson motivation and judicial instruction on the frequency of attorneys mentioning venireperson behaviors, $B = 2.50$, S.E. = 1.30 Wald’s $\chi^2 (1, N = 283) = 4.21, p = .04$. When venirepersons were motivated to get on the jury, attorneys cited venireperson behaviors significantly more often when venirepersons received impartiality instructions (22%, N = 37) versus honesty instructions (5%, N = 39), $\Phi = -.24, 95\% CI [-.44, -.02], p = .033$. When venirepersons were motivated to get off the jury, attorneys did not cite venireperson behaviors significantly more often when venirepersons received honesty instructions (22%, N = 88) versus impartiality instructions (16%, N = 119), $\Phi = .07, 95\% CI [-.07, .20], p = .301$. 

**Good Juror Statements.** Venireperson motivation significantly affected the frequency that attorneys’ reported that a venireperson would make a good juror, \( B = .64, \) S.E. = .84 Wald’s \( \chi^2 (1, N = 283) = 17.72, p < .001, \Phi = -.17, 95\% \text{ CI } [-.28, -.06]. \)

Attorneys indicated venirepersons would be good jurors more often when venirepersons were motivated to get on the jury (11%, \( N = 76 \)) versus off the jury (2%, \( N = 207 \)). Also, venireperson motivation and judicial instruction significantly interacted, \( B = 1.28, \) S.E. = .80 Wald’s \( \chi^2 (1, N = 283) = 4.77, p = .029. \) When venirepersons received honesty instructions, attorneys made the same amount of “good juror” statements when venirepersons were motivated to get on (5%, \( N = 39 \)) or get off (3%, \( N = 88 \)) the jury, \( \Phi = -.04, 95\% \text{ CI } [-.21, .14], p = .646. \) When venirepersons received impartiality instructions, attorneys made significantly more “good juror” statements when venirepersons were motivated to get on (16%, \( N = 37 \)) than get off (2%, \( N = 119 \)) the jury, \( \Phi = -.28, 95\% \text{ CI } [-.42, -.13], p < .001. \)

**Judge Outcomes**

As with attorney results, I organized judge results first by independent variable, creating subsections examining each outcome that was affected by the independent variable. I reported patterns of judges’ granting strikes for cause, as well as judges’ estimates of venireperson bias against the defense and the state.

**PTP Effects and Interactions on Judges’ Strike Decisions and Bias Ratings**

**Granting Challenges for Cause.** Analyses revealed no main effect or interactions of PTP exposure on judges’ decisions in the fully-crossed sample. However, analyses revealed a significant interaction between PTP exposure and the presence of pre-voir dire instruction on judges’ decisions to grant challenges for cause, \( B = 1.92, \) S.E. = .82 Wald’s
\[ \chi^2 (1, N = 337) = 5.51, p = .019. \] When venirepersons received pre-voir dire instructions, judges were equally like to grant a challenge for cause for venirepersons in the high bias (29%, N = 131) and low bias (26%, N = 137) conditions, \( \Phi = -.03, 95\% \text{ CI } [-.09, .15], p = .617. \) Paradoxically, when venirepersons did not receive pre-voir dire instructions, judges were significantly more likely to grant challenges for cause for venirepersons in the low bias (27%, N = 34) versus high bias condition (6%, N = 35), \( \Phi = .283, 95\% \text{ CI } [.05, .49], p = .019. \) The same analysis revealed a significant main effect of pre-voir dire instructions on judges’ decisions to grant a challenge for cause \( B = -1.91, \text{ S.E.} = .73 \) Wald’s \( \chi^2 (1, N = 337) = 4.87, p = .027, \Phi = -.11, 95\% \text{ CI } [-.004, -.21] \)—but this main effect was qualified by the interaction with PTP. Judges were more likely to grant challenges for cause when venirepersons received pre-voir dire instructions (28%, N = 268) versus when venirepersons did not receive pre-voir dire instructions (16%, N = 69).

**Judge Estimates of Bias against the Defense.** Analyses revealed a significant main effect of PTP on judges’ ratings of bias against the defense, \( F (1, 261) = 4.12, p = .043, d = .237, 95\% \text{ CI } [-.02, .49]. \) Judges rated venirepersons in the high bias PTP condition \( (M = 2.67, SD = 2.17) \) to be more biased against the defense than venirepersons in the low bias condition \( (M = 2.17, SD = 1.96). \) Analysis to test whether venireperson PTP exposure interacted with the presence of pre-voir dire instructions revealed no main effect of PTP exposure and no interaction with pre-voir dire instruction, although this analysis did reveal a main effect of exposure to pre-voir dire instructions on judges’ ratings of bias against the defense, \( F (1, 334) = 3.84, p = .051, d = .27, 95\% \text{ CI } [.02, .52] \)—this effect was small to moderate but not statistically significant. Judges rated venirepersons who were exposed to pre-voir dire instruction \( (M = 2.41, SD = 2.13) \) to be more biased
against the defense than those who were not exposed to pre-voir dire instruction ($M = 1.88$, $SD = 1.60$). No other main effects or interactions were significant.

**Judge Estimates of Bias against the State.** I conducted an analysis to test whether venireperson PTP exposure interacted with the presence of pre-voir dire instructions to affect judges’ estimates of bias against the state. This analysis revealed no main effects of PTP or pre-voir instruction and no interaction (all $p$’s > .523).

**Venireperson Motivation Effects and Interactions on Judges’ Strike Decisions and Bias Ratings**

**Granting Challenges for Cause.** Analyses revealed a significant main effect of venireperson motivation on judges’ decisions to grant a challenge for cause, $B = -.93$, S.E. = .61 Wald’s $\chi^2 (1, N = 284) = 19.88$, $p < .001$, $\Phi = .40$, 95% CI [.30, .50]. Judges were more likely to grant a challenge for cause when venirepersons were motivated to get out of jury service (46%, $N = 134$) than when venirepersons were motivated to get on the jury (10%, $N = 134$). Venireperson motivation also interacted with judicial instruction on the ideal qualities of a juror to affect judges’ decisions to grant a challenge for cause, $B = -1.29$, S.E. = .76 Wald’s $\chi^2 (1, N = 284) = 8.18$, $p = .004$. When venirepersons were motivated to get on the jury, judges were more likely to allow a strike for cause when venirepersons received honesty instructions (15%, $N = 66$) versus impartiality instruction (4%, $N = 68$), $\Phi = .18$, 95% CI [.01, .34], $p = .036$. In contrast, when venirepersons were motivated to get out of jury service, judges were more likely to allow a strike for cause when venirepersons received impartiality instructions (54%, $N = 68$) versus honesty instruction (36%, $N = 66$), $\Phi = .18$, 95% CI [.01, .34], $p = .036$. 

100
Judge Estimates of Bias against the Defense. Analyses revealed that venireperson motivation significantly affected judges’ ratings of bias against the defense, $F(1, 261) = 52.87, p < .001, d = .88, 95\% \text{ CI} [.64, 1.11]$. Judges rated venirepersons who were motivated to get off the jury ($M = 3.26, SD = 2.35$) to be more biased against the defense than venirepersons who were motivated to get on the jury ($M = 1.56, SD = 1.44$). Venireperson motivation also significantly interacted with judicial instruction, $F(1, 261) = 8.17, p = .005$. When venirepersons were motivated to get on the jury, judges rated venirepersons who received honesty instructions ($M = 1.80, SD = 1.77$) to be more biased against the defense than venirepersons who received impartiality instructions ($M = 1.32, SD = .98$), $F(1, 132) = 3.77, p = .054, d = .34, 95\% \text{ CI} [.10, .58]$—this effect did not reach traditional levels of significance, but the effect is small to moderate in size. In contrast, when venirepersons were motivated to get off the jury, judges rated venirepersons who received impartiality instructions ($M = 3.66, SD = 2.37$) to be more biased against the defense than those who received honesty instructions ($M = 2.83, SD = 2.28$), $F(1, 132) = 4.27, p = .041, d = .36, 95\% \text{ CI} [-.03, .75]$.

Judge Estimates of Bias against the State. Venireperson motivation significantly affected judges’ ratings of bias against the state, $F(1, 261) = 15.85, p < .001, d = .37, 95\% \text{ CI} [.14, .60]$. Judges rated venirepersons who were motivated to get off the jury ($M = 1.64, SD = 1.36$) to be more biased against the state than venirepersons who were motivated to get on the jury ($M = 1.14, SD = .51$).

Correlations between Strike Allowances and Bias Estimates

I conducted additional analyses examining the relationships among judges’ strike allowances and estimates of bias. Judges decisions to allow strikes were strongly related to
estimates of bias against the defendant $r = .783, p < .001, 95\% \text{ CI } [.74, .82]$, and judges decisions to allow strikes were moderately related to estimates of bias against the state, $r = .30, p < .001, 95\% \text{ CI } [.20, .40]$. Estimates of bias against the state also correlated with estimates of bias against the defendant, $r = .24, p < .001, 95\% \text{ CI } [.14, .34]$. 

CHAPTER 16: PHASE 2 DISCUSSION

Phase 2 tested the effects of differential PTP exposure, venirepersons’ motivations to get on or off the jury, and pre-voir dire judicial instructions on attorneys’ and judges’ judgments of venireperson bias and other voir dire decisions. I predicted that when venirepersons received pre-voir dire instruction on the ideal of honesty, attorneys and judges would strike more venirepersons and provide higher bias estimates when venirepersons were exposed to high amounts of PTP than when they were exposed to minimal PTP. In contrast, I predicted that when venirepersons received pre-voir dire instructions to be impartial, attorneys and judges would be insensitive to PTP exposure and would instead strike venirepersons more often who were trying to get off the jury rather than on the jury.

Could Attorneys and Judges Detect PTP Exposure?

In contrast to my predictions, pre-voir dire instructions did not moderate attorneys’ and judges’ abilities to detect venireperson PTP exposure, although attorneys and judges did demonstrate sensitivity to venireperson PTP exposure under some conditions. PTP exposure affected attorneys’ favorability ratings of venirepersons, as attorneys rated venirepersons as more favorable to the prosecution in the high bias versus low bias condition. However, attorneys’ ratings of venireperson favorability also indicated that venirepersons strategically revealed their PTP exposure as a function of their motivations. Attorneys rated venirepersons as more favorable to the prosecution when they were in the high bias PTP condition rather than in the low bias PTP condition, but only when venirepersons wished to be excuses from jury service; differential PTP exposure did not affect favorability ratings when venirepersons attempted to get on the jury. Thus, attorneys
rated venirepersons who wished to be excused to be more biased in favor of the prosecution when they knew a lot about the case and the defendant as opposed to when they were only exposed to a little information about the case. In contrast, venirepersons attempting to get on the jury appeared neutral to attorneys regardless of the level of PTP to which they were exposed, suggesting that such venirepersons simply omitted any fine details that would suggest they heard about the case and were biased. Judges also rated venirepersons as more biased against the defense (but not prosecution) when venirepersons were in the high bias versus low bias condition. Thus, it appears that judges were adept at distinguishing those venirepersons exposed to excessive amounts of PTP.

