Juror Target Monitoring Errors in Multiple Defendant Trials

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JUROR TARGET MONITORING ERRORS IN MULTIPLE DEFENDANT TRIALS

by

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This manuscript has been read and accepted by the Graduate Faculty in Psychology in satisfaction of the dissertation requirement for the degree of Doctor of Philosophy

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Abstract

JUROR TARGET MONITORING ERRORS IN MULTIPLE DEFENDANT TRIALS

by

LINDSEY M. RHEAD

Advisor: Margaret Bull Kovera

When defendants are charged with interrelated crimes it is efficient to join their cases into a single trial; however, a defendant’s right to a fair trial may be abrogated by this practice. In multiple defendant trials, jurors may be subject to target monitoring errors – an inability to accurately assign evidence to the correct defendant, much like they are prone to source monitoring errors (i.e., difficulty identifying the specific source of a memory, Johnson, Hashtroudi, & Lindsay, 1993). This research study tested whether target monitoring errors moderated the influence of joining defendants’ on juror decisions by varying number of defendants, charge similarity and judicial admonitions. I predicted a linear trend of charge similarity and judicial admonitions for both evidence memory and perceived evidence strength, with a decrease in accuracy as the number of defendants increased. I also predicted fewer guilty verdicts in a single defendant trial than in multiple defendant trials. Jurors failed the manipulation check assessing jurors’ memory for judicial multiple defendant admonitions. Contrary to predictions, increasing number of defendants at trial did not increase guilty verdicts or reduce evidence memory or perceived evidence strength. Charge similarity among defendants had no impact on juror verdict decisions or juror memory and recall. The presence of judicial admonitions did influence guilty verdicts or memory recall accuracy. The only moderation effect to
emerge was on admonished jurors falsely “knowing” information not presented at trial was presented when viewing a similar charge trial.

Overall, no hypotheses were supported; however, limitations to this study may explain the null results. The participants’ ratings of the co-defendants’ guilt may not have been high enough to allow for a spillover effect of criminal inference. Moreover, the judicial admonitions may not have been specific enough to warn participants of potential memory errors. Finally, perhaps the operational definition of trial complexity was not an effective manipulation of complexity within the trial used. Thus, the lack of support for my hypotheses should be interpreted with caution.
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CHAPTER 1: OVERVIEW

Rule 14 of the Federal Rules of Criminal Procedure states that defendants may be subject to a joint trial if it “promote(s) economy and efficiency…without substantial prejudice to [the] right of the defendants to fair trial.” Although in theory this joining of trials appears efficient and reasonable, a defendant’s right to a fair trial may be abrogated by the addition of other defendants to the trial. Are jurors capable of appropriately assigning evidence presented in multiple defendant trials to the correct defendant, or do they use the evidence presented against one defendant to judge the guilt of other defendants? People often have difficulty identifying the specific source of a memory—known as a source monitoring error (SME; Johnson, Hashtroudi, & Lindsay, 1993). SMEs increase when the similarity of sources increases (Johnson et al., 1993), as well as when task complexity increases. These source errors also occur in the courtroom, causing an increase in convictions when defendants are tried for more than one charge in a single trial (Tanford & Penrod, 1984). Increased trial complexity places an additional burden on jurors, forcing them not only to attend to facts presented at trial but also to be cognitively capable of maintaining an organized representation of trial facts (e.g., Heuer & Penrod, 1995). Presented evidence may be dense and complex, and charges and evidence are often similar when defendants’ trials are joined.

In multiple defendant trials, jurors may be subject to target monitoring errors—an inability to accurately assign evidence presented to the correct defendant during trial. To date, researchers have focused on the effects of joining criminal charges against a single defendant in a single trial (Tanford & Penrod, 1984). Given the potential miscarriages of justice that can arise due to juror memory errors, it is logical to question whether
charging multiple defendants in a single trial influences jurors’ memory for the evidence
and their verdicts. Are jurors capable of appropriately assigning evidence presented in
multiple defendant trials to the correct defendant, or do jurors find it difficult to recall the
correct evidence presented against the appropriate defendant only when evaluating the
guilt of that defendant? Does evidentiary confusion affect jurors’ verdicts in cases with
multiple defendants? Is Rule 14 preventing prejudice while promoting efficiency within
the legal system, or is the argument flawed, with multiple defendant trials actually
increasing prejudice? Additionally, are there theoretical processes that may explain the
potential prejudicial impact multiple defendant trials have on jurors’ memory for
evidence, ratings of evidence strength, and decision-making processes?
CHAPTER 2: LEGAL BACKGROUND OF MULTIPLE DEFENDANT TRIALS

Two or more defendants charged with crimes resulting from the same act, transaction, or series of actions should be tried together (Fed. R. Crim. P. 8(b), 2009). Defendants need not all be charged with the same crimes or number of crimes (Fed. R. Crim. P. 8(b), 2009). The Supreme Court expressly stated that there is a preference for joined trials with defendants indicted together (Zafiro, Martinez, Garcia and Soto v. United States, 1993). Recognizing this could cause potential bias, Rule 14 allows for severance of defendants only when a defendant’s basic right to a fair trial is jeopardized (Fed. R. Crim. P. 14(1)(a), 2009).

Defendants Zafiro, Martinez, Garcia, and Soto were charged with conspiracy to possess and distribute illegal narcotics. These charges resulted in a joined trial with all four defendants petitioning for severance at multiple points throughout the trial, arguing their defense strategies were mutually antagonistic. The trial judge denied every one of their petitions. The District Court instructed jurors that (1) each defendant was entitled to have his or her own case decided based on his or her own conduct and evidence presented for his or her case only, and (2) that they should give separate consideration to each individual defendant for each separate charge (Zafiro et al. v. United States, 1993). All defendants were found guilty. They appealed their convictions, stating that refusal of severance by the District Court was an abuse of discretion (Zafiro et al. v. United States, 1993).

The Supreme Court unanimously ruled that the trial judge’s refusal to try the defendants separately was not prejudicial because the defendants did not prove that they experienced any legally unacceptable prejudice. Additionally, jurors had been
admonished to give separate consideration for each defendant and the Court assumed that jurors followed the judicial instruction (Zafiro et al., v. United States, 1993). Although Justice Stevens concurred with this ruling, he also expressed concern with the Supreme Court’s support of joined trials, arguing that there will be multiple defendant cases in which single trials would be more reliable and efficient. He admonished courts to be mindful of the “serious risks of prejudice and overreaching that are characteristic of joint trials…” (Zafiro et al., v. United States, 1993, p.10).

Similarly, the United States Court of Appeals has typically affirmed denial of severance. In United States v. Lighty and Flood (2010), defendants were charged with kidnapping resulting in death, using firearms to further a violent crime, and aiding and abetting. Upon their conviction, Lighty was sentenced to death and Flood was sentenced to life in prison without parole. The defendants appealed to the United States Court of Appeals, Fourth Circuit, arguing that refusal to sever their trials resulted in prejudice. The court affirmed the trial court’s decision to join the trials – stating that the mere presence of antagonistic defense arguments did not create sufficient grounds for severance of trials. Additionally, the court noted that jurors were instructed to assess presented evidence separately for each defendant in trial, eliminating the risk of evidence contamination (United States v. Lighty and Flood, 2010).

We have seen an increase in multi-defendant trials, with a report from the Office of the Court System showing an increase of 46% between 1980 and 1994 (Cook, Schlesinger, Bak & Rule, 1995), with multiple defendant trials accounting for approximately 34% of all federal cases each year (Leipold & Abbasi, 2006). More recently, there has been an increase in terrorism trials, which often have multiple
defendants (e.g., United States v. Jayhouse, Hassoun, and Padilla, 2011; United States v. Khan, Chapman, and Abdur-Raheem, 2006; United States v. Rodriguez and Garcia-Alfonso, 2009). These trials are ripe for potential bias against defendants; one defendant may have stronger, more damaging evidence or more severe charges against him than the other defendants. If the stronger evidence or more serious charges bias jurors against the other defendants in trial, it is possible that the remaining defendants will not receive a fair trial. Although the Supreme Court ruled that a defendant has a right to a fair trial, it did not require that the trial be perfect (United States v. Hasting, 1983). However, the Court expressly stated that an important element of a fair trial is that the jury considers only relevant evidence when considering a defendant’s guilt (Blumenthal v. United States, 1947).
CHAPTER 3: JOINT CHARGES

In an effort to examine the presumed non-prejudicial influence of joint trials, researchers examined the impact of multiple charges against a single defendant on juror decision making in mock trial simulations (e.g., Bordens & Horowitz, 1985; Greene & Loftus, 1985; Tanford & Penrod, 1982). Tanford and Penrod (1982) developed three hypotheses to explain why bias against defendants charged with multiple crimes might occur: confusion, accumulation, and criminal inference. The confusion hypothesis predicts that jurors may have difficulty appropriately classifying presented evidence with the respective charges, a memory error. The accumulation hypothesis predicts that jurors may combine all presented evidence from all charges against the defendant. The criminal inference hypothesis predicts that jurors may infer that the defendant has a criminal personality based on the fact he has a number of charges against him; therefore, he must be guilty (Tanford & Penrod, 1982).