Despite evidence of attorneys and judges detecting venirepersons’ exposure to PTP, PTP exposure did not consistently affect attorneys’ and judges’ decisions to challenge for cause; nor did PTP interact with other variables in the design to affect these decisions. Further, in the absence of motivation to get on or off the jury and pre-instruction on the ideal qualities of a juror, PTP exposure still did not affect attorneys’ decisions to challenge venirepersons for cause or use peremptory strikes. In fact, among venirepersons not exposed to pre-voir dire instructions, judges struck those in the low bias condition more often than the high bias condition, a paradoxical effect that is particularly troubling given that this segment of the venireperson sample rated the defendant as more likely to be guilty in the high bias versus low bias PTP condition. Although it is difficult to determine the reason for this effect without systematically examining judges’ open-ended responses, perhaps judges perceived low bias jurors in these conditions as unmotivated or disingenuous. Judges read in the preliminary materials that most of the venire had been exposed to PTP, and it is likely that low bias jurors without motivation instructions simply
did not have much to say—perhaps raising suspicion among discerning judges. One judge even commented about a low bias venireperson, “The venireperson is an idiot and shouldn't be on a jury, or she's pretending to be ignorant ergo unbiased.”

**How Did Venireperson Motivation and Judicial Instruction Affect Attorneys’ and Judges’ Decisions?**

Attorneys were more likely to challenge venirepersons for cause, use peremptory strikes, and rate venirepersons as more favorable to the prosecution when venirepersons were motivated to get out of jury service than when they were motivated to get on the jury. With peremptory strikes, this effect was especially acute with defense attorneys, although prosecuting attorneys also used peremptory strikes more often when venirepersons were motivated to get out of jury service as opposed to on the jury. As with attorneys, judges indicated they would grant challenges for cause more often when venirepersons were motivated to get off the jury versus on the jury, rating venirepersons as more biased against both the defense and prosecution when venirepersons were motivated to get off the jury versus on the jury. In sum, venirepersons’ motivations during voir dire largely dictated attorneys’ and judges’ bias ratings and strike decisions, whereas exposure to prejudicial PTP generally did not affect these decisions—which is not a devastating indictment of attorneys’ and judges’ decisions given that PTP did not affect verdicts.

Interestingly, venireperson motivation also interacted with pre-voir dire judicial instructions to affect judges’ decisions to grant challenges. When venirepersons were motivated to get on the jury, judges were more likely to grant challenges for cause when venirepersons received honesty instructions than when they received impartiality instructions. When venirepersons were motivated to get off the jury, judges were more
likely to grant challenges for cause when venirepersons received impartiality instructions than when they received honesty instructions. Judges’ ratings of bias against the defendant and attorneys’ favorability ratings followed the same pattern, and these findings taken together suggest that standard instructions on the ideal of impartiality enable venirepersons to engage in more effective impression formation during subsequent voir dire questioning (Leary & Kowalski, 1990). Indeed, the effect of venireperson motivation on judges’ challenge decisions was smaller when the judge gave venirepersons honesty instructions ($\Phi = -0.24$) rather than standard impartiality instructions ($\Phi = -0.55$) prior to questioning. These data highlight a potential downside to strongly emphasizing impartiality prior to voir dire questioning. Vengeful venirepersons might use the judges’ emphasis on impartiality as a cue to downplay their biases to be picked for service, whereas venirepersons who are hesitant to serve might feign or overplay their biases to escape jury service.

**Attorneys’ Open-Ended Explanations of Venireperson Bias**

Defense attorneys uniformly reported venirepersons’ biased attitudes more often when venirepersons were attempting to escape jury service, whereas prosecutors were similarly sensitive to venireperson motivation only when venirepersons had been instructed on the importance of impartiality (i.e., when venireperson motivation effects appeared particularly acute). Therefore, defense attorneys’ increased tendency to rate venirepersons as favorable to the prosecution and strike venirepersons appears to reflect higher sensitivity to potentially biased attitudes expressed during voir dire. These are not surprising observations given the apparent bias against the defendant in the community, and the present results are highly consistent with previous research suggesting increased concern about venirepersons among defense attorneys (Kerr et al., 1991).
Attorneys cited demographics and venireperson demeanor in their explanations of bias, especially when explicit signs of attitudinal bias were more likely to be absent. Therefore, attorneys (especially defense) mentioned demographics more often in the low PTP bias condition, and attorneys cited demographics more often when venirepersons received impartiality instructions and were attempting to get on the jury. Thus, the present findings are consistent with previous research in which attorneys—in the absence of explicit information about venirepersons’ biases—used information such as age, appearance, and occupation to judge venirepersons (Fulero & Penrod, 1990; Olczak et al., 1991).

**Limitations and Conclusions**

Several limitations are worth noting. First, the voir dire videos were very brief, with most lasting no more than 60-90 seconds. As such, it is arguable that attorneys and judges might have made different judgments about venirepersons had the voir dire interviews been longer and more detailed. Also, the voir dire questions were uniform across all venirepersons, and my mock attorneys were trained not to stray from the script they were given; attorneys and judges in a real voir dire would likely have asked follow-up questions to clarify biased or confusing statements. On the other hand, the brevity and uniformity of the voir dire videos reflected deliberately tight experimental control, allowing for stronger causal inferences relative to more realistic scenarios. Nevertheless, future research should focus on the effects of PTP, venireperson motivation, and judicial instruction in face-to-face scenarios in which attorneys can actively engage with potential jurors.
Attorneys were also instructed to use peremptory strikes with the assumption that a judge rejected all challenges for cause, an unlikely outcome in a real case with comparably pervasive publicity. Therefore, attorneys might have made different peremptory strike decisions had they known whether certain venirepersons had already been struck for cause. Future research could test attorney decision-making in more realistic settings, perhaps allowing for more informed use of peremptory strikes.

In conclusion, attorneys (especially defense) used peremptory and causal challenges on venirepersons trying to get off the jury much more often than those trying to get on the jury; judges also granted challenges for cause more often when venirepersons were attempting to get off the jury. Defense attorneys rated venirepersons as more pro-prosecution and used more challenges for cause than did prosecuting attorneys. Based on attorneys’ favorability ratings, judges’ ratings of bias against the defense, and judges’ decisions on challenges for cause, it appears standard pre-voir dire instructions on the ideal of impartiality cue venirepersons to the appropriate responses to achieve their motivations to get on or off the jury. Attorneys’ open-ended responses, attorneys’ favorability ratings, and judges’ bias ratings indicated some sensitivity to PTP exposure, but not enough to impact decisions to strike venireperson.
CHAPTER 17: GENERAL DISCUSSION

In sum, I examined the effects of PTP exposure, venireperson motivation during voir dire, and pre-voir dire judicial instructions on juror, attorney, and judge decision making. In the first phase, I examined the interactive effects of differential PTP exposure and voir dire factors on juror biases and guilt judgments. In phase 2, I tested the long-standing assumption in the courts that judges and attorneys can accurately judge the extent of venirepersons’ exposure to PTP and effectively use causal challenges and peremptory strikes to eliminate the most unfavorable and/or biased venirepersons (Mu’Min v. Virginia, 1991; Skilling v. United States, 2010).

In Phase 1, I manipulated the amount of negative PTP presented to mock venirepersons, their motivation toward whether to be impaneled on a jury, and pre-voir dire instructions on the ideal qualities of a juror (impartiality or full disclosure). Venirepersons motivated to get off the jury subsequently rendered more guilty verdicts than those motivated to get on the jury, and PTP exposure interacted with venireperson motivation such that venirepersons motivated to get on the jury who were exposed to excessive PTP shifted toward acquittal as compared to the other groups. The interaction is consistent with the Flexible Corrections Model, whereby those in the high bias condition may have shifted their judgments toward acquittal due to an awareness of their own biases and a potential lingering motivation to appear unbiased or impartial (Wegener & Petty, 1997). Without voir dire motivation or judicial instruction prior to voir dire, jurors in the high bias PTP condition produced significantly higher guilt ratings than those in the low bias condition—a result partially consistent with my hypotheses and previous research (Steblay et al., 1999).
Implicit associations between the defendant and guilt increased with the level of PTP exposure among the entire sample, and defendant/guilt associations faintly predicted verdicts among non-motivated jurors who did not receive pre-voir dire instruction. Although I was unable to establish implicit associations as a mediator between PTP exposure and guilt judgments, these results represent a step forward in both PTP and IAT research. Contributing to the literature on PTP effects, I have established that an IAT can detect relatively subtle differences in PTP exposure among venirepersons prior to trial, adding to previous efforts attempting isolate potential mechanisms of PTP bias (Kovera, 2002; Ruva, McEvoy, & Bryant, 2007; Ruva & McEvoy, 2008). In the realm of IAT research, I have established the potential usefulness of a case-specific IAT in predicting biases against an individual in a criminal case, complementing previous research attempting to use a race/guilt IAT to predict guilt judgments (Levinson, Cai, & Young, 2010). The current findings will no doubt contribute to the broader conversation currently under way among scholars regarding the appropriate uses and limitations of IAT’s in the context of the legal system (Kang et al., 2012).

Jurors mistaking PTP information for the trial that were not given pre-voir dire motivation and judicial instructions rendered more guilty verdicts and produced higher “likelihood of guilt” ratings. Although I cannot argue causality because source memory tests came after verdicts and guilt ratings, these findings are consistent with previous research (Ruva et al., 2007). Additionally, jurors given instructions on the ideal of honesty mistook PTP as having been presented in trial more often in the low bias PTP condition than high bias PTP condition, suggesting that the source memory test itself introduced misinformation to low bias jurors—by introducing eight new pieces of negative
information about the defendant versus two in the high bias condition. My interpretation of this finding is consistent with the source-monitoring framework (Gerrie et al., 2006; Lindsay, 2008), and the observed source memory errors in the low bias condition suggest that exposure to novel, external information about a case may create more source-confusion for jurors when that information is presented after the trial has begun. Therefore, source memory errors in the present study perhaps better reflect biases resulting from jurors’ exposure to post-venire publicity (PVP)—external information about a case to which jurors are exposed after the trial begins (Daftary-Kapur, 2009; U.S. v. Herring, 1978). In the future, researchers should manipulate PVP and measure source-memory errors, as this type of publicity and associated memory confusion could affect decision-making similarly—or more powerfully—than PTP (Ruva, et al., 2007; Ruva & McEvoy, 2008).