To test these hypotheses, Tanford and Penrod conducted two studies varying both the number of charges and instructions to judge each charge separately. Participants rendered a verdict and provided recall of case facts for each case, with intrusion scores for number of case facts for, or against, the defendant from a different case. Across both studies, participants were more likely to find the defendant guilty and the evidence to be more incriminating in a joint charge trial than in a single charge trial (Tanford & Penrod, 1982). Participants had higher intrusion scores in joined cases than in separate cases. In an effort to understand these findings, Tanford and Penrod (1984) varied charge similarity (identical, similar or dissimilar), evidence similarity and the presence of judicial instructions in a joint charges trial consisting of three charges against the
defendant. In addition to rendering a verdict, participants also completed a recognition task after deliberation to test for any source intrusions that resulted from the multiple charges introduced in a single trial. Participants were significantly more likely to vote guilty when the charges were combined in a single trial (Tanford & Penrod, 1984).

Additionally, there were substantial intrusions on the recognition task – as the similarity of the charges increased, so did the number of source intrusions. We see an intrusion of evidence recall when only one defendant is facing multiple charges; these intrusions will likely increase as the number of defendants at trial increases, thus resulting in intrusions of not only charge confusion, but also evidentiary confusion between defendants.

Follow-up research by Tanford and colleagues (1985; Tanford, 1985) investigated ways to reduce judgment biases by manipulating charge similarity, evidence similarity and judicial instructions in either a single charge trial or a multiple charge trial. Overall, there was an increase in guilty verdicts when the charges against the defendant were similar. When judges admonished jurors about multiple charges, there was a reduction in guilty verdicts. Nevertheless, jurors rated the defendant less favorably in multiple charge trials, with evidence of source confusion for presented evidence when there was more than one charge against the defendant at trial (Tanford, 1985; Tanford et al., 1985). Even with judicial instructions, jurors still had a difficult time distinguishing between charge evidence, showing a potential biasing influence against defendants with the presence of co-defendants – confusion of charges and negative perceptions of defendants may be exacerbated by spillover from one defendant to the other defendants.

It is also possible that evidence from a single charge could spillover and negatively influence decision making on other charges presented in a joint trial, suggesting three
different hypotheses for juror decision making in a joint trial: criminal disposition, reasonable doubt criterion and memory load (Greene & Loftus, 1985). Criminal disposition, similar to the criminal inference hypothesis, states a defendant is more likely to be judged as having a criminal disposition when charged with more than one offense. Reasonable doubt criterion states jurors will have a lower criterion for standard of proof if the defendant is charged with multiple offenses. The memory load hypothesis, a combination of the confusion and accumulation hypotheses, suggests a juror may have more difficulty accurately remembering which evidence is presented for which charge when multiple charges are present against the defendant (Greene & Loftus, 1985).

To test these hypotheses, Greene and Loftus (1985) conducted two studies in which participants were presented with a description of a murder case, a rape case, or a murder and rape case and were asked to render a verdict, rate dangerousness, likability, and believability of the defendant, as well as complete a recognition test assessing memory for details presented at trial, specific to each charge. Both experiments found an increase in guilty verdicts when jurors were presented with both the murder and rape charges, as compared to just murder or rape. Additionally, the defendant was rated more negatively on dangerousness, likability, and believability when charged with both offenses (Greene & Loftus, 1985). Judicial instructions did not impact verdict choice or defendant ratings. The only memory effect that emerged was dependent upon jurors’ verdict choices; when jurors found the defendant guilty, they were more likely to have a memory error than when the juror found the defendant innocent. Thus, the presence of multiple defendants will likely strengthen jurors’ perceptions of the criminal disposition and reasonable doubt criterion.
Bordens and Horowitz (1986) hypothesized that joinder bias, bias that is present when multiple charges against a defendant are joined at trial, could be produced by simply informing jurors of the number of charges filed against a defendant outside of the courtroom, and not just the number of charges judged by a juror at trial. To test this hypothesis, Bordens and Horowitz (1986) varied number of charges filed and number of charges judged by participants in a mock trial paradigm. In addition to rendering a verdict, participants either listed as many case facts as they could recall, or listed their thoughts about the charges presented. Number of charges judged had a greater influence on jurors than number of charges filed. As number of charges judged increased, guilt ratings of the defendant increased and participants’ ratings of the defendant as a ‘criminal personality type’ increased. Participants judging a joined trial recalled more trial facts than participants judging a severed trial. Additionally, negative thoughts of the defendant increased as number of charges filed and judged increased, as well as when trials were joined, as compared to severed trials (Bordens & Horowitz, 1986).

Overall, the presence of more than one charge against a defendant increased guilty verdicts – suggesting that joint trials are prejudicial. Multiple charges against a defendant in a single trial caused confusion about evidence and negatively impacted jurors’ perceptions of the defendant. An increase in the number of charges negatively influences juror’s perception of the defendant at trial, which supports both the criminal inference and criminal disposition hypotheses. Joining of charges at trial causes a joinder bias to occur in juror decision making – a bias that logically should be seen when joining defendants at trial. However, joining defendants at trial is different than joining charges. The presence of co-defendants allows jurors to hear information and evidence that is not
relevant to any charges against another defendant; this information could produce an even greater joinder bias in juror decision making.

Joint charge trials may impact jurors’ ability to recall the source of presented evidence; however, jurors always know the target of the presented evidence. When multiple defendants are present at trial, jurors have a greater task of not only identifying the source of presented evidence, but also the target of presented evidence. Confusion about the target of evidence at trial would result in a target monitoring error (TME), not a source monitoring error. Target monitoring is defined as one’s ability to adequately regulate the intended target of presented information. The best way to begin investigating TMEs is to start with a strong framework involving similar processes and memory traces: source monitoring errors.
CHAPTER 4: THE SOURCE MONITORING FRAMEWORK

The Source Monitoring Framework (SMF) details how recall of memories are monitored for their source, and how those memories may be manipulated or may fail (Johnson et al., 1993); Source monitoring is best defined as the ability to recognize the origins of memories, knowledge, and beliefs (Johnson et al., 1993). Source monitoring can be difficult, and recall of the source of information is sometimes incorrect in large part because our memories are not cataloged and stored with a label in our brain that we can activate during recall. As a result, we can make source monitoring errors (SME; Johnson et al., 1993; Lindsay, 2008; Mammarella & Fairfield, 2008). There are three main types of SMEs – internal, external, and internal-external (Johnson et al., 1993). Internal source monitoring refers to the ability to differentiate between internally derived sources (e.g., did I say that, or did I only dream that I said that); whereas, external source monitoring refers to the ability to differentiate between externally derived sources (e.g., did my professor or did another student say that). Internal-external source monitoring refers to the confusion between imagination and reality (Johnson et al., 1993). While all three source monitoring processes may be present within the courtroom, the memory errors this proposed research focuses on are the internal and external types.

According to the SMF, we use two potential monitoring processes when we recall a memory: heuristic and systematic processing. We rely on heuristic processing for simple decision making (e.g., “I clearly saw the fleeing burglar was White because the other witnesses said the same”); indeed it is a more automatic process. Heuristic processing means that we evaluate memories based on qualitative characteristics such as the degree of sensory detail the memory contains. For example, we expect recent
memories to contain strong sensory details about the presence of people, location of the memory, timeframe of the memory, etc; however, the older the memory, the less likely it is that it will contain a great deal of sensory detail (Johnson et al., 1993). Heuristic processing also tends to be invoked when motivation for effortful processing is low (Chaiken & Maheswaran, 1994). By contrast, systematic processing requires a comprehensive analysis of relevant information (e.g., “I spoke with other witnesses at the crime scene, and some of them claimed to see a White man flee the scene, but if I really think about it, I am not 100% certain I saw a White man, he may have been a different race”; Chen, Shechter, & Chaiken, 1996). It is an active process; work is required for systematic processing to occur. Systematic processing, for example, may make an evaluation based on plausibility and consistency between what is known and what is remembered (Johnson et al., 1993). Systematic processing also requires a high capacity for, and the motivation to, process information (Chaiken & Maheswaran, 1994). At times we may use both heuristic and systematic processing consecutively (Chaiken & Maheswaran, 1994). For example, using heuristic processing, if a witness is testifying in a trial and has a criminal record, a juror may be more likely to believe that witness is deceptive, whereas if the witness is an expert, a juror may be more likely to believe the witness is trustworthy. If both witnesses are experts with opposing viewpoints, a juror will be forced to critically, and effortfully, evaluate what each expert is saying and the evidence each expert is using to support their viewpoint. If each expert appears to have strong (or weak) arguments and evidence, the juror may use heuristic processing to determine which one to believe, based on personal biases such as the gender, age, race,
etc. of each expert. Thus allowing heuristic bias to influence systematic processing (Chaiken & Maheswaran, 1994).

Research over the past several decades has identified a variety of factors that affect the likelihood of a SME occurring (see Johnson et al., 1993; Lindsay, 2008). Two of those factors are particularly relevant to the proposed research – source similarity and task difficulty. The more similar the characteristics of a source, the more difficult it is to accurately distinguish between sources during memory recall; highly similar sources are more likely to be misjudged as accurate (Johnson et al., 1993; Lindsay, 2008). This similarity effect occurs across a variety of source characteristics, including gender, voice pitch, voice tone, physical appearance (see Johnson et al., 1993 for a review), and age (Lindsay, Johnson, and Kwon, 1991). Recall that the joint charge literature demonstrates this similarity effect in the courtroom with similar charges against a single defendant (e.g., Tanford, 1985). When there are multiple defendants in a trial, there will be an increase in presented evidence similarity, potentially increasing jurors’ use of heuristic processing, and thus increasing the likelihood of a memory error.

As a cognitive task becomes more difficult, source monitoring becomes more difficult (Lindsay, 1990). Our brains have limited cognitive capacity, so performing a task that requires a lot of effort absorbs most of that cognitive capacity, leaving little room for other tasks. In a study examining task difficulty, participants listened to woman read a story, accompanied by a series of different slides, followed immediately by a different narrative detailing the slide show previously viewed (Lindsay, 1990). The second narrative was either read by the same woman (similar source presentation) or by a male (different source presentation), thus varying the similarity of the source. Before
completing a source recognition test, some participants read instructions stating that all information from the second narrative was false. Participants in the difficult task condition (similar source presentation) had higher rates of SMEs than participants in the easy task condition (different source presentation); instructions helped to ameliorate this effect (Lindsay, 1990). Although instructions helped reduce SMEs, participants still reported significantly more errors in similar source conditions in spite of the instructions. Thus, we can infer that jurors in multiple defendant trials may have TMEs, even if instructed to pay attention to the intended target of information.

**Remember, know, guess.** Tulving (1985) re-popularized the notion that the phenomenological experience accompanying memory recall is important. He described two types of conscious awareness; remembering and knowing. By his definitions, “remembering” requires the conscious recollection of an event, whereas “knowing” does not require a conscious recollection, but instead a feeling of recognition, or familiarity (Gardiner and Java, 1990; Rajaram, 1993). A person’s explicit and detailed memory of an event, in real life or test conditions, is categorized as remembering; alternatively, there is no explicit memory of the learning conditions in knowing, rather it is a weaker, or more vague, memory (Rajaram, 1993). Tulving (1985) proposed that remembering reflects episodic memory, knowledge and vivid memory of personal events, and knowing reflects semantic memory, general knowledge of a personal event or general knowledge of the world. Research on the distinction between remembering and knowing was further refined by the introduction of a “guessing” option (Gardiner & Conway, 1999), allowing for a purer response from participants – allowing participants to guess rather than claim to” know” information that they do not “remember” (Gardiner, Ramponi, & Richardson-
Klavehn, 2002). Although debate exists amongst researchers in the field of memory and consciousness regarding the underlying processes that remember, know, and guess actually measure, it is agreed upon by researchers that all three options should be used when researching the phenomenological experience accompanying recall (Gardiner et al., 2002).

The remember, know, guess (RKG) paradigm is often used in source monitoring research as a measure of confidence and veracity of memory (i.e., Gardiner et al., 2002). RKG responses predict accuracy under certain conditions, for example, younger participants correctly identified that they were remembering information during a robbery, whereas, older adults were more likely to falsely report remembering information (Aizpurua, Garcia-Bajos & Miguelese, 2011; study 1). Additionally, younger participants accurately identified the source of information (e.g., perpetrator actions, witness actions) more often than older adults; with a strong, positive, correlation emerging between source accuracy and RKG responses – that is, participants correctly “remembered” the source of information more than they correctly “knew” or “guessed” (Aizpurua et al., 2011; study 2). Further research reveals that RKG responses have higher accuracy for facial recognition in negative emotional states (e.g., sad) than positive emotional states (e.g.; happy; Hills, Werno, & Lewis, 2011). I propose that target monitoring falls under the umbrella of the Source Monitoring Framework: it focuses on memory for the target (here, a single defendant), rather than the source, of information. The RKG offers a paradigm for measuring not only memory accuracy, but also confidence of memory recall.
**Improving source-monitoring errors.** To date the most effective method of reducing SMEs is the presence of instructions, specifically instructions to attend to the source of the provided information before identifying the source of presented information (Lindsay, 2008). These instructions allow for individuals to focus their attention on not only presented information but also to focus their attention on the source of the presented information. Although instructions do not always improve SMEs, instructions are influential when presented before testing and before presented misinformation (Lindsay, 2008; Frenda et al., 2011). In one study, instructions decreased SMEs even when the task was difficult (Lindsay, 1990). Moreover, when warned about possible misinformation or source confabulation—a distorted or fabricated memory without conscious awareness—eyewitnesses performed significantly better on source monitoring tasks than did participants not provided with specific source monitoring instructions (Lindsay & Johnson, 1989).

Extrapolating from previously reported research, source memory is less prone to error when there are clear, distinct differences between characteristics of the sources providing information (Johnson et al., 1993; Lindsay, 2008; Lindsay & Johnson, 1991). Taken together, the best ways to improve source monitoring errors are to provide clear instructions prior to the introduction of misinformation and to keep sources of information as clear and distinct as possible. If charges and corresponding evidence against each defendant in a multiple defendant case are separate and distinct, and jurors are admonished to focus carefully on the intended target of presented information, there should be a reduction in TMEs at trial.
CHAPTER 5: TRIAL COMPLEXITY

The media often criticizes juries for rendering incorrect verdicts in complex trials (Heuer & Penrod, 1994; Penrod & Heuer, 1997). As trials become increasingly complex, jurors face the daunting task of listening to and interpreting evidence that is often more complicated and technical than they are capable of understanding and of rendering “fair and impartial” verdicts based on the evidence presented. The more complex a task, the more likely a SME will occur. It is logical to investigate how trial complexity will affect jurors’ ability to adequately monitor both source and target of presented information.

Defining trial complexity as an amalgamation of trial length, complex questions of law, technical evidence, a wealth of parties involved at trial, and a variety of issues in dispute, Lempert (1981) concluded that we are lacking empirical evidence to adequately determine if trial complexity negatively impacts jurors or the integrity of the legal system. Following Lempert’s call for empirical research on trial complexity, researchers have examined the impact trial complexity has on juror comprehension of case facts and decision making abilities (e.g., Findlay, 2001; Heuer & Penrod, 1994; Horowitz, ForsterLee, & Brolly, 1996). Although Lempert offered a provisional definition of trial complexity, the field has not agreed on a single definition.

Heuer and Penrod (1995) defined trial complexity as a multidimensional construct consisting of evidence complexity, legal complexity (complexity of the law, legal jargon), and quantity of information. Using both civil and criminal cases, with a spectrum of complex cases, judges, attorneys, and jurors completed questionnaires providing evaluations of the trial and judgments of the main people involved in the trial (e.g., attorneys). Each component of trial complexity influenced jurors in a different way. As
evidence complexity increased, jurors reported feeling more informed from the trial but experienced greater difficulty deciding whether to vote guilty or not guilty. As legal complexity increased, jurors reported the defense attorney as less helpful and had less confidence that their verdicts reflected a complete understanding of judicial instructions. Finally, as the quantity of information increased, jurors found prosecuting/plaintiff attorneys more helpful but had greater difficulty reaching a verdict decision and had less confidence that their verdicts reflected a complete understanding of judicial instructions (Heuer & Penrod, 1994). As trials become more complex, jurors lose confidence in their verdict decisions. The addition of multiple defendants at trial will increase trial complexity, which reduces jurors’ confidence in their understanding and implementing of presented evidence and judicial instructions when rendering a verdict.

Others have focused on two aspects of trial complexity: decision complexity (legal jargon, understanding of judicial instructions) and evidence complexity (Horowitz et al., 1996). Evidence complexity consists of three separate dimensions: information load, implicational clarity, and comprehensibility. Information load consists of the number of witnesses, plaintiffs or defendants, and the number and similarity of injuries. Implicational clarity is determined by case facts: how ambiguous is the evidence presented to the jury. The third dimension, comprehensibility, is measured by evidence complexity and technicality and difficulty of evidentiary issues (Horowitz et al., 1996).

Horowitz and colleagues (1996) investigated the impact of multiple plaintiffs (4 vs. 8), number of testifying witnesses, and testimony complexity on juror decision-making in a civil trial. They hypothesized that when jurors were in a high complexity trial (more plaintiffs, more witnesses and technical jargon), they would have greater difficulty
distinguishing between plaintiffs when rendering verdict and liability awards, resulting in awarding higher damages to plaintiffs deserving lower damage awards. Information load and number of plaintiffs influenced juror liability judgments. Jurors in the low trial complexity condition were better at differentiating between plaintiffs and assigning liability judgments. When awarding damages, jurors in the low complexity conditions awarded damages to each plaintiff as a function of level of injury; however, jurors in the high complexity condition assigned similar compensation for all plaintiffs – regardless of level of injury (Horowitz et al., 1996). Additionally, the number of plaintiffs influenced the number of case related facts that jurors believed that they used in determining their verdict, with jurors in the low complexity condition reporting more case facts than did jurors in the high complexity condition (Horowitz et al., 1996). Thus, trial complexity negatively influenced jurors’ decisions, their ability to differentiate between plaintiffs, and their recall of trial facts.

Although scholars use different terminology to explain trial complexity, their overlapping constructs and similar findings suggest that increasing information load, evidence complexity, and legal complexity makes a trial cognitively taxing for jurors. Complex tasks increase SMEs and the ability to correctly recall presented information (Lindsay, 1990). This effect carries over into the courtroom and jury decision making. As trial complexity increased, jurors’ recall of trial facts decreased; jurors were not able to recall as many trial facts in high complex trials (Horowitz et al., 1996). Additionally, as plaintiffs are added to trial, jurors are less capable of awarding correct damage awards (Horowitz et al., 1996). Jurors’ inability to correctly recall trial facts and render appropriate damage awards will likely be carried over into the criminal sector, with the
addition of multiple defendants decreasing jurors' ability to render correct verdict decisions.

**Juror Aids in Complex Trials**

Instructing jurors before the presentation of evidence might ameliorate the negative impact complex trials have on jurors (e.g., ForsterLee, Horowitz, & Bourgeois, 1993; Heuer & Penrod, 1989; 1994, Bourgeois, Horowitz, ForsterLee, & Grahe, 1995). Overall the effectiveness of judicial instructions have been mixed, admonishing jurors prior to evidentiary presentation may improve jurors’ recall and comprehension of case facts, as well as verdict appropriateness and confidence (e.g., Bourgeois et al., 1995; ForsterLee et al., 1993).