Of course, the central question driving this research was whether attorneys’ and judges’ decisions to strike venirepersons accurately mapped on to venirepersons’ biases. In Phase 2, I presented voir dire videos from Phase 1 to attorneys and judges to gauge whether they could effectively use challenges for cause and peremptory strikes to eliminate the most unfavorable and/or biased venirepersons. Insofar as venirepersons given motivation instructions prior to voir dire rendered more guilty verdicts when trying to get out of jury service, attorneys and judges adequately gauged biases; both groups consistently struck (or allowed strikes) and rated as more biased venirepersons who were motivated to escape jury service. Venireperson PTP exposure did not affect judges or attorneys strike decisions when venirepersons were motivated to get on or off the jury and were pre-instructed on ideal juror qualities, although this should not be alarming—after all, PTP exposure did not consistently affect motivated/pre-instructed venirepersons’ subsequent decisions as jurors.
Among venirepersons only exposed to PTP prior to voir dire, attorneys’ and judges’ strike decisions did not reflect jurors biases—recall that these jurors provided higher “likelihood of guilt” ratings (without verdict effects) in the high bias than low bias PTP condition. Attorneys did not challenge for cause or exercise more peremptory strikes more often when venirepersons had been exposed to a lot of PTP as opposed to minimal PTP. Additionally, judges indicated a greater willingness to grant challenges for cause among the low bias jurors, which was a puzzling result that may have reflected judges’ concerns regarding venirepersons’ honesty and/or ability to serve. In sum, attorneys—regardless of role—did not appear sensitive to differential PTP exposure in their strike decisions when it did affect venirepersons’ perceptions of guilt, and judges appeared more willing to grant challenges for low PTP venirepersons that provided lower guilt-ratings than high PTP venirepersons.

Venireperson motivation and judicial instruction interacted to affect 1) attorneys’ ratings of venireperson favorability, 2) attorneys’ reports of biased attitudes among venirepersons, and 3) judges’ decisions on challenges for cause, such that motivated venirepersons were more likely to succeed in getting on or off the jury after receiving impartiality versus honesty instructions. These findings suggest that standard instructions on impartiality indeed cue venirepersons to the appropriate responses to get on or off the jury, and de-emphasizing impartiality in favor of honesty and forthrightness may reduce venirepersons abilities to actively manipulate the voir dire process to achieve their personal goals. The current findings suggest that the theoretical frameworks put forth by experts in impression management and faking may indeed be useful in understanding legal proceedings, and future research could focus on more active strategies (e.g., manipulating
questioning format/content) for identifying and eliminating biased venirepersons (Leary & Kowalski, 1990; Levashina & Campion, 2006; Nederhof, 1985).

Finally, the current research replicated and complimented previous research examining attorney behavior in voir dire (Fulero & Penrod, 1990; Kerr et al., 1991; Olczak et al., 1991). For example, defense attorneys predictably exercised more challenges for cause than prosecuting attorneys, and defense attorneys also displayed more sensitivity to venirepersons’ motivations and expressed biases during voir dire (Kerr et al., 1991). Attorneys, defense especially, also cited demographics and venireperson demeanor in their explanations of bias more often when cues to bias may have been lacking, which is consistent with previous examinations of attorneys’ voir dire strategies (Fulero & Penrod, 1990; Olczak et al., 1991).

In conclusion, the current research suggests that PTP biases can be measured through implicit associations, even when the biases are relatively subtle. Consistent with previous research (e.g., Zimmerman et al., 2011), the present research also suggests that behaviors during voir dire can impact subsequent verdict decisions. Additionally, the effects of venireperson motivation on attorneys’ and judges’ perceptions of venireperson biases and strike decisions suggest that citizens called to jury duty can capably manipulate voir dire outcomes when they are motivated to get on or off the jury. Further, standard instructions prior to voir dire that emphasize the ideal of impartiality might facilitate venirepersons’ abilities to shape judges’ and attorneys’ impressions of them, which might warrant a de-emphasis on impartiality in favor of honesty during voir dire proceedings. In sum, the current studies add to our knowledge of processes underlying PTP effects and provide new information about factors that can impact voir dire proceedings.
Appendix A

PTP

PTP 1

*Channel 8’s 9 o’clock News Break*
*Wednesday, February 22\textsuperscript{nd} 2012*

Breaking news: A convenience store clerk is seriously wounded this evening after an attempted robbery on Washington and 57\textsuperscript{th} Avenue. Andrew Flynt was shot while working behind the counter at the Handy Pantry this evening around 8:30 p.m., apparently after the assailant entered the store and took money from the register. At least one witness was present during the crime. Early reports indicate a man by the name of Donald Ray Braswell has been taken into custody for the shooting after behaving suspiciously outside another convenience store in the area. Mr. Braswell was reported to have flashed gang signs at cameras while being arrested, and locals to the neighborhood report that he is affiliated with a local gang.

PTP 2

*Channel 8’s 11 o’clock News*
*Wednesday, February 22\textsuperscript{nd} 2012*

A store clerk at the Handy Pantry was shot earlier this evening in an armed robbery as another customer looked on. Tonight, police have arrested Donald Ray Braswell in connection with the crime outside of another local convenience store. Sources indicate that among other crimes, Mr. Braswell was previously arrested and convicted of assault with a deadly weapon, having been released from prison only a couple months prior to tonight’s arrest. No other information has been provided by police as of yet regarding details of the arrest. It appears Donald Ray Braswell acted alone, as no accomplices have yet been identified.

PTP 3

*Daily News, morning edition*
*Thursday, February 23\textsuperscript{rd} 2012*

Last night store clerk Andrew Flynt was shot and seriously wounded, remaining in serious but stable condition this morning. Around 8:30 PM Wednesday evening, a man held up the Handy Pantry on Washington and 57\textsuperscript{th} Avenue, shooting the clerk after taking the money from him. An eyewitness in the store at the time later assisted police, eventually leading to the late evening arrest of Donald Ray Braswell. According to the eyewitness, Mr. Braswell’s aggression was completely unprovoked by the clerk, who appeared to be “cooperating fully” before being shot.
Arrest in Convenience Store Shooting
*Early Morning Live*
*Friday, February 24th 2012*

A store clerk was shot and seriously wounded Wednesday evening during an armed robbery at the Handy Pantry on Washington and 57th. An armed man entered the Handy Pantry around 8:30 p.m., approached the clerk and demanded cash. At some point during the encounter the assailant opened fire and seriously wounded the clerk. A yet unidentified witness said that she witnessed the shooting in the store, which eventually led to the arrest. Local police arrested and charged Donald Ray Braswell age 26 with armed robbery and assault with a deadly weapon later Wednesday. Braswell was detained and arrested when an officer noticed him behaving suspiciously outside another convenience store. Donald Ray Braswell’s neighbors were interviewed this afternoon, describing Donald Ray as a “live wire” and “capable of most anything.” One neighbor has even had bars installed on his windows as a result of a verbal dispute with Mr. Braswell.

More Details About Convenience Store Shooting Suspect
*Channel 8’s 11 o’clock News*
*Saturday, February 25th 2012*

The investigation continues of the armed robbery and shooting that occurred at the Handy Pantry on Washington and 57th last Wednesday. A clerk in the store was gunned down behind the counter after giving the assailant cash, all as another customer looked on in horror. The suspect in the shooting, Donald Ray Braswell, was later apprehended outside another local convenience store. Mr. Braswell, the man arrested in connection with the armed robbery and shooting, has a rap sheet that includes burglary and vandalism convictions. According to one police source, “Donald Ray has seen his fair share of prison cells.”

Handy Pantry Shooting Witness Describes Ordeal
*The Chronicle*
*Monday, March 5th, 2012*

A Chronicle reporter got the opportunity to interview the eyewitness (who wishes to remain anonymous) who claims to have seen Donald Ray Braswell shoot a store clerk on February 22nd. Along with other details that have already been revealed about the shooting, the
witness described a “pool of blood that seemed like something out of mob movie.” She
continued, “I just can’t believe the guy (Flynt) lived, what a blessing.” Mr. Donald Ray
Braswell stands accused of shooting the clerk at the Handy Pantry while robbing the store,
and the eyewitness’s account helped law enforcement officers focus a search that
eventually led to the apprehension of Mr. Braswell later that evening outside of another
convenience store.

PTP 7

Suspect Confession Ruled Inadmissible
Channel 8’s 10 o’clock News
Monday, April 2nd 2012

A judge ruled this morning that Donald Ray Braswell’s confession to the armed
robbery and wounding of a store clerk last February is inadmissible in court because
it was obtained illegally. This does not come as a surprise to legal experts, but it is a
considerable setback to the prosecution’s case against Mr. Braswell. The shooting,
which happened at the Handy Pantry on Washington and 57th on February 22nd,
ocurred during the armed robbery of the store. Mr. Braswell was apprehended for
suspicious behavior outside another convenience store later that evening.

PTP 8

Handy Pantry Shooting Victim Recovery Slow, Uncertain
Channel 8’s 10 o’clock News
Friday, April 6th 2012

Andrew Flynt, the clerk allegedly shot by Donald Ray Braswell on February 22nd, is
recovering slowly from his horrific wounds. Friends and family are outraged by the
senseless shooting, and his sister told a reporter that Mr. Flynt may never regain use of his
right arm. An eyewitness at the Handy Pantry that evening claimed to have seen Donald
Ray Braswell hold Mr. Flynt at gunpoint, opening fire after having received the contents of
the register. Police later apprehended and charged Mr. Braswell outside another store that
same evening. No word yet on a trial date.

PTP 9

Judge Delays Handy Pantry Shooting Trial
The Chronicle
Monday, May 7th 2012

The county judge has once again delayed the trial of Mr. Donald Ray Braswell, 26. The
District Attorney has asked for more time to determine whether blood splattered clothing
found in Donald Ray Braswell’s car is admissible evidence—legal technicalities may
prevent this key piece of evidence from being presented during trial. Mr. Braswell stands
accused of armed robbery and assault with a deadly weapon inflicting serious injury for the shooting of store clerk Andrew Flynt on February 22nd, 2012. An eyewitness alleges that Donald Ray Braswell entered the Handy Pantry and shot the store clerk after obtaining the money from the register. Mr. Braswell was positively identified by the witness who was in the store at the time of the shooting. Later on the evening February 22nd, Mr. Braswell was apprehended by police outside of another convenience store.