**Judicial instructions.** The best way to ameliorate SMEs is to instruct participants to attend to the source of the information being presented (Lindsay, 2008). Preinstructions are judicial instructions presented to the jury prior to evidence presentation (Bourgeois et al., 1995; ForsterLee et al., 1993). Preinstructions were first investigated in a series of field studies (e.g., Heuer & Penrod, 1989; Sand & Reiss, 1985). These field studies found that preinstructions were beneficial; however, questions used to measure true effects of preinstructions revealed jurors provided with preinstructions recalled trial evidence at the same rate as jurors not in the preinstruction trials (Heuer & Penrod, 1989). Additionally, the field studies showed preinstructions were most helpful when trials are complex (Sand & Reiss, 1985).

ForsterLee and colleagues (1993) empirically studied the presence of preinstructions in complex cases. They hypothesized that jurors would recall more probative evidence, recognize more trial facts, and reject false information not present in
trial when presented with preinstructions. Additionally, they hypothesized that
preinstructions would be most beneficial in highly technical and complex trials. Varying
evidence complexity (high vs. moderate) and timing of instructions (pre-evidence
presentation vs. post-evidence presentation), participants viewed one of four versions of a
civil trial. Each trial had four plaintiffs, each with a different degree of injury. The case
was calibrated so that the jury would find for the plaintiffs, with evidence technicality
and timing of judicial instructions varying by condition. Jurors rendered verdicts and
damage awards for each plaintiff. Additionally, jurors retold the events of the case to the
experimenter, which was coded as either probative (directly associated with the evidence)
or non-probative (not related to the case or incorrect information), and completed a
recognition task consisting of trial evidence and information not presented at trial.

There were no differences in liability decisions based on condition (ForsterLee et
al., 1993). Jurors receiving preinstructions differentiated among plaintiffs and ultimately
awarded more appropriate compensation, with the most severely injured plaintiff
receiving the highest compensatory award and the least injured plaintiff receiving the
lowest compensatory award; jurors not preinstructed showed no difference in their
compensatory damage awards. Preinstructed jurors recalled more trial facts and reported
less false information than did jurors presented with instructions after evidence
presentation. Additionally, preinstructed jurors reported more probative facts and fewer
non-probative facts to the experimenter than did jurors instructed after the presentation of
the evidence (ForsterLee et al., 1993). Thus, pre instructing jurors may actually improve
juror memory for trial information in a complex civil trial. Preinstructing jurors in multi-
defendant trials may also help improve juror target monitoring and trial information recall.

Preinstructing the jury can indeed be beneficial for comprehension and evaluation of evidence. These results look promising; however, it should be noted there is little empirical support on the effects of preinstructions on jury decision making in complex trials. Marrying the research findings on source monitoring improvements with the research findings on preinstructions suggests that instructing jurors, prior to the start of the trial, to attend to presented evidence and the target of the presented evidence will minimize TMEs in the same way these instructions minimize SMEs.
CHAPTER 6: CONCLUSIONS

Source monitoring research is a heavily researched area of cognitive psychology. We have a fairly developed understanding of how SMEs occur, what increases these errors, and how to improve source monitoring. Although we have learned how misinformation can influence the eyewitness memory and ultimately impair their ability to make accurate identifications (Lane, Roussel, Villa, & Morita, 2007), there has been little investigation focusing on the role source monitoring plays in the courtroom (e.g., Ruva, McEvoy, Bryant, 2007). Sometimes defendants are tried together when charged for the same crime. Similarity of charges and evidence against each defendant may be high; however, each defendant arguably played a separate and distinct role in the crime. Joining the trials of defendants can lead to juror confusion when recognizing what evidence is being presented for which defendant and by whom. Research on source monitoring provides a good foundation for our investigation of target monitoring but does not directly address whether jurors can appropriately match provided evidence with its target (defendant). The proposed research will add to the source monitoring literature by expanding the theory and focusing on different avenues for memory errors to occur (a failure of matching information to a target other than a source), with an emphasis of the role target monitoring plays inside the courtroom.

The proposed research could provide courts with evidence of the prejudicial impact of multiple defendant trials on juror decision making. The U.S. Supreme Court asserts that the act of joining defendants’ trials is not biasing for defendants. It is important to understand the causes of this potential increase in guilty verdicts when joining defendants at trial. If joining defendants’ trials increases the likelihood that
defendants will be found guilty because of a better understanding of the case and events leading up to the charges being evaluated, then the Supreme Court may be right—defendants are not inherently biased with a joined trial. However, if an increase in guilty verdicts is due to evidence contamination and jurors’ inability to assign and weigh evidence against each defendant appropriately, then the assumptions underlying the Supreme Court’s decisions on this issue are incorrect.
CHAPTER 7: GENERAL PLAN OF WORK

I predict that jurors will have difficulty monitoring which pieces of evidence were presented for which defendant when there are two or more defendants present at trial; similarity in charges will exacerbate this difficulty, whereas judicial admonitions should improve jurors’ ability to monitor which target is associated with each piece of evidence. Similar charges against defendants will result in more guilty verdicts against the target defendant and more negative perceptions of the target defendant than dissimilar charges; judicial admonitions to attend to the specific information presented for each defendant at trial should ameliorate the prejudicial effects against the target defendant during multiple defendant trials.

To test these predictions, I propose to measure the influence of multiple defendants in a criminal trial on juror decision-making about the guilt of a target defendant and to test whether target monitoring errors moderate the influence of joining defendants’ cases on juror decisions. In general, I manipulated variables believed to be present in multiple defendant trials, as well as variables shown to influence SMEs – trial complexity, charge similarity, and instructions to attend to target information. Jurors will watch a trial with 1, 2, or 3 defendants with varying charge similarity against each defendant – allowing tests of the criminal inference (Tanford & Penrod, 1982) and criminal disposition (Greene & Loftus, 1985) hypotheses – and judicial admonitions to attend to presented evidence separately for each defendant allowing tests of the memory load hypothesis (Greene & Loftus, 1985). The joint charges literature illustrates the biasing effect of charge similarity on juror decision-making and memory accuracy; jurors’ memory is impaired when charges against a defendant are similar (Tanford et al.,
1985). Thus, I expect jurors’ memory to be impaired when charges against the different defendants at trial are similar. Will jurors still have impaired memory and increased bias against the defendant if the charges against each defendant are not similar but different? I expect that an increase in the number of defendants in a criminal trial, in conjunction with charge similarity, will bias verdict decisions – with a greater likelihood that jurors will find the defendants guilty. SMEs are reduced when participants are preinstructed to attend to the source of information presented (Lindsay, 2008). I expect jurors admonished at the beginning of the trial will pay closer attention to evidence presented for the intended defendant, reducing prejudicial effects of joint defendant trials and improving juror memory.

**Hypotheses**

**H1:** As the number of defendants in the trial increases, the number of guilty verdicts for the target defendant, perceived evidence strength of the case against the target defendant, and ratings of the target defendant’s criminal disposition will increase, and ratings of credibility and overall TM scores will decrease.

**H2:** Charge similarity will affect number of guilty verdicts, TM scores, perceived evidence strength, and ratings of criminal disposition for the target defendant. The number of guilty verdicts, perceived strength of evidence and ratings of the target defendant’s criminal disposition will be higher when charges are similar than when they are different. TM scores and credibility ratings of the target will be lower when charges are similar than when charges are different.
H3: Charge similarity will be moderated by number of defendants at trial. The effect of charge similarity will be stronger when jurors are presented with a three defendant trial than a two defendant trial.

H4: Jurors given judicial admonitions will have higher TM scores, lower criminal disposition ratings, and higher credibility ratings of the defendant than jurors not presented with judicial admonitions.

H5: Because admonitions should be more beneficial in the more complex, three-defendant trial, there will be an interaction of judicial admonitions and number of defendants. In the three-defendant trial, jurors given judicial admonitions will have lower TM scores, lower criminal disposition ratings, and higher credibility ratings of the defendant than jurors presented with a two-defendant trial.

H6: Judicial admonitions will also moderate the charge similarity effect, such that admonitions jurors will have higher TM scores and render fewer guilty verdicts based on presented evidence against the target defendant, as compared to not admonished jurors in both the similar and different charge conditions; with a larger effect in the similar charge conditions.
CHAPTER 8: METHODS

Participants

This study used 131 community members from New York City with a mean age of 40 years (SD= 14), 49% female, 32% White, 41% Black, 13% Hispanic, 6% Asian and 5% other; 32% of community member participants had served on a jury before. Additionally, 131 students from John Jay College of Criminal Justice participated with a mean age of 20 years (SD=3), 61% female, 15% White, 20% Black, 44% Hispanic, 11% Asian and 11% other; no student participants had served on a jury before. Community member participants were paid $25 and student participants were given class credit for participation. All participants were jury eligible – over 18 years of age, a US citizen, and had a state ID; 10 student participants and two community member participants were removed from analyses because I could not confirm their juror eligibility. All other participants (250) remained. This sample size allowed me to detect a small main effect and medium interaction effect size with a power greater than .80, and an alpha of .05 for both continuous and dichotomous variables. I derived these effect sizes from both the joinder (e.g., Tanford et al., 1985) and the trial complexity (e.g., Horowitz et al., 1996) literatures.

Design

The study had a 2 (Number of defendants: 2 vs. 3) x 2 (Charge similarity: similar vs. different) x 2 (Judicial admonitions: present vs. absent) + 1 (single defendant) factorial design.
Materials

**Trial.** The trial was based on *State of New York v. Gescard Isnora, Michael Oliver, and Marc Cooper* (2008). The defendants were undercover police officers charged with manslaughter, reckless endangerment, and assault of a group of men leaving a nightclub early in the morning. One of the men leaving the nightclub was killed. In the actual trial, the defendants were found not guilty on multiple charges of manslaughter, reckless endangerment, and assault. This trial is representative of multiple defendant trials because the defendants all have similar charges, resulting in similar evidence presented at trial. Additionally, this trial is full of complex testimony and evidence that is consistent through criminal trials.

**Mock trial video.** The evidence against the target defendant remained constant throughout all videos. Evidence strength against each defendant was pilot tested to ensure that participants rated target defendant guilt for each charge low enough to allow for movement with the addition of the other defendants, resulting in a 69% conviction rate for the charge of reckless endangerment and 63% for the charge of assault; the target defendant was present in every trial video. Evidence against a second defendant (obstruction defendant) in the similar charge condition had a 76% conviction rating for the charge of reckless endangerment and 41% for the charge of assault; in the different charge condition, the obstruction defendant had an 81% conviction rating for obstruction of the investigation and 56% for the charge of tampering with a witness in pilot testing. Evidence against a third defendant (manslaughter defendant), in the similar charge condition resulted in an 83% conviction rate for reckless endangerment and 67% for assault; in the different charge condition, the manslaughter defendant had a 74%
conviction rating for the charge of manslaughter and an 89% conviction rating for the charge of excessive use of force in pilot testing.

Although evidence remained constant for the target defendant, similarity of charges against each defendant varied according to condition. In the similar charges condition, all three defendants were charged with the target defendant’s charges of reckless endangerment and assault. In the different charges condition, the target defendant was charged with reckless endangerment and assault, the obstruction defendant was charged with obstruction of the investigation and witness tampering, and the manslaughter defendant was charged with manslaughter and use of excessive force.

The single defendant video contained charges and evidence for the target defendant only. One two-defendant video was made with the target defendant and the obstruction defendant, and another version of a two-defendant trial was made with the target defendant and the manslaughter defendant. The three-defendant video was made with all three possible defendants. Each trial consisted of eight primary witnesses, one or three defendants (depending on condition), a judge, a prosecuting attorney, and up to three defense attorneys (depending on condition); with trials ranging from 9 witnesses and two attorneys to 13 witnesses and four attorneys. Witnesses present at trial included victims of the shooting, police officers present at the shooting, defendant recall of events, and technical ballistic evidence. Actors portrayed all attorneys, defendants, and witnesses; a professor from John Jay portrayed the judge. Almost all dialogue was from the original trial transcript, with minor additions when necessary for clarification or flow of dialogue. Testimony ranged from simple dialogue (e.g., “what were you doing on the night in question?”) to technical dialogue (e.g., “the window is perforated…there will be
a grazing action which causes the window to become translucent...”). Thus, testimony from witnesses and trial evidence was as authentic as possible. Videos ranged from 1 hour to 2 hours depending on condition.

The nature of the experiment required a naturally occurring confound – different trial lengths based on defendant condition. Due to the different number of defendants present at trial, the length of the trial varied depending on condition. Trials with one defendant are naturally shorter overall than trials with two or three defendants. Thus, the addition of defendants increased not only the length of the trial but also the amount of information presented during the trial. This confound in trial length and information naturally occurs in joined versus severed trials and it is the effect of this confound that we are testing in our proposed line of research. One method of alleviating this naturally occurring confound would be to add filler information to the trials with fewer defendants to equate trial length across conditions, but this solution would create a confound in the relevance of the evidence across the conditions that would not occur in real trials as only relevant evidence is admissible. Therefore, trials of similar length and trials of different length both create confounds but the confound created by the different trial lengths is one that naturally occurs in joined versus severed trials. Thus, I used trials of different lengths depending upon the number of defendants, which allowed the evidence against each defendant to remain consistent across all conditions, as well as maintain ecological validity.

Judicial admonitions. At the beginning of all trials, the judge read the charges against each defendant and described the organization of the trial. In the multiple defendant trials, the judge provided jurors in the judicial admonition conditions with
special instructions (Appendix A). These instructions are taken from Connecticut
criminal jury instructions for use when multiple defendants are present at trial (State of
Connecticut Judicial Branch, 2013). Upon completion of the trial, the judge explained
what reasonable doubt was to the jurors, reread the charges against each defendant and
provided the legal definition for each charge present at trial. In multiple defendant trials,
the judge informed the jurors that each defendant was to have a separate verdict decision.

**Informed consent.** Consent forms informed participants of their role, potential
risks and benefits of participation, and researcher contact information (Appendix B).

**Verdict ratings.** The verdict forms listed each defendant and the corresponding
charges against him (Appendix C). Jurors rendered individual verdicts for each defendant
by circling either “guilty” or “not guilty” for each charge. Jurors always completed the
verdict form for the target defendant first. A three-level (0-2) scaled verdict was created
using juror verdict decisions with 0 = not guilty on both counts, 1 = not guilty on one
count and guilty on one count, and 2 = guilty on both counts. Jurors also provided a
rating of their confidence for each verdict on a scale with 10-point increments from 0% to
100% with 0% = *not at all confident* and 100% = *completely confident*. I averaged jurors’
confidence ratings in their verdicts to present an overall confidence rating for both verdict
decisions.

**Target monitoring (TM) questionnaires.** Jurors were given a memory test to
determine what they could recognize of the information presented at trial (Appendix D).
The questionnaire consisted of a defendant’s name with a list of evidence – some correct,
some intruding (e.g., information presented for a different defendant) and some not
present (e.g., not presented at all in trial) below the name (see Table 1). Each defendant
had a TM questionnaire to hide the focus on the target defendant, with the target
defendant’s questionnaire always appearing first. The jurors indicated whether each piece
of evidence was presented with each defendant and provided a rating of confidence on
whether that evidence was presented against that particular defendant on a 9-pt. Likert-
type scale (1 = not at all confident, 9 = very confident). Additionally, jurors specified
whether they remembered, knew, or guessed the evidence was presented (Lindsay, 2008;
Yonelinas, 2002). This assessment is used in memory literature to allow for researchers
to identify the phenomenological experience accompanying memory recall and
recognition.

TM scores reflect the accuracy of a juror’s memory and were created by awarding
1 point for each correct target attribution and awarding 0 points for each target
misattribution. If a juror correctly identified evidence as present (or not), but specified
their attribution was a guess, that juror received 0 points for their decision. This method
of scoring adjusts for jurors correctly guessing the presence (or absence) of evidence
rather than remembering or knowing. Summing total scores for the target defendant
created an overall maximum TM score of 15. Remember, know and guess answers were
separated and a proportion of jurors’ choosing remember or know on TM measures was
created (guess responses were not analyzed).
Table 1.

List of Presented, Intruding, and Not Presented Information in TM Questionnaire for Target Defendant.

<table>
<thead>
<tr>
<th>Presented Information</th>
<th>Intruding Information</th>
<th>Not Presented Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not wearing a badge during event in question</td>
<td>Shot weapon 31 times</td>
<td>Witness Joe Gonzalez identified as shooter.</td>
</tr>
<tr>
<td>Fabricated story with other defendant</td>
<td>Shot bullet that killed Mark Hughes</td>
<td></td>
</tr>
<tr>
<td>Threatened witness</td>
<td>Eyewitness testimony from resident in neighborhood</td>
<td></td>
</tr>
<tr>
<td>Shot weapon 4 times</td>
<td>Lied under oath</td>
<td>Intercepted text messages</td>
</tr>
<tr>
<td>Injured suspect during arrest</td>
<td></td>
<td>Never shot weapon</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Video surveillance from street corner</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Defendant confessed</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ignored order from supervisor to stop firing</td>
</tr>
</tbody>
</table>

**Defendant Ratings.** Jurors rated each defendant on 13 adjectives using bipolar scales to assess defendant credibility and perceived criminal disposition of each defendant (moral-immoral, respectable-not respectable, intelligent-unintelligent, good-bad, likable-unlikable, trustworthy-untrustworthy, honest-dishonest, sincere-insincere, believable-not believable, convincing-unconvincing, certain-uncertain, credible-not credible, competent-not competent; Appendix E). These ratings were averaged into two scales, assessing juror perceptions of defendant credibility ($a=.89$; intelligent,
trustworthy, honest, believable, convincing, credible and competent) and perceptions of
criminal disposition (α=.82; moral, respectable, good and likable; Greene & Loftus,
1985) for the target defendant.

**Perceived evidence strength.** Jurors rated the strength of prosecution and
defense’s case for each defendant present at trial on a 9-point Likert-type scale (1 = very
weak, 9 = very strong; Appendix E). Juror ratings of the strength of the defense’s case
was recoded so a rating of one indicated a stronger defense case than prosecution case.
An overall scale was created combining ratings of responses for prosecution case strength
and the recoded ratings for defense case strength for analysis (the defense’s case was
strong and the prosecution’s case was strong)

**Manipulation Checks.** Jurors completed manipulation checks assessing their
quality of attention throughout the trial (Appendix E). Jurors reported their memory of
whether there were 1, 2 or 3 defendants by circling the corresponding number. To
measure self-reports of their ability to keep evidence organized throughout the trial and to
understand presented evidence, mock jurors in the multiple defendant conditions
answered the following questions on a 9-point Likert-type scale (1 = very easy, 9 = very
difficult): How difficult was it for you to keep straight which evidence was associated
with which of the charges being tried?, Was the presented evidence easy to understand?,
and How easy or difficult was it for you to keep presented evidence organized for each
defendant at trial?. Additionally, to test ability to differentiate between similar and
different charges, jurors in the multiple defendant conditions indicated whether the
charges against each defendant were similar or different on a 9-point Likert-type scale
(How similar was the evidence presented against each defendant?; 1 = very similar, 9 = not at all similar).