PTP 10

Jury Selection to Start in Handy Pantry Shooting Case
The Daily News
Friday, July 20th 2012

The local District Attorney’s office announced Tuesday that jury selection would begin next week for the trial of Donald Ray Braswell. Mr. Braswell, 26, is charged armed robbery and assault with a deadly weapon inflicting serious injury for the shooting of Andrew Flynt during the armed robbery of the Handy Pantry. On February 22nd, 2012 Donald Ray Braswell allegedly entered the Handy Pantry and shot the store clerk Andrew Flynt after obtaining the money from the register. Mr. Braswell was positively identified by a witness who was in the store at the time of the shooting, and Braswell was apprehended later that evening when police spotted him loitering outside of another convenience store. Another one of the investigating officers remains on leave after failing to obtain an appropriate warrant before searching Mr. Braswell’s home. This “lapse” in judgment has resulted in a key piece of evidence—the weapon used in the shooting—being inadmissible in the upcoming trial.

Neutral Articles

Neutral 1

United Nations Panel Issues Report
Channel 8’s 9 o’clock News
Wednesday, February 22nd 2012

The United Nations scientific panel studying climate issued a report today stating that the evidence of a warming trend is "unequivocal," and that human activity has "very likely" been the driving force in that change over the last 50 years. The report cites mounting scientific evidence that the release of carbon dioxide and other gases from smokestacks, tailpipes and burning forests has played a central role in raising the average surface temperature of the earth by more than 1 degree Fahrenheit since 1900.

Neutral 2

Penguins Tracked Using Peculiar Method
Channel 8’s 11 o’clock News
Wednesday, February 22nd 2012
Scientists have a new method of tracking penguins: Follow their poop from space. In Antarctica, Emperor penguins breed on sea ice, which is at risk to shrink because of global warming. However, because penguins stay on the same ice for months, researchers who study these penguins have discovered that their poop stains make them stand out from space. Using satellites, scientists found 10 new colonies of penguins and six colonies that seemed to have disappeared.

**Neutral 3**

**UN Panel Focus Shifts**

*Daily News, morning edition*

*Thursday, February 23rd 2012*

The UN panel on climate change has identified human activity as the likely culprit of climate change and global warming. The panel’s scientific report shifts focus of the climate discussion from whether humans are responsible for climate change to what measures should be taken to reduce the impact of human activity on the planet.

**Neutral 4**

**Cabinet to Meet on Mt. Everest**

*Early Morning Live*

*Friday, February 24th 2012*

According to officials, Nepal’s cabinet will hold a meeting on Mount Everest to highlight the threat from global warming, which is causing glaciers to melt in the Himalayas.

The cabinet will meet at the Everest base camp this month, just before an international climate change conference in December in Copenhagen, said Deepak Bohara, the forest and soil conservation minister.

The high profile meeting reflects growing concern among governments about global warming, and comes on the heels of a United Nations report issued last week that urged governmental action to prevent drastic consequences of climate change.

Prime Minister Madhav Kumar Nepal and other cabinet members will fly by plane to the 17,400-foot camp, the starting point for mountaineers trying to climb the world’s highest mountain.

**Neutral 5**

**Global Emissions of Carbon Dioxide Jump**

*Channel 8’s 11 o’clock News*

*Saturday, February 25th 2012*

Global emissions of carbon dioxide jumped by the largest amount on record in 2010, upending the notion that the brief decline during the recession might persist through the
recovery. Emissions rose 5.9 percent in 2010, according to the Global Carbon Project, an international collaboration of scientists. The increase solidified a trend of ever-rising emissions that scientists fear will make it difficult, if not impossible, to forestall severe climate change in coming decades. However, the technological, economic and political issues that have to be resolved before a concerted worldwide effort to reduce emissions can begin have gotten no simpler, particularly in the face of a global economic slowdown.


Neutral 6

Monarch Butterflies Show Modest Signs of Recovery
The Chronicle
Monday, March 5th, 2012

Monarch butterfly colonies in Mexico have seemingly bounced back from last year, when bad storms decimated their numbers by 75 percent. The orange-and-black butterflies, which migrate from Canada and the U.S. to Mexico each year, have more than doubled since last year’s low – but their numbers remain below average, scientists say. A study sponsored by World Wildlife Federation Mexico along with the Commission on Natural Protected Areas and the cell phone carrier Telcel found that the colonies increased by 109 percent this year to coat about 10 acres of forest. “These figures are encouraging, compared to last year, because they show a trend toward recovery,” said Omar Vidal, director of the conservation group World Wildlife Federation Mexico, according to The Associated Press. But the numbers suggest the species remains under threat: this year’s colonies were the fourth-smallest since data collection began in 1993.

http://www.ecoworld.com/

Neutral 7

EU Calls for New CO2 Restrictions for Vans
Channel 8’s 10 o’clock News
Monday, April 2nd 2012

The European Union is placing new restrictions on carbon dioxide emissions for commercial vans in an effort to reduce fuel costs and eliminate the heat-trapping gases blamed for climate change. The European parliament voted Tuesday for new limits that will require auto manufacturers to reduce CO2 emissions by 14 percent by 2017, AFP reports. A 28 percent reduction from 2007 levels would follow in 2020. Beginning in 2019, auto makers who break the rule will receive a fine of 95 euros for each gram per kilometer that exceeds the limit. The regulations will apply to new light commercial vehicles, 12 percent of which are vans, AFP reports. The European Commission, the parliament and governments have signed off on the measure. It will go into effect within the next few weeks after EU states approve it.

http://www.ecoworld.com/

Neutral 8
Penguins Sent to U.S. for Global Warming Exhibition

Channel 8’s 10 o’clock News
Friday, April 6th 2012

A group of 20 penguins rescued from Brazilian beaches last year have been sent to the U.S. for an exhibition on climate change. Brazilian scientists say the Magellanic penguins arrived safely this weekend in Los Angeles, where they will be kept in quarantine before being sent to California’s Monterey Bay Aquarium, AFP reports.

The birds were among hundreds of Magellanic penguins that washed up on the beaches near Rio de Janeiro while migrating from Argentina’s southern Patagonia region. Brazilian wildlife officials are currently studying the penguins’ changing migration patterns. They said the birds have been following schools of fish further north in recent years, and that global warming may be to blame. http://www.ecoworld.com/

Neutral 9

Obama Budget Calls for Clean Energy Funding

The Chronicle
Monday, May 7th 2012

U.S. President Barack Obama is calling for additional federal funding for clean energy research as part of his 2012 budget. The proposed plan, which was released Monday and is pending approval from Congress, also seeks to eliminate longstanding subsidies for fossil fuels. Obama aims to increase funding for the Energy Department by 12 percent. The plan would offer $853 million for the development of small nuclear reactors, which are much less expensive than traditional nuclear facilities but may take years of research before earning approval, AFP reports. The budget would also slash tax incentives for oil companies and reduce government support for drilling, potentially saving $4 billion per year. http://www.ecoworld.com/

Neutral 10

Kenyan Conservationists Concerned Over Slow Elephant Population Growth

The Daily News
Friday, July 20th 2012

Kenyan conservationists are worried that the burgeoning demand for ivory will undo years of work getting the country’s elephant population to healthy numbers. Wildlife
officials say that a survey of an elephant sanctuary from an aerial census showed that growth had slowed to two percent from four percent in 2008, AFP reports.

Scientists counted 12,572 elephants in Tsavo National Park, an 18,000-square mile elephant sanctuary southeast of Nairobi. While that number is only slightly below the previous count of 11,696, it represents a weakening population growth rate, says Julius Kipng’etich, the director of the Kenya Wildlife Service.
Appendix B

Instructions: Please follow on carefully as the experiment reads these instructions aloud.

Get On Jury
You are all about to take part in a brief voir dire (or pretrial questioning) designed to assess your suitability for jury service in the criminal case of New York State versus Donald Ray Braswell. Together, you will view a brief instruction on the attributes of an ideal juror, after which you will each be taken one at a time to another room to answer a few questions. Very often, people are motivated during voir dire to get ON THE JURY. We would like you during questioning to do your best to GET ON THE JURY for this particular criminal case. To motivate you, we are offering each of you an extra $10 if 2 out of 3 attorneys and judges who view your videotape vote for you to remain among the panel of jurors who will decide the guilt or innocence of Donald Ray Braswell. Do you understand your task?

Get Off Jury
You are all about to take part in a brief voir dire (or pretrial questioning) designed to assess your suitability for jury service in the criminal case of New York State versus Donald Ray Braswell. Together, you will view a brief instruction on the attributes of an ideal juror, after which you will each be taken one at a time to another room to answer a few questions. Very often, people are motivated during voir dire to get OUT OF JURY SERVICE. We would like you during questioning to do your best to GET OFF THE JURY for this particular criminal case. To motivate you, we are offering each of you an extra $10 if 2 out of 3 attorneys and judges who view your videotape vote for you to be removed from the panel of jurors who will decide the guilt or innocence of Donald Ray Braswell. Do you understand your task?
Appendix C

Pre Voir Dire Instructions (Impartiality)
Ladies and gentlemen. Before questioning each of you to determine your suitability for jury service, I must instruct you on the ideal qualities of a juror in a criminal case. It is important that all jurors are IMPARTIAL; that is, an ideal juror must not be influenced in any way by either sympathy for or prejudice against the Defendant or the Government. Being an IMPARTIAL evaluator of the evidence is important—any prior presumptions a juror has about the Defendant or Government must be set aside in order for the evidence to fully determine his or her decision. The trial court is not a forum to seek vengeance against the Defendant or to provide remedies for the victim or victims. The bottom line is that we want jurors who will faithfully, conscientiously, and impartially serve if elected.

Pre Voir Dire Instructions (Honesty)
Ladies and gentlemen. Before questioning each of you to determine your suitability for jury service, I must instruct you on the ideal qualities of a juror in a criminal case. It is important that all jurors are vocal and completely HONEST about their prejudices; that is, an ideal juror is aware of his or her prejudices and able to communicate them. Being HONEST is important because an ideal jury requires a wide range of views on the case at hand and the legal system in general. The bottom line is that we want a group of jurors who will represent a broad spectrum of possible views toward the defendant and the government, regardless of whether those views are negative or positive.
Appendix D

Trial Transcript

Judge: Please be seated. Court is now in session. We have before us criminal case, number 94-143, the State of New York vs. Donald Ray Braswell. The defendant, Mr. Braswell is being charged with the crimes of armed robbery and assault with a deadly weapon inflicting serious injury. The defendant has appeared in this court and has entered a plea of not guilty to the charges of armed robbery and assault with a deadly weapon inflicting serious injury. I note for the record that Dana Nielson is here, representing the state as the prosecutor, and Beth Cochran is here as defense counsel for Mr. Donald Ray Braswell. All right Mrs. Nielson, you may proceed with your opening statement.

Prosecutor (Dana Nielson): Thank you, your honor. Ladies and gentleman of the jury, the State of New York charges Mr. Donald Ray Braswell of robbing the Handy Pantry convenience store, on the corner of Washington and 57th Avenue. He is also charged with shooting and seriously injuring the clerk, Mr. Andrew Flynt. Due to his injuries, Mr. Flynt has no memory of the events of February 22nd, 2012. He is therefore unable to testify for himself about the events of that day. Mrs. Cynthia Easterling, a frequent shopper of the Handy Pantry Convenience store, who was present at the time the crimes were committed, has identified Mr. Donald Ray Braswell as the person who shot Mr. Flynt. The evidence will show that Mrs. Cynthia Easterling positively identified the defendant in a lineup conducted by a member of the Oceanside Police Department. The defense will attempt to convince you that the Oceanside Police Department used biased procedures to construct the lineup. However, as you will see, the procedures used in constructing and administering
the lineup were fair and unbiased, and the evidence will show that the lineup from which Mrs. Cynthia Easterling identified the defendant was in fact the standard lineup used by the Oceanside Police Department. Furthermore, the evidence will show that the circumstances leading up to the arrest of the defendant are highly incriminating, and it is our feeling that a close examination of the evidence of this case, will convince you beyond a reasonable doubt that the defendant is guilty as charged.

**Judge:** Thank you, Mrs. Nielson. Mrs. Cochran, you may make your opening statements.

**Defense (Beth Cochran):** Thank you, your honor. Ladies and gentleman of the jury, the defendant, Mr. Donald Ray Braswell has been mistakenly identified by a single eyewitness as the man who robbed the Handy Pantry convenience store and who shot and injured the clerk, Mr. Andrew Flynt. The evidence will show that the defendant is innocent of the crimes for which he has been accused. You see the defendant, Mr. Donald Ray Braswell, wasn’t at the Handy Pantry convenience store that day. You’ll hear testimony from his friend, Mr. Rice that Mr. Donald Ray Braswell was home at the time that the crimes occurred—thus it is impossible for him to have been the perpetrator. The evidence will show that Officer Ackerman used biased and unfair procedures to construct the lineup from which the eyewitness made her identification. Ladies and gentleman of the jury, substantial questions exist regarding the eyewitness’s memory of the crime and the conditions under which she identified the defendant. Careful attention to the evidence today will show that Mrs. Easterling was incorrect in her identification of the defendant, and that my client, Mr. Donald Ray Braswell, is innocent of the charges. Thank You.

**Judge:** Mrs. Nielson, you may proceed with your first witness.
Prosecutor (Dana Nielson): Thank you, your honor. I would like to call Cynthia Easterling to the stand.

Judge: Please raise your right hand. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Witness #1 (Cynthia Easterling): I do.

Judge: Please be seated.

Prosecutor (Dana Nielson): Mrs. Easterling, will you please state your full name for the record.

Witness #1 (Cynthia Easterling): My name is Cynthia Jane Easterling.

Prosecutor (Dana Nielson): Mrs. Easterling, are you familiar with the Handy Pantry convenience store on the corner of Washington and 57th Avenue?

Witness #1 (Cynthia Easterling): Yes I am. I often stop in there to buy gas or a soda.

Prosecutor (Dana Nielson): Did you stop at the Handy Pantry convenience store on February 22, 2012?

Witness #1 (Cynthia Easterling): Yes I did. I stopped in there to buy gas at about 8:40pm that evening.

Prosecutor (Dana Nielson): Could you please tell the jury what events took place that evening?

Witness #1 (Cynthia Easterling): Well after I filled up with gas, I went inside and paid the cashier, um, I then went to the back to use the restroom. As I came out, I heard yelling and saw a man waving a gun at the cashier. So, I froze in the entrance to the main area of the store. I didn’t duck or anything, just stood there—I was literally petrified.
Prosecutor (Dana Nielson): Mrs. Easterling, could you please tell the jury what you saw next?

Witness #1 (Cynthia Easterling): I saw the cashier give the guy with the gun some money. Um, the guy with the gun was swearing and yelling. The guy with the gun seemed to get really upset—I guess because it wasn’t enough money—and then he started shouting more obscenities even louder while he was shaking the gun at the cashier. Then he shot the clerk and ran out of the store.

Prosecutor (Dana Nielson): What happened next?

Witness #1 (Cynthia Easterling): Well after the guy left, I called 911 and the police came.

Prosecutor (Dana Nielson): Mrs. Easterling, were there any other customers in the store?

Witness #1 (Cynthia Easterling): No. Besides the cashier, I was the only other person in the store.

Prosecutor (Dana Nielson): You said you stood still and didn’t take cover. Did this allow you an opportunity to get a good look at the robber?

Witness #1 (Cynthia Easterling): Yes I feel like got a good look at him.

Prosecutor (Dana Nielson): Approximately how long were you able to get that good look at the robber?

Witness #1 (Cynthia Easterling): Um, I’d say about a minute, it felt like two hours.

Prosecutor (Dana Nielson): Were you distracted at all during this time period?

Witness #1 (Cynthia Easterling): No I was not.

Prosecutor (Dana Nielson): Did you find that during this time period, you were able to pay close attention to the robber’s face?
Witness #1 (Cynthia Easterling): Yes, I believe I was able to pay close attention to the robber’s face.

Prosecutor (Dana Nielson): Was the robber wearing a mask or a disguise of any kind?

Witness #1 (Cynthia Easterling): No he wasn’t.

Prosecutor (Dana Nielson): Mrs. Easterling, is the person you saw rob the Handy Pantry convenience store in the room at this time?

Witness #1 (Cynthia Easterling): Yes he is.

Prosecutor (Dana Nielson): Could you please point to this person?

Witness #1 (Cynthia Easterling): (she points to Mr. Donald Ray Braswell) Yes, that’s him there.

Prosecutor (Dana Nielson): Let the record reflect that the witness has identified the defendant, Mr. Donald Ray Braswell.

Judge: So noted.

Prosecutor (Dana Nielson): Mrs. Easterling, let’s now turn our attention to the events that took place after the crime was committed. Did you at a later date, have an opportunity to view a photographic lineup and make an identification of the robber?

Witness #1 (Cynthia Easterling): Yes I did.

Prosecutor (Dana Nielson): And after the robbery occurred, how confident were you that you would be able to make a positive identification?

Witness #1 (Cynthia Easterling): I was pretty sure that I would be able to make an identification from a lineup, assuming the guy was there.

Prosecutor (Dana Nielson): How confident were you immediately after having made the identification?
Witness #1 (Cynthia Easterling): Um, I was 95% sure that the person I selected from the lineup was the robber. Prosecutor (Dana Nielson): And Mrs. Easterling, how confident are you now that your identification was correct?

Witness #1 (Cynthia Easterling): I’m still 95% confident that my decision was correct.

Prosecutor (Dana Nielson): Thank you, your honor. Mrs. Easterling, how many lineups did you view the day that you identified Mr. Donald Ray Braswell?

Witness #1 (Cynthia Easterling): I only saw one lineup.

Prosecutor (Dana Nielson): And how long did it take you to identify the man that you believed to have been the robber?

Witness #1 (Cynthia Easterling): I didn’t have to finish looking at all the men in the lineup. As soon as I saw the defendant I recognized him.

Prosecutor (Dana Nielson): Could you please describe to the court, what if anything, the police officer said to you prior to viewing the lineup.

Witness #1 (Cynthia Easterling): Well before I saw the lineup, the police officer read me some instructions. Um, he told me that he would be showing me a photographic lineup of men that may or may not contain the person who committed the crime. He told me that I’d be seeing each photograph individually and that I’d need to make a decision after each one. Um, he told me that I couldn’t go back and see a lineup member that I’d seen before and he couldn’t tell me how many line-up members that I would be seeing. He read to me that I, um, should keep in mind that hairstyles, beards and mustaches could easily be changed, so I should look at each line-up member carefully, and after each one I should tell him whether I saw the person who committed the crime. Then he read to me that I shouldn’t tell anyone else whether I had identified anyone.
Prosecutor (Dana Nielson): Thank you Mrs. Easterling, I have no further questions.

Judge: Mrs. Cochran, your witness.

Defense (Beth Cochran): Thank you, your honor. Mrs. Easterling, did you view mug shots of robbery suspects of any kind between the robbery and the lineup identification?

Witness #1 (Cynthia Easterling): No I did not.

Defense (Beth Cochran): And how long was it from the robbery to the day you identified my client from the photographic lineup.

Witness #1 (Cynthia Easterling): It was about 2 weeks. (It was about 1 day)

Defense (Beth Cochran): Mrs. Easterling, could you please tell us the description of the robber that you gave to the police?

Witness #1 (Cynthia Easterling): Yes, I described him as being a dark-skinned black guy, about 25 years old, 5’10, about 175lbs. Um, his hair was buzzed and he had no facial hair. He was wearing a pair of white shorts, a yellow t-shirt, and white tennis shoes.

Defense (Beth Cochran): And how did the members of the lineup dress? Were any of them wearing the same clothes that you described?

Witness #1 (Cynthia Easterling): No, none of them were wearing the clothes that I had described. Of course, I could only see the shirt each man in the photograph was wearing, but none of them were wearing the same kind of shirt.

Defense (Beth Cochran): Now, generally speaking, did most of the people in the lineup match the description of the person you saw rob the convenience store?

Witness #1 (Cynthia Easterling): No, not really. A couple of them were too heavy, one of them was light-skinned, and one was white.

Defense (Beth Cochran): Mrs. Easterling, how many people were in the line-up?
Witness #1 (Cynthia Easterling): There were 6 men in the line-up.

Defense (Beth Cochran): You said earlier that you stop at this store often?

Witness #1 (Cynthia Easterling): Yes, that is where I usually stop to get gas when I need it.

Defense (Beth Cochran): Is it possible that you recognize the defendant not from the day of the robbery, but from one of your earlier stops at the store?

Witness #1 (Cynthia Easterling): No, I don’t think so.

Defense (Beth Cochran): How many of the five men in the lineup looked like the man you described to the police?

Witness #1 (Cynthia Easterling): Only one man did, Mr. Braswell.

Defense (Beth Cochran): Let me make sure that I understand your testimony Mrs. Easterling. It is your testimony that there is no chance that you identified Mr. Braswell because he was the only man in the lineup that looked similar to the description you gave police.

Witness #1 (Cynthia Easterling): Well, um, I identified him because he’s the man I saw that robbed the store.

Defense (Beth Cochran): And you are completely sure without any doubt that you recognized Mr. Braswell from the robbery and not from a previous time you were at the Handy Pantry.

Witness #1 (Cynthia Easterling): I am pretty confident that it was from the day of the robbery.