To ensure jurors in the multiple defendant conditions paid attention to judicial instructions, jurors identified whether they received no instruction or the exact instructions provided by the judge by checking either the exact instructions or no instructions presented.

**Demographic Questionnaire.** All participants completed a demographic questionnaire providing information about their age, gender, ethnicity, and previous jury service (Appendix E).

**Procedure**

Community member participants were recruited via craigslist.org and prescreened for juror eligibility; student participants were recruited via an online participant recruitment system. Experimenters instructed participants to arrive at the research laboratory for the experimental session. Each experimental session was randomly assigned to condition. After providing informed consent (Appendix B), the experimenter instructed participants that their role in the experiment was to act as a juror and to render a verdict upon completion of the trial. Participants then watched the appropriate trial video. Upon completion of the trial, jurors rendered an individual verdict (Appendix C), completed the TM questionnaire (Appendix D), and completed the perceived evidence strength, defendant rating questionnaires and manipulation check items appropriate for their condition (Appendix E). Upon completion of all questionnaires, the experimenter fully debriefed and thanked the participants (Appendix F) and awarded appropriate compensation.
CHAPTER 9: RESULTS

Manipulation Checks

Jurors in all conditions identified whether they viewed a trial with one, two or three defendants present. Overall, jurors correctly identified the number of defendants present at trial, $\chi^2(4, N = 250) = 344.38$, $p = .001$, Cramer’s $V = .83$. Although 25 of 250 participants incorrectly identified the correct number of defendants present at trial, no differences emerged when removing them from data analysis, thus all analyses include the full sample of participants.

Jurors viewing the single defendant trial did not receive a manipulation check question regarding the presence judicial admonitions. Sixteen jurors could not identify whether or not they received judicial admonitions. Overall, this manipulation failed; jurors did not correctly identify whether they received multiple defendant judicial admonitions, $\chi^2(1, N = 186) = 1.06$, $p = .30$, Cramer’s $V = .08$. Jurors failed the admonition manipulation check most often when no instructions had been presented ($M = 79.3\%$) than when admonitions had been presented ($M = 14.9\%$).

Analytic Strategy

I subjected all data to a 2 (number of defendants: 2 vs. 3) x 2 (charge similarity: similar vs. different) x 2 (judicial admonitions: present vs. absent) analysis of variance (ANOVA). I computed main effects and interactions for all three factors using the error term from the full design (i.e., the eight cells from the full factorial design and the single defendant control group). Additionally, I computed two planned comparisons: the mean of the control group compared to the mean of the two and three defendant groups combined, and the mean of the two defendant group compared to the three defendant
group. I compared differences in sample (student vs. community member) and found no differences in reporting on all but one DV – verdict confidence. Thus, the samples are combined in all other analyses.

**Verdicts**

A frequency analysis was conducted on scaled verdict decisions; Table 2 shows the percentage of guilty verdict decisions for the target defendant by number of defendants present at trial and charge similarity.

**Table 2.**

*Percentage of Guilty Verdict Decisions for Target Defendant by Number of Defendants and Charge Similarity*

<table>
<thead>
<tr>
<th>Number of Defendants</th>
<th>Charge Similarity</th>
<th>Verdict Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>% Guilty</td>
</tr>
<tr>
<td>Target Defendant Only</td>
<td>Total (N=50)</td>
<td>13%</td>
</tr>
<tr>
<td>Two Defendants</td>
<td>Similar (N=50)</td>
<td>13.4%</td>
</tr>
<tr>
<td></td>
<td>Different (N=50)</td>
<td>12.6%</td>
</tr>
<tr>
<td>Three Defendants</td>
<td>Similar (N=50)</td>
<td>12.2%</td>
</tr>
<tr>
<td></td>
<td>Different (N=50)</td>
<td>13.6%</td>
</tr>
</tbody>
</table>

*Note:* Range is 0 (no guilt verdicts) – 2 (guilty on both counts), higher numbers indicate more guilty verdicts by count

**Target Defendant Verdict Decisions.** Planned comparisons showed no differences in verdicts between the presence of one and multiple defendants, $t(247) = -0.039, p = .97, d = .004, 95% CI [-.24; .25] or between the presence of two or three
defendants, \( t(247) = .086, p = .93, d = .01, 95\% \text{ CI } [-.24; .26] \). To determine overall verdict decisions, I compared the mean ratings in the control condition (1 defendant) against the mean ratings of jurors in the fully crossed design, for all items that had been completed by jurors in all 13 conditions. An ANOVA of charge similarity and judicial admonitions on verdict decisions revealed no differences between similar or different charges on verdict decisions, \( F < 1 \). The presence of judicial admonitions did not influence verdict decisions either, \( F < 1 \).

**Charge similarity interactions.** Contrary to hypothesis three, no interaction between charge similarity and number of defendants emerged (\( F < 1 \)) similar charges did not moderate verdict decision making with the presence of two versus three defendants at trial. Additionally, no interaction effects between charge similarity and judicial admonitions emerged, \( F < 1 \).

**Judicial admonition interactions.** Hypothesis five was not supported; no interaction effect emerged between judicial admonitions and the presence of two versus three defendants at trial (\( F < 1 \)) on verdict decision making.

**Confidence.** Planned comparisons revealed no differences in confidence between the presence of one defendant and multiple defendants, \( t(247) = .464, p = .64, d = .06, 95\% \text{ CI } [-.19; .31] \). Further, planned comparisons revealed no differences in confidence ratings between the presence of two or three defendants at trial, \( t(247) = -1.687, p = .09, d = .22, 95\% \text{ CI } [-.03; .47] \). Neither charge similarity (\( F(1, 247) = 1.08, p = .30, d = .15, 95\% \text{ CI } [-.13; .42] \)) nor judicial admonitions (\( F < 1 \)) influenced juror verdict confidence. Juror confidence in verdict decisions varied according to sample,
community members reported higher confidence (M = 82.36) than students (76.56) in their verdict decisions, F(1, 200) = 5.49, p = .02, d = .33, 95% CI [.05; .61].

**Charge similarity x judicial admonitions interaction.** A significant interaction between charge similarity and judicial admonitions emerged, F(1, 247) = 7.59, p = .01, η² = .06. Jurors viewing similar charge trials reported higher confidence when not presented with judicial admonitions to pay close attention to what information is presented for which defendant (M = 82.40; SD = 16.04) than when they were admonished (M = 74.20; SD = 21.17), F(1, 196) = 5.55, p = .02, d = .44, 95% CI [-3.20; 4.09]. Jurors viewing different charge trials, however, reported similar levels of confidence, regardless of the judicial admonition condition (admonished: M = 83.50; SD = 11.83; not admonished: M = 78.20; SD = 19.13), F(1, 196) = 2.32, p = .13, d = -.34, 95% CI [-3.42; 2.75].

**Number of defendants interactions.** The interaction between number of defendants (2 vs. 3) and charge similarity showed no effect, F(1, 247) = 1.00, p = .32, d = .15, 95% CI [-2.30; 2.58]. Additionally, there was no effect between number of defendants and judicial admonitions, F(1, 247) = 1.00, p = .32, d = .15, 95% CI [-2.30; 2.58].

**Target Monitoring**

Planned comparisons between the presence of one defendant and multiple defendants on memory recognition accuracy revealed no significant differences, t (247) = -35, p = .73, d = .04, 95% CI [-.21; .29]; no significant differences emerged between the presence of two or three defendants at trial, t (247) = -.81, p = .42, d = .10, 95% CI [-.15; .35]. Charge similarity had no impact on jurors' abilities to monitor target information, F
(1, 247) = 1.06, \( p = .31 \), \( d = .15 \), 95% CI [-.13; .42]. The presence, or absence, of judicial admonitions did not influence jurors’ TM scores, \( F(1, 247) = 1.34, p = .25, d = .16 \) 95% CI [-.11; .44].

**Charge similarity \( \times \) judicial admonitions interaction.** I hypothesized that admonished jurors would have higher TM scores than non-admonished jurors in both similar and different conditions, with this effect being larger in the similar charge condition; this interaction was not significant, \( F(1, 247) = 3.00, p = .08, \eta^2 = .02 \).

**Interactions with number of defendants.** Juror recognition of presented evidence in a multiple defendant trial was not moderated by charge similarity (\( F<1 \)) or judicial admonitions (\( F<1 \)).

**Remember, Know, Guess.** Table 3 shows mean and standard deviations of RKG responses for presented, intruding and not presented information by number of defendants, charge similarity and judicial admonitions. Table 4 shows confidence ratings for remember and know responses by type of presented information.
Table 3.

Mean and Standard Deviation of RKG Responses for Number of Defendants, Charge Similarity, and Judicial Admonitions

<table>
<thead>
<tr>
<th>Manipulation</th>
<th>Level</th>
<th>Type of Information</th>
<th>Remember Mean (SD)</th>
<th>Know Mean (SD)</th>
<th>Guess Mean (SD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Defendants</td>
<td>1</td>
<td>Presented</td>
<td>.54 (.50)</td>
<td>.42 (.50)</td>
<td>.04 (.20)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Intruding</td>
<td>.83 (.66)</td>
<td>.77 (.63)</td>
<td>.69 (.44)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Not Presented</td>
<td>.46 (.33)</td>
<td>.37 (.30)</td>
<td>.17 (.19)</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Presented</td>
<td>.54 (.50)</td>
<td>.39 (.49)</td>
<td>.07 (.25)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Intruding</td>
<td>.90 (.71)</td>
<td>.71 (.65)</td>
<td>.68 (.48)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Not Presented</td>
<td>.46 (.34)</td>
<td>.38 (.30)</td>
<td>.16 (.20)</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Presented</td>
<td>.49 (.50)</td>
<td>.35 (.48)</td>
<td>.16 (.37)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Intruding</td>
<td>1.03 (.65)</td>
<td>.67 (.62)</td>
<td>.64 (.46)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Not Presented</td>
<td>.43 (.33)</td>
<td>.39 (.29)</td>
<td>.18 (.21)</td>
</tr>
<tr>
<td>Charge Similarity</td>
<td>Similar</td>
<td>Presented</td>
<td>.53 (.50)</td>
<td>.31 (.46)</td>
<td>.17 (.38)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Intruding</td>
<td>.96 (.67)</td>
<td>.67 (.64)</td>
<td>.61 (.48)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Not Presented</td>
<td>.45 (.32)</td>
<td>.37 (.29)</td>
<td>.18 (.20)</td>
</tr>
<tr>
<td></td>
<td>Different</td>
<td>Presented</td>
<td>.50 (.50)</td>
<td>.44 (.50)</td>
<td>.06 (.24)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Intruding</td>
<td>.97 (.70)</td>
<td>.71 (.63)</td>
<td>.72 (.45)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Not Presented</td>
<td>.44 (.35)</td>
<td>.39 (.31)</td>
<td>.17 (.21)</td>
</tr>
<tr>
<td>Judicial Admonitions</td>
<td>Present</td>
<td>Presented</td>
<td>.53 (.50)</td>
<td>.39 (.49)</td>
<td>.08 (.28)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Intruding</td>
<td>.98 (.65)</td>
<td>.69 (.62)</td>
<td>.68 (.51)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Not Present</td>
<td>.45 (.32)</td>
<td>.40 (.65)</td>
<td>.15 (18)</td>
</tr>
<tr>
<td></td>
<td>Not Present</td>
<td>Presented</td>
<td>.50 (.50)</td>
<td>.35 (.48)</td>
<td>.15 (.36)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Intruding</td>
<td>.95 (.71)</td>
<td>.69 (.64)</td>
<td>.65 (.42)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Not Present</td>
<td>.43 (.35)</td>
<td>.40 (.30)</td>
<td>.19 (.22)</td>
</tr>
</tbody>
</table>

*Note:* Range for remember, know and guess is 0-2. Lower numbers indicate lower accuracy of juror recognition.
**Presented information correct.** Memory for information presented at trial for the target defendant was measured using remember, know, and guess responses; remember and know responses are presented below.

**Remember.** The presence of one or multiple defendants at trial did not influence “remembering” correct information presented at trial, *t*(245) = -.32, *p* = .75, *d* = .04, 95% CI [-.21; .29], neither did the presence of two or three defendants, *t*(245) = -.70, *p* = .48, *d* = .09, 95% CI [-.16; .34]. No main effects emerged with charge similarity or judicial admonitions, *F* < 1. The interaction between charge similarity and judicial admonitions was not significant, *F* < 1. No interaction effects emerged between number of defendants and judicial admonitions, or between number of defendants and charge similarity, *F* < 1.

**Confidence.** I conducted an independent-samples *t*-test comparing juror’s confidence in their “remember” responses when they were right (the information was presented) compared to when they were wrong (the information was not presented). Jurors who correctly “remembered” reported higher confidence (M=7.60; SD=1.16) than did jurors who incorrectly “remembered” (M=8.15; SD=1.06), *t*(125) = -2.44, *p* = .02, *d* = .42, 95% CI [.07; .77].

**Know.** Planned comparisons showed no differences between one and multiple defendants, *t*(245) = -.67, *p* = .51, *d* = .08, 95% CI [-.17; .33], or between the presence of two or three defendants, *t*(245) = -.62, *p* = .54, *d* = .08, 95% CI [-.17; .33] on “knowing” presented information at trial. Charge similarity did influence jurors correctly reporting “knowing” information presented at trial, *F*(1, 245) = 4.04, *p* = .05, *d* = .28, 95% CI [.01; .56]; jurors viewing a trial with similar charges reported correctly knowing information less frequently (M = .30; SD = .46) than did jurors viewing a trial with
different charges (M = .44; SD = .50). There was no main effect of judicial admonitions on “know” responses from jurors, $F < 1$. No interaction effects emerged between charge similarity and judicial admonitions, number of defendants and judicial admonitions, and number of defendants and charge similarity, $Fs < 1$.

**Confidence.** An independent-samples t-test revealed jurors’ reported similar confidence in “knowing” whether presented evidence was present at trial. That is, there was no difference in confidence when participants were correct (M = 7.97; SD = 1.24) versus incorrect (M = 7.72; SD = 1.44), $t(92) = -.84$, $p = .40$, $d = .18$, 95% CI [-.23; .58].

**Intruding information.** Memory for intruding information was analyzed for remember and know responses.

**Remember.** Viewing a trial with one or multiple defendants at trial did not influence “remember” responses from jurors presented with intruding information, $t(244) = 1.26$, $p = .21$, $d = .16$, 95% CI [-.09; .41]. Further, no differences emerged between the presence of two or three defendants at trial, $t(244) = 1.37$, $p = .17$, $d = .18$, 95% CI [-.08; .43]. Neither charge similarity nor judicial admonitions influenced “remember” responses from jurors, $Fs < 1$. A test of interaction effects showed no interactions between number of defendants, charge similarity, or judicial admonitions, $Fs < 1$.

**Confidence.** A paired-samples t-test compared juror confidence in “remembering” whether intruding information was presented for the target defendant. Jurors’ confidence when correct (the intruding information was not presented for the target defendant) was lower (M = 7.25; SD = 1.75) than when incorrect (the information was presented for the target defendant; M = 7.98; SD = 1.16), $t(104) = -4.50$, $p = .001$, $d = .66$, 95% CI [.27; 1.05].
**Know.** Falsely “knowing” intruding information was not influenced by the presence of one or multiple defendants at trial, $t(244) = -.84, p = .40, d = .11, 95\% \text{ CI } [-.14; .36]$. Jurors did not vary their “know” responses for intruding information regardless of whether they watched a two or three defendant trial, $t(244) = -.42, p = .68, d = .05, 95\% \text{ CI } [-.20; .30]$. Jurors’ reported “knowing” intruding information at similar rates in spite of being presented with judicial admonitions or being presented with different charges, $F < 1$. The interaction between charge similarity and judicial admonitions was not significant, $F < 1$. Charge similarity did not moderate the presence of two or three defendants on “knowing” intruding information, $F(1, 244) = 1.5, p = .23, d = .17, 95\% \text{ CI } [-.11; .45]$. Number of defendants present at trial did not interact with judicial admonitions, $F(1, 244) = 1.45, p = .23, 95\% \text{ CI } [-.11; .45]$

**Confidence.** No differences emerged in confidence of “knowing” whether intruding information was presented for the target defendant. There was no difference in confidence when participants were correct ($M = 7.89; SD = 1.28$) versus incorrect ($M = 7.88; SD = 1.31$), $t(81) = .13, p = .89, d = .008, 95\% \text{ CI } [-.19; .21]$

**Not presented information.** Memory for information presented on the TM questionnaire that was not presented at any point during the trial was measured using remember, know and guess responses; remember and know responses are analyzed below.

**Remember.** Jurors presented with a one defendant trial “remembered” information that was not presented at the same rate as jurors viewing a multiple defendant trial, $t(247) = -.37, p = .72, d = .05, 95\% \text{ CI } [-.20; .30]$. This was true for jurors presented with two or three defendant trials, $t(247) = -.73, p = .47, d = .04, 95\% \text{ CI } = -.21; .30]$. 

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Charge similarity and judicial admonitions had no influence on “remembering” information that was not presented, $F$s < 1. Judicial admonitions did not moderate the influence of charge similarity, $F(1, 247) = 1.77, p = .19, d = .19, 95\%$ CI [-.09; .47] or the influence of number of defendants present at trial, $F(1, 247) = 1.73, p = .19, d = .19, 95\%$ CI [-.09; .46]. Examining the interaction between charge similarity and number of defendants present at trial showed no effect, $F < 1$.

**Confidence.** Jurors’ confidence in correctly “remembering” information that was not presented at trial, was indeed, not presented was no different ($M = 7.83; SD = 1.16$) than when incorrectly “remembering” not presented information was presented ($M = 7.76; SD = 1.19$), $t(84) = .71, p = .48, d = .15, 95\%$ CI [-.27; .58].