Defense (Beth Cochran): Pretty sure, but not 100% completely sure right Mrs. Easterling?

Witness #1 (Cynthia Easterling): Almost, but not completely 100%.
Defense (Beth Cochran): Thank you, I have no further questions.

Judge: Mrs. Easterling, you may step down.

Judge: Mrs. Nielson, you may call the next witness.

Prosecutor (Dana Nielson): Thank you, your honor. At this time, the state wishes to call Officer Paul Ackerman, to the stand.

Judge: Officer Ackerman, raise your right hand. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Witness #2 (Officer Ackerman): I do.

Prosecutor (Dana Nielson): Officer Ackerman, will you please state your full name for the record?

Witness #2 (Officer Ackerman): My name is Paul Douglas Ackerman.

Prosecutor (Dana Nielson): And what is your occupation?

Witness #2 (Officer Ackerman): I’m a police officer with the Oceanside Police Department.

Prosecutor (Dana Nielson): Officer Ackerman, have you been involved at all in the investigation of the robbery of the Handy Pantry convenience store, which took place on February 22, 2012?

Witness #2 (Officer Ackerman): Yes I was.

Prosecutor (Dana Nielson): And in what capacity were you involved?

Witness #2 (Officer Ackerman): I was the chief investigating officer. I took the witness’s statement immediately following the crime. I organized and conducted the lineup.
Prosecutor (Dana Nielson): Could you please tell the court how it is that the defendant was picked up and charged with this crime?

Witness #2 (Officer Ackerman): The defendant was picked up at about 10 blocks from the crime scene, for loitering and suspicious behavior in front of another small convenience store. He matched the description of the perpetrator given by Mrs. Easterling and based on that information was held, placed under arrest, and taken to the Oceanside Police Department. He was released on bond, but we had his mugshot to use in a photographic lineup.

Prosecutor (Dana Nielson): Officer Ackerman, in your experiences with the police force, about how many photographic lineups have you been involved with?

Witness #2 (Officer Ackerman): I’ve conducted at least 50 lineups in other cases.

Prosecutor (Dana Nielson): Prior to having Mrs. Easterling view the photo lineup, did you say anything to her?

Witness #2 (Officer Ackerman): I instructed her on the lineup that she would be seeing.

Prosecutor (Dana Nielson): And what were those instructions?

Witness #2 (Officer Ackerman): Well, they were the standard instructions for a lineup used by the Oceanside Police Department.

Prosecutor (Dana Nielson): Could you please recite those for the Court?

Witness #2 (Officer Ackerman): Yes. I have them right here. “The photo array of men you are about to see might or might not contain the person who committed the crime. Each lineup member will be presented individually and you must make a decision after viewing each one. You cannot go back to see a lineup member whom you have already viewed and I cannot tell you how many lineup members you are going to see. Please keep in mind that
hairstyles, beards and mustaches can easily be changed. I want you to look at each lineup member carefully and after each one, tell me whether you see the person who committed the crime. Please do not tell anyone else whether you have identified anyone.”

**Prosecutor (Dana Nielson):** Thank you very much. Officer Ackerman, was there anything unusual about the procedure used to construct the photo array?

**Witness #2 (Officer Ackerman):** No. Like I said, the procedures I used to conduct the lineup were standard procedures used by the Oceanside Police Department. In fact, the Oceanside procedures are designed to avoid suggestiveness, and this particular administration was carefully conducted to ensure its fairness.

**Prosecutor (Dana Nielson):** Officer Ackerman, is it true that Mrs. Easterling, the eyewitness, identified the defendant, Mr. Donald Ray Braswell, from the line-up, as the man who robbed the convenience store?

**Witness #2 (Officer Ackerman):** Yes she did.

**Prosecutor (Dana Nielson):** Thank you, Officer Ackerman. I have no further questions.

**Judge:** Mrs. Cochran, your witness.

**Defense (Beth Cochran):** Thank you, your honor. Officer Ackerman, let’s consider the lineup from which witness picked the defendant. You were in charge of determining the composition of the lineup and of administering it to the witness, were you not?

**Witness #2 (Officer Ackerman):** Yes, I was responsible for everything.

**Defense (Beth Cochran):** Is there an established procedure for constructing a lineup?

**Witness #2 (Officer Ackerman):** We have a database of mugshots at the station, so we select five or six people who look like the perpetrator and those are the people we use as fillers in the photo array.
Defense (Beth Cochran): Did any of the other men in the lineup have all the characteristics described by the eyewitness of the crime?

Witness #2 (Officer Ackerman): No.

Defense (Beth Cochran): So then you were wrong when you said that you selected five or six people as fillers who look like the perpetrator because you actually only picked one person in this case that looked like the perpetrator?

Prosecutor (Dana Nielson): Objection.

Judge: Sustained.

Defense (Beth Cochran): Would it be fair to say that the only person that resembled the perpetrator in this lineup was the defendant?

Witness #2 (Officer Ackerman): Yes, but only because he is the one that Mrs. Easterling described and identified as the robber.

Defense (Beth Cochran): Are you aware that instructing a witness on possible appearance changes can make them more likely to mistakenly identify somebody?

Witness #2 (Officer Ackerman): No I was not aware of that. Our procedures are fair.

Defense (Beth Cochran): Officer Ackerman, was the gun that was used to shoot the clerk, Andrew Flynt, ever found?

Witness #2 (Officer Ackerman): No, we searched the area surrounding the premises, but were unable to locate it.

Defense (Beth Cochran): Did you search my client’s apartment for the gun?

Witness #2 (Officer Ackerman): Yes we did.

Defense Attorney (Beth Cochran): And were you able to locate the gun there?

Witness #2 (Officer Ackerman): No, we were still unable to locate the gun there.
Defense (Beth Cochran): Thank you, your honor. I have no further questions for this witness.

Judge: Officer Ackerman, you may step down. Mrs. Nielson, you may call your next witness.

Prosecutor (Dana Nielson): Thank you, your honor. The state rests at this time.

Judge: Mrs. Cochran, you may call your first witness.

Defense (Beth Cochran): Thank you, your honor. The defense would like to call Daniel Rice to the stand.

Judge: Raise your right hand. Mr. Rice, do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Witness #3 (Daniel Rice): I do.

Judge: Please be seated.

Defense (Beth Cochran): Mr. Rice, would you please state your full name for the record?

Witness #3 (Daniel Rice): My name is Daniel Martin Rice.

Defense (Beth Cochran): Mr. Rice, what is your relationship to the defendant, Donald Ray Braswell?

Witness #3 (Daniel Rice): Donald Ray is a close friend from childhood.

Defense (Beth Cochran): Are you familiar with the Handy Pantry convenience store located on the corner of Washington and 57th?

Witness #3 (Daniel Rice): Yes, I get beer there sometimes. It’s just a few blocks from my house.
Defense (Beth Cochran): Approximately how long does it take you to get to the Handy Pantry from your apartment?

Witness #3 (Daniel Rice): It’s not too far. I would say it’s about a 5-minute drive.

Defense (Beth Cochran): Could you please tell the jury where you were at approximately 8:30pm on the evening of February 22, 2012?

Witness #3 (Daniel Rice): Sure. I was at home watching the basketball game.

Defense (Beth Cochran): Was there anyone else there with you that evening?

Witness #3 (Daniel Rice): Yeah, Donald, was with me.

Defense (Beth Cochran): Was Donald Ray with you the entire evening?

Witness #3 (Daniel Rice): Well, he was supposed to be. He came for pizza and beer, we started watching the game, and then he had to run home real quick because we needed a little more beer and he thought he had some there. Then he was gonna come back.

Defense (Beth Cochran): How far away does Donald Ray live?

Witness #3 (Daniel Rice): About a 10 minute drive.

Defense (Beth Cochran): At approximately what time did he leave?

Witness #3 (Daniel Rice): I remember it was right at the end of the third quarter, and flipping channels I saw the Rules of Engagement was just coming on, so I would say between 8:30 and 8:40 p.m..

Defense (Beth Cochran): Did you see or speak to him again after that?

Witness #3 (Daniel Rice): Yeah I called him at around 8:45 to tell him to stop off at the store to get some chips for me.

Defense (Beth Cochran): And did he sound normal?
**Witness #3 (Daniel Rice):** He sounded like he was a touch out of breath, but he was in a hurry to get back—he said he was just walking out of his house. He realized he didn’t have beer at home, so he was going to go to the store anyway.

**Defense (Beth Cochran):** And did you see or hear from him after that?

**Witness #3 (Daniel Rice):** Nope, he got arrested before he could come back.

**Defense (Beth Cochran):** While you were hanging out with Donald Ray that night at your house, did you notice anything unusual about his voice or behavior?

**Witness #3 (Daniel Rice):** You know, I really didn’t notice anything out of the ordinary. I knew he was a little short on money per usual, but that was always the case.

**Defense (Beth Cochran):** So just to be clear, how would you describe Donald’s demeanor that evening as you guys watched the game?

**Witness #3 (Daniel Rice):** His demeanor was just as it always is. Actually, he seemed to be in good spirits all things considered.

**Defense (Beth Cochran):** Mr. Rice, to your knowledge, has Donald Ray Braswell ever owned a gun?

**Witness #3 (Daniel Rice):** No, not that I’m aware of.

**Defense (Beth Cochran):** Thank you, Mr. Rice. I have no further questions.

**Judge:** Your witness, Mrs. Nielson.

**Prosecutor (Dana Nielson):** Thank you, your honor. Mr. Rice, you said Mr. Braswell was chronically short on money.

**Witness #3 (Daniel Rice):** Yes, I suppose.

**Prosecutor (Dana Nielson):** Did you form the impression over time that he would’ve been happier—generally speaking—if he wasn’t always so short on money.
**Witness #3 (Daniel Rice):** Ha, well wouldn’t we all?

**Prosecutor (Dana Nielson):** Well sure, but would you say that Donald Ray was a little more preoccupied with this issue than most other people?

**Witness #3 (Daniel Rice):** Yes. Um, he tended to talk about it a lot.

**Prosecutor (Dana Nielson):** Did you sense, generally speaking, that he was angry about his money situation?

**Witness #3 (Daniel Rice):** Perhaps, generally speaking because he hated his job. That doesn’t mean he would go rob a store and shoot somebody.

**Prosecutor (Dana Nielson):** OK, and you said he was actually in good spirits before he left your house the night of the crime?

**Witness #3 (Daniel Rice):** Well, yes.

**Prosecutor (Dana Nielson):** Interesting…Thank you, your honor. I have no further questions for this witness.

**Judge:** Mrs. Cochran, you may call your next witness.

**Defense (Beth Cochran):** Your honor, at this time, the defense rests.

**Judge:** Ladies and gentlemen of the jury, we will now proceed with the closing arguments. The prosecution will go first, and then the defense will proceed. Mrs. Nielson, you may now begin with your closing arguments.

**Prosecutor (Dana Nielson):** Thank you, your honor. Ladies and gentlemen of the jury, today you have heard the case against the defendant, Mr. Donald Ray Braswell. The defendant stands accused of robbing the Handy Pantry convenience store on the corner of 57th Avenue and Washington. He also stands accused of shooting and severely injuring the clerk, Mr. Andrew Flynt. And as a representative of the state of New York, it’s my job to
prove to you beyond a reasonable doubt that Mr. Donald Ray Braswell committed these crimes. Today you have heard the testimony of Mrs. Cynthia Easterling, the eyewitness to the crimes that were committed. You heard her testify that the person who she saw commit these crimes at the Handy Pantry convenience store was in fact, the defendant. She positively identified the defendant in a police lineup. Now also within this trial, you heard the testimony of Officer Ackerman of the Oceanside Police force. Officer Ackerman was the chief investigating officer on this crime. You heard Officer Ackerman describe the standard procedures used in instructing eyewitnesses, choosing photographs for the lineup, and the standard procedure for presenting these photographs to the eyewitness in a police lineup. You also heard Officer Ackerman testify that these standard procedures were the ones used in the creation and administration of the lineup in this case, and that these procedures are designed to reduce suggestiveness. He also testified that this particular police line-up was conducted in an unbiased and fair manner. Finally, you heard the defendant’s close friend and supposed alibi witness indicate the Defendant’s chronic preoccupation with his lack of money, which establishes a clear motive for his committing these crimes. Ladies and gentleman, I believe that upon close examination of the evidence that was presented here today at this trial, you will be convinced beyond a reasonable doubt that the defendant, Mr. Donald Ray Braswell, is guilty as charged.

Judge: Thank you, Mrs. Nielson. Mrs. Cochran, you may proceed with your closing arguments.

Defense (Beth Cochran): Thank you, your honor. Ladies and gentleman of the jury, today you have heard testimony from a couple of witnesses stating that the defendant, Mr. Braswell, is guilty of the charges. However, we cannot conclude from the evidence that he
committed this crime. Reasonable doubt exists as to who committed these crimes, and you must therefore, in the interest of justice, find him not guilty. Let’s go back to the testimony that we heard today. First, we heard the testimony of Mr. Rice, the defendant’s good friend. He testified to a number of important pieces of information. First, he testified that the defendant was at his apartment and that he then went directly home, demonstrating that he was not near the store at the time the crimes were committed. Mr. Rice knows Donald Ray went directly home because he spoke to him on the phone as he left there. Additionally, Mr. Rice testified that he asked Donald Ray to go to the store and that Donald Ray needed to go to the store anyway—this explains why the Defendant was out when the police apprehended him. Finally, he testified that to his knowledge, the defendant does not own a gun.

The only incriminating evidence is the testimony of Mrs. Easterling, a single eyewitness. She is a well intentioned woman who has mistakenly identified the defendant from a biased lineup. In evaluating the evidence, you should consider the procedure used to construct the lineup. The suspects used in the lineup were biased against my client because only my client actually matched the description of the perpetrator. Also, the instructions given to the witness were biased against my client because they included information about possible changes in the perpetrator’s appearance. Such change-of-appearance instructions can cause a witness to choose when he or she is uncertain. These factors led to a mistaken identification of the defendant; therefore, you must vote to acquit my client, Mr. Braswell. Thank you.

**Judge:** Members of the jury, I thank you for your attention during this trial. Please pay attention to the instructions I am about to give you. It’s my duty to instruct you on the rules
of law that you must use in deciding this case. Your decision must be based only on the evidence presented during the trial. You must not be influenced in any way by either sympathy for or prejudice against the Defendant or the Government. You must follow the law as I explain it – even if you do not agree with the law – and you must follow all of my instructions as a whole. You must not single out or disregard any of the Court's instructions on the law.

The indictment or formal charge against a Defendant isn’t evidence of guilt. The law presumes every Defendant is innocent. The constitution requires the state to prove its accusations against the defendant, and therefore it is up to the state to prove the defendant’s guilt by evidence. The defendant exercised his right of choosing not to be a witness in this case. You must not view this as an admission of guilt nor should you be influenced in any way by his decision.

The Government's burden of proof is heavy, but it doesn’t have to prove a Defendant's guilt beyond all possible doubt. The Government's proof only has to exclude any "reasonable doubt" concerning the Defendant's guilt. Mr. Donald Ray Braswell, the defendant in this case, is accused of the armed robbery of the Handy Pantry and assault with a deadly weapon inflicting serious injury of Andrew Flynt. A "reasonable doubt" is a real doubt, based on your reason and common sense after you’ve carefully and impartially considered all the evidence in the case. A reasonable doubt is not a possible doubt, speculative, imaginary or forced doubt. Such a doubt must not influence you to return a verdict of not guilty if you have an abiding conviction of guilt. A reasonable doubt as to the guilt of the
defendant may arise from the evidence, conflict in the evidence, or lack of evidence. “Proof beyond a reasonable doubt” is proof so convincing that you would be willing to rely and act on it without hesitation in the most important of your own affairs. It is to the evidence introduced upon this trial and to it alone, that you are to look for that proof.

As I said before, you must consider only the evidence that I have admitted in the case. You must disregard or ignore any evidence that I may have ordered as evidence to be stricken from the testimony or disregarded by you good members of the jury. That means that when you are deciding the case, you must not consider that inadmissible evidence. Evidence includes the testimony of witnesses and the exhibits admitted. But, anything the lawyers say is not evidence and isn’t binding on you. Remember, the lawyers are not on trial. Your feelings about them should not influence your decisions in this case. You shouldn’t assume from anything I’ve said that I have any opinion about any factual issue in this case. You should use your common sense in deciding which is the best evidence and which evidence should not be relied upon when considering your verdict. You must find some of the evidence not reliable or less reliable than other evidence.

When I say you must consider all the evidence, I don’t mean that you must accept all the evidence as true or accurate. You should consider how the witnesses acted as well as what they said. You should decide whether you believe what each witness had to say, and how important that testimony was. In making that decision you may believe or disbelieve any witness, in whole or in part. To decide whether you believe any witness I suggest that you ask yourself a few questions: Did the witness impress you as one who was telling the truth?
Did the witness have any particular reason not to tell the truth? Did the witness have a personal interest in the outcome of the case? Did the witness seem to have a good memory? Did the witness have the opportunity and ability to accurately observe the things he or she testified about? Did the witness's testimony differ from other testimony or other evidence?

These are some general rules that apply to your verdict decision. You must follow these rules in order to return a lawful verdict. Before you can find the defendant guilty of assault with a deadly weapon inflicting serious injury, the state must prove the following three elements beyond a reasonable doubt: 1) Andrew Flynt was seriously injured; 2) That this occurred as a consequence of the use of a deadly weapon; 3) Donald Ray Braswell was the person who actually injured Andrew Flynt. The crime of robbery is taking of money or other property of value from the person or custody from another by force, violence, assault, or putting in fear. Before you can find the defendant guilty of armed robbery the state must prove the following elements beyond a reasonable doubt: 1) larceny or attempted larceny occurred at the Handy Pantry; 2) from a person or the presence of a person; 3) with the use or threatened use of a dangerous weapon; 4) Donald Ray Braswell was the person who actually committed these acts. Remember that, in a very real way, you’re judges – judges of the facts. Your only interest is to seek the truth from the evidence in the case.
Appendix E

Verdict Questionnaire

Instructions: Please answer the following questions.

1. As a juror in this case, do you find the defendant Donald Ray Braswell:
   
   Guilty   Not Guilty

2. Please rate how confident you are about this judgment (circle appropriate number)
   
   0%  5  10  15  20  25  30  35  40  45  50%  55  60  65  70  75  80  85  90  95  100%

3. Please indicate the likelihood that the defendant is guilty of murder on a scale from 0-100%, where 0% indicates zero likelihood that he is guilty and 100% indicates that you are positive he is guilty.
   
   0%  5  10  15  20  25  30  35  40  45  50%  55  60  65  70  75  80  85  90  95  100%

For the following questions, please make an “X” in one of the boxes to indicate your opinion of the person in question. For example, if you were to rate a very tall person on height, your response might look like this:

<table>
<thead>
<tr>
<th>Short</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th>X</th>
<th>Tall</th>
</tr>
</thead>
</table>

However, if the person was only of medium height, your response might look like this:

<table>
<thead>
<tr>
<th>Short</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th>X</th>
<th>Tall</th>
</tr>
</thead>
</table>

Please rate the defense attorney, Beth Cochran, on the following characteristics:

<table>
<thead>
<tr>
<th>Likeable</th>
<th>Not likeable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inarticulate</td>
<td>Well-spoken</td>
</tr>
<tr>
<td>Persuasive</td>
<td>Not Persuasive</td>
</tr>
<tr>
<td>Attractive</td>
<td>Unattractive</td>
</tr>
<tr>
<td>Competent</td>
<td>Incompetent</td>
</tr>
<tr>
<td>Unintelligent</td>
<td>Intelligent</td>
</tr>
</tbody>
</table>

Please rate the prosecuting attorney, Dana Nielson, on the following characteristics:

<table>
<thead>
<tr>
<th>Likeable</th>
<th>Not likeable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inarticulate</td>
<td>Well-spoken</td>
</tr>
<tr>
<td>Persuasive</td>
<td>Not Persuasive</td>
</tr>
<tr>
<td>Attractive</td>
<td>Unattractive</td>
</tr>
<tr>
<td>Competent</td>
<td>Incompetent</td>
</tr>
<tr>
<td>Unintelligent</td>
<td>Intelligent</td>
</tr>
</tbody>
</table>
Please rate the eyewitness, Cynthia Easterling, on the following characteristics:

<table>
<thead>
<tr>
<th>Likeable</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th>Not likeable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inarticulate</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Well-spoken</td>
</tr>
<tr>
<td>Persuasive</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Not Persuasive</td>
</tr>
<tr>
<td>Attractive</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Unattractive</td>
</tr>
<tr>
<td>Competent</td>
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<td></td>
<td></td>
<td>Incompetent</td>
</tr>
<tr>
<td>Unintelligent</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>Intelligent</td>
</tr>
</tbody>
</table>

Please rate the arresting police officer, Paul Ackerman, on the following characteristics:

<table>
<thead>
<tr>
<th>Likeable</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th>Not likeable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inarticulate</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Well-spoken</td>
</tr>
<tr>
<td>Persuasive</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Not Persuasive</td>
</tr>
<tr>
<td>Attractive</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Unattractive</td>
</tr>
<tr>
<td>Competent</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>Incompetent</td>
</tr>
<tr>
<td>Unintelligent</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Intelligent</td>
</tr>
</tbody>
</table>

Please rate the defendant’s friend, Daniel Rice, on the following characteristics:

<table>
<thead>
<tr>
<th>Likeable</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th>Not likeable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inarticulate</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Well-spoken</td>
</tr>
<tr>
<td>Persuasive</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Not Persuasive</td>
</tr>
<tr>
<td>Attractive</td>
<td></td>
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<td></td>
<td>Unattractive</td>
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<tr>
<td>Competent</td>
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<td></td>
<td></td>
<td>Incompetent</td>
</tr>
<tr>
<td>Unintelligent</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>Intelligent</td>
</tr>
</tbody>
</table>
Appendix F

Participant Number _____

Think back to the trial that you just witnessed.

- Circle “Trial” if you remember that the information in the statement was presented during trial
- Circle “Articles” if you remember that the information in the statement was presented in the articles you read prior to attending this research session
- Circle “Neither” if the information in the statement was not presented in the articles or trial

- Next to each response, please indicate how confident you are that your response is correct. Where 1 = not at all confident and 5 = extremely confident.
<table>
<thead>
<tr>
<th>#</th>
<th>Statement</th>
<th>Was this information in the trial?</th>
<th>Confidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Mr. Braswell was reported to have flashed gang signs at cameras while being arrested, and locals to the neighborhood report that he is affiliated with a local gang</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>2</td>
<td>The arresting police officer in the case against Braswell has conducted at least 50 lineups in other cases.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>3</td>
<td>The procedures used in constructing and administering the lineup were fair and unbiased.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>4</td>
<td>Mr. Braswell was previously arrested and convicted of assault with a deadly weapon, having been released from prison only a couple months prior to his arrest.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>5</td>
<td>Mr. Braswell’s aggression was completely unprovoked by the clerk, who appeared to be “cooperating fully” before being shot.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>6</td>
<td>The defendant exercised his right of choosing not to be a witness.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>7</td>
<td>U.S. President Barack Obama is calling for additional federal funding for clean energy research as part of his 2012 budget.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>-----------------------------------------------------------------</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>8</td>
<td>The United Nations scientific panel studying climate issued a report today stating that the evidence of a warming trend is &quot;unequivocal,&quot; and that human activity has &quot;very likely&quot; been the driving force in that change over the last 50 years.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>9</td>
<td>Due to his injuries, Mr. Flynt has no memory of the events of February 22nd, 2012.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>10</td>
<td>A group of 20 penguins rescued from Brazilian beaches last year have been sent to the U.S. for an exhibition on climate change.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>11</td>
<td>Donald Ray Braswell’s neighbors described Donald Ray as a “live wire” and “capable of most anything.” One neighbor had bars installed on his windows as a result of a verbal dispute with Mr. Braswell.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>12</td>
<td>Mr. Braswell has a rap sheet that includes burglary and vandalism convictions.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>13</td>
<td>Scientists have a new method of tracking penguins: Follow their poop from space.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>14</td>
<td>The eyewitness described a pool of blood that seemed like something out</td>
<td>Trial Articles</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td></td>
<td>of mob movie, and she couldn't believe the victim (Flynt) lived.</td>
<td>Neither</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Boonen deliberately avoided racing both the Giro d'Italia and Tour de France</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>16</td>
<td>The primary witness often stopped in the Handy Pantry to buy gas or a soda.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>17</td>
<td>After the confirmed diagnosis, the Belgian Olympic road race hope observed three days of rest before training again on Thursday where he rode 100 kilometres.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>18</td>
<td>Friends and family are outraged by the senseless shooting, and Mr. Flynt may never regain use of his right arm.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>19</td>
<td>The UCI has requested that the Luxembourg cycling federation open disciplinary proceedings.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>20</td>
<td>According to officials, Nepal’s cabinet will hold a meeting on Mount Everest to highlight the threat from global warming, which is causing glaciers to melt in the Himalayas.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>21</td>
<td>The primary witness viewed only one lineup.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>22</td>
<td>Police found blood splattered clothing in Donald Ray Braswell’s car.</td>
<td>Trial Articles Neither</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td>23</td>
<td>The European parliament voted Tuesday for new limits that will require auto manufacturers to</td>
<td>Trial Articles</td>
<td>1 2 3 4 5</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td></td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>Braswell was more preoccupied with being chronically short on money than the average person.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>The witness, Cynthia Easterling, stated that she felt like she got a good look at the perpetrator in the convenience store.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>26</td>
<td>Global emissions of carbon dioxide jumped by the largest amount on record in 2010, upending the notion that the brief decline during the recession might persist through the recovery.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>27</td>
<td>The defendant got really upset and then started shouting more obscenities even louder while he was shaking the gun at the cashier.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>28</td>
<td>Investigating officers found a weapon in Donald Ray Braswell’s home matching that used in the shooting.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>29</td>
<td>Monarch butterfly colonies in Mexico have seemingly bounced back from last year, when bad storms decimated their numbers by 75 percent.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>Wildlife officials say that a survey of an elephant sanctuary from an aerial census showed that growth had slowed to two percent.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>from four percent in 2008, AFP reports.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>----------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>31</td>
<td>Cavendish proved to be not only the fastest but also the smartest of the sprinters.</td>
<td>Trial Articles Neither</td>
<td></td>
</tr>
<tr>
<td>32</td>
<td>The panel’s scientific report shifts focus of the climate discussion from whether humans are responsible for climate change to what measures should be taken to reduce the impact of human activity on the planet.</td>
<td>Trial Articles Neither</td>
<td></td>
</tr>
<tr>
<td>33</td>
<td>The crime of robbery is taking of money or other property of value from the person or custody from another by force, violence, assault, or putting in fear.</td>
<td>Trial Articles Neither</td>
<td></td>
</tr>
<tr>
<td>34</td>
<td>In the end, the overall victory seems secured with two days to go for the British squad.</td>
<td>Trial Articles Neither</td>
<td></td>
</tr>
<tr>
<td>35</td>
<td>Donald Ray Braswell confessed to the armed robbery and wounding of store clerk Andrew Flynt.</td>
<td>Trial Articles Neither</td>
<td></td>
</tr>
</tbody>
</table>
Appendix G

Case Synopsis: Please imagine you are the district attorney/defense attorney/trial judge in the fictional town of Oceanside preparing for trial in the criminal case the People vs. Donald Ray Braswell. Donald Ray Braswell stands accused of armed robbery and assault with a deadly weapon inflicting serious injury. The state alleges that Mr. Braswell entered the Handy Pantry convenience store on the evening of February 22nd 2012, robbing and shooting the clerk. The clerk was seriously injured from the gunshot wound but survived.

An eyewitness who was in the store at the time of the robbery positively identified Mr. Braswell from a lineup, and the state’s case hinges on this witness’s testimony. A police officer will also testify regarding the lineup he conducted, asserting that he used fair procedures.

The defense will argue that the witness has mistakenly identified Mr. Braswell because the officer conducting the lineup used biased and unfair procedures. An alibi witness will claim that Mr. Braswell was actually at home at the time the crime was committed.

Pretrial Publicity

This case has received intense media coverage from the outset. The Oceanside community has a population of about 50,000, and it is likely that most jury-eligible adults have heard some information about the case. Information to which venirepersons have been exposed could include the following:

Details about the crime: The crime scene was repeatedly described in reports as very bloody, and a witness suggested it was a miracle that the victim survived. In addition, papers reported that Donald Ray Braswell was unprovoked when he shot the clerk, and the clerk seemed to be fully cooperating before being shot.

Inadmissible evidence and botched police investigation: Several incriminating pieces of evidence were deemed inadmissible due to incompetent police work, but the evidence was widely reported in local media outlets. Blood splattered clothing and the handgun used in the shooting were found in the defendant’s possession—but both were ruled inadmissible. In addition, Mr. Braswell’s initial confession was deemed inadmissible because he was not properly Mirandized before incriminating himself.

Donald Ray Braswell’s character and criminal history: Braswell’s neighbors told reporters he was a “live wire” and had disputes with his neighbors, even leading one of Braswell’s neighbors to install bars on his windows. Braswell was also reported to have been a gang member with previous convictions for burglary, vandalism, and assault—he had only been
out of prison a couple months before this new arrest.

Impact of the assault on the victim and family: Local media also reported on the victim and his family. The victim, Andrew Flynt, may never fully regain the use of his right arm. His friends and family appeared on the local news expressing outrage over Donald Ray Braswell’s alleged actions.
Appendix H

Ratings for Venirepersons (Judges)

Venireperson #________

1. Would you grant a challenge for cause for this venireperson? Yes/No

2. How biased against the defendant is this venireperson?

   1 2 3 4 5 6 7

   Unbiased
   Biased

   Very

3. How biased against the state is this venireperson?

   1 2 3 4 5 6 7

   Unbiased
   Biased

   Very

4. Why would you grant a challenge for cause of this venireperson?

   __________________________________________________________
   __________________________________________________________

5. Why would you not grant a challenge for cause of this venireperson?

   __________________________________________________________
   __________________________________________________________
Appendix I
Venireperson #__________

1. Would you seek a challenge for cause? Yes/No

2. Indicate on the scale below which side you think this venireperson favors.

1 2 3 4 5 6 7

Definitely Defense
Prosecution

Definitely

4. If you think this venireperson definitely favors the defense or prosecution, indicate which side and why.

____________________________________________________________________
____________________________________________________________________

Peremptory Strike 1:____________________
Peremptory Strike 2:____________________
Peremptory Strike 3:____________________
Appendix J

C. Venirepersons’ attitudes
   A.1 Favors prosecution (general)
      A.1.1 Venireperson indicated D is guilty
      A.1.2 Venireperson’s personal/family history with victimization
   A.2 Favors defense (general)
      A.2.1 Venireperson indicated D is not guilty
      A.2.2 Doesn’t trust cops
   A.3 Formed an opinion about the case but unclear which side

D. Venireperson cannot be impartial
   B.1 Venireperson cannot set aside opinion
   B.2 Venireperson indicated he/she cannot (or will have difficulty) be fair/impartial

DC. Venireperson Demographic Characteristics
   DC.1 Age
   DC.2 Race
   DC.3 Gender
   DC.4 Occupation

VB. Venireperson Behavior
   VB.1 Discussed case with friends/relatives
   VBD.2 Demeanor

G. Good juror statement (neutral, impartial, etc.)

Q. Pretrial publicity/prior knowledge of the case facts

R. Rehabilitation

O. Other
References


Behavioral confirmation in voir dire: Effects on jury selection and verdict choices.