**Know.** Viewing a single or multiple defendant trial did not influence jurors’ “know” responses, $t(247) = .41, p = .68, d = .05, 95\%$ CI [-.20; .30]. The presence of two or three defendants also did not affect “know” responses, $t(247) = .44, p = .66, d = .10, 95\%$ CI [-.15; .35]. Charge similarity and judicial admonitions had no influence on “know” responses for information not presented at trial, $F$s < 1. There was a significant interaction between charge similarity and judicial admonitions on jurors falsely knowing information not presented during trial, $F(1, 247) = 4.94, p = .03, \eta^2 = .03$. Jurors presented with judicial admonitions falsely reported knowing information that was not presented during trial more often when charges were similar ($M = .34; SD = .27$) than when they were different ($M = .45; SD = .31$) $F(1, 193) = 3.91, p = .05, d = -.39, 95\%$ CI [-.44, -.33]. No significant difference emerged for jurors not presented with judicial admonitions regardless of whether charges were similar ($M = .41; SD = .30$) or different ($M = .34; SD = .30$), $F(1, 193) = 1.36, p = .25, d = .25, 95\%$ CI [.19, .31].
Confidence. Juror confidence in “knowing” the presence or absence of not presented information at trial was no different when correct (M = 7.70; SD=1.52) versus incorrect (M = 8.02; SD = 1.19), \( t(55) = -1.72, p = .09, d = .47, 95\% \text{ CI } [-.07; 1.00] \).
Table 4.

Mean and Standard Deviations of Confidence in Memory Recognition by Type of Information Presented.

<table>
<thead>
<tr>
<th>Type of Information</th>
<th>Correct Mean (SD)</th>
<th>Incorrect Mean (SD)</th>
<th>Correct Mean (SD)</th>
<th>Incorrect Mean (SD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Presented Information</td>
<td>8.15 (1.06)</td>
<td>7.60 (1.16)</td>
<td>7.97 (1.23)</td>
<td>7.72 (1.43)</td>
</tr>
<tr>
<td>Intruding Information</td>
<td>7.25 (1.75)</td>
<td>7.98 (1.16)</td>
<td>7.89 (1.28)</td>
<td>7.88 (1.31)</td>
</tr>
<tr>
<td>Not Presented Information</td>
<td>7.83 (1.16)</td>
<td>7.76 (1.19)</td>
<td>7.70 (1.52)</td>
<td>8.02 (1.19)</td>
</tr>
</tbody>
</table>

Note: Range for confidence is 1-9.

**Target Defendant Ratings**

Jurors completed questionnaires assessing perceived credibility and criminal disposition of the target defendant; higher scores indicate a more positive view of the defendant.

**Credibility ratings.** Contrary to hypothesis one, jurors viewing a trial with one defendant versus multiple defendants resulted in similar credibility ratings of the defendant, \( t(247) = -1.66, p = .10, d = .21, 95\% \text{ CI} [-.04; .46] \); this pattern of effects was also obtained for jurors viewing multiple defendant trials with either two or three defendants, \( t(247) = -.23, p = .82, d = .03, 95\% \text{ CI} [-.22; .28] \). Neither similar charges (M
= 5.80; SD = 3.07), nor different charges (M = 5.87; SD = 1.18) influenced target
defendant credibility ratings, \( F < 1 \). Additionally, the presence (M = 5.70; SD = 1.38) or
absence (M = 5.97; SD = 2.97) of judicial admonitions did not influence target defendant
credibility ratings, \( F < 1 \). No interaction effects emerged between judicial admonitions
and charge similarity or number of defendants, \( Fs < 1 \). Charge similarity did not
moderate the effect of number of defendants on target defendant credibility ratings, \( F(1,
247) = 1.27, p = .26, d = .16, 95\%\ CI [-.12; .44].

**Criminal disposition ratings.** Viewing a trial with one or multiple defendants
had no influence on criminal disposition ratings of the target defendant, \( t(247) = -1.74, p
= .08, d = .22, 95\%\ CI [-.03; .47]. Whether jurors viewed a trial with two or three
defendants did not influence criminal disposition ratings, \( t(247) = .18, p = .86, d = .02,
95\%\ CI [-.02; .27]. Viewing a trial with similar charges (M = 5.39; SD = 1.15) or
different charges (M = 5.48; SD = 1.15) influenced criminal disposition ratings, \( F < 1 \);
neither did the presence (M = 5.53; SD = 1.04) or absence (M = 5.35; SD = 1.24) of
judicial admonitions, \( F(1, 200) = 1.29, p = .26, d = .16, 95\%\ CI [-.12; .44]. The
interaction between charge similarity and judicial admonitions was not significant, \( F < 1 \).
I hypothesized an interaction between judicial admonitions and number of defendants at
trial, this hypothesis was not supported, \( F < 1 \). Additionally, I hypothesized an interaction
between charge similarity and number of defendants on ratings of target defendant
criminal disposition, this hypothesis was not supported either, \( F(1, 247) = 1.99, p = .16, d
= .20, 95\%\ CI [-.08; .48].
Evidence Strength

I created a scale to measure perceptions of evidence strength for the defense, lower scores indicate a stronger defense case. Comparing the presence of one defendant and multiple defendants on perception of evidence strength showed no differences, $t(246) = -.33, p = .75, d = .04, 95\% CI [-.21; .29]$. No differences in juror perception emerged between the presence of two or three defendants, $t(246) = -1.05, p = .30, d = .13, 95\% CI [-.12; .38]$. Perception of evidence strength was not influenced by either similar ($M = 5.46; SD = 1.93$) or different ($M = 5.64; SD = 1.56$) charges presented at trial, $F<1$.

Neither the presence of judicial admonitions ($M = 5.47; SD = 1.49$) or the absence of judicial admonitions ($M = 5.63; SD = 1.99$) influenced perceptions of evidence strength, $F < 1$. Contrary to expectations, charge similarity was not moderated by judicial admonitions, $F < 1$. Number of defendants present at trial did not moderate the influence of charge similarity ($F < 1$) or judicial admonitions, $F < 1$. 

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CHAPTER 10: DISCUSSION

I investigated the influence of multiple defendants present at trial on juror decision making in an attempt to answer a variety of questions stemming from Rule 14 of the Federal Rules of Evidence (Fed. R. Crim. P. 8(b), 2009), which states trials may be combined if both defendants took part in the same criminal activity. Can jurors appropriately categorize and recognize presented information at trial for a target defendant without conflating evidence presented against co-defendants? Is this categorization and recognition more cognitively taxing when multiple defendants and charges are present at trial? Does Rule 14 truly promote efficiency in the system without abrogating a defendant’s right to a fair trial? Additionally, are there theoretical processes that may explain potential biases that arise (e.g., juror memory, verdict decisions) from combining defendants at trial?

My first hypothesis was that as the number of defendants in the trial increased, the number of guilty verdicts for the target defendant, perceived evidence strength of the case against the defendant, and ratings of the target defendant’s criminal disposition would also increase, and ratings of credibility and overall TM scores would decrease. This hypothesis was not supported; jurors found the target defendant guilty at approximately the same rate, whether there were one, two or three defendants present at trial. Trial complexity research on civil trials shows that as information load (Horowitz et al., 1996) increases, jurors have difficulty differentiating between plaintiffs, resulting in an inability to award appropriate compensation. Horowitz and colleagues (1996) found differences in damage awards and memory for plaintiffs with the presence of eight plaintiffs, as compared to four. The current study did not introduce such a high number of defendants;
thus, it is possible that the addition of one or two defendants did not increase information
load enough to influence verdict decisions, perceptions of the target defendant, or
memory recognition.

Increasing number of defendants at trial did not influence jurors’ perception of the
target defendant’s criminal disposition, or their perception of strength of evidence against
the target defendant. Additionally, perception of the target defendant’s credibility was not
reduced with the addition of multiple defendants at trial. The *criminal inference
hypothesis* (Tanford & Penrod, 1982) and *criminal disposition hypothesis* (Greene &
Loftus, 1985) identified in the joint charges literature states a juror will be more likely to
find a defendant guilty when multiple charges are present because the defendant would
not have multiple charges against him, if he was not a criminal. I expected a similar
pattern of effects to carry over in multiple defendant research; perception of the target
defendant and evidence strength may be tainted by the presence of co-defendants – so
many people could not be wrongfully charged. To support this hypothesis in a multiple
defendant trial, an increase in perceptions of criminal disposition of and evidence
strength against the target defendant as the number of co-defendants increased is
necessary. Jurors’ TM was not impaired with the addition of multiple defendants at trial.
This finding does not support the *confusion hypothesis* (Tanford & Penrod, 1982) or the
*memory load hypothesis* (Greene & Loftus, 1985), which suggest a difficulty in
appropriately classifying evidence with respective charges. It is possible jurors’ did not
perceive the target defendant as more criminal or guilty with the addition of other
defendants – police officers. Police officers are presumed to have no criminal history or
legal issues; this could have influenced interpretation and perception of evidence and
criminal disposition. Additionally, it is possible that my co-defendants did not have high enough verdict ratings in pilot testing. Guilt ratings by charge for each defendant were similar, predominantly resting in the 60% - 70% range. Therefore, it is conceivable my lack of spillover effect (Greene & Loftus, 1985) is because the co-defendants did not appear “criminal enough” due to a weaker trial presentation.

Hypothesis two posited charge similarity would affect number of guilty verdicts, TM scores, perceived evidence strength, and ratings of criminal disposition for the target defendant. The number of guilty verdicts, perceived strength of evidence and ratings of the target defendant’s criminal disposition would be higher when charges were similar than when charges were different. TM scores and credibility ratings of the target would be lower when charges were similar than when charges were different. Jurors found the target defendant guilty at the same rate in trials with similar charges as in trials with different charges against the co-defendants. Juror’s perceptions of the target defendant’s criminal disposition and credibility did not vary when viewing a similar charge trial; evidence strength against the defendant was rated consistently across charge similarity conditions. Contrary to some source monitoring research (e.g., Johnson et al., 1993; Lindsay, 2008), jurors’ ability to adequately recognize the intended target of information was not influenced by charge similarity – TM scores were similar in both similar and different charge conditions. Joint charges research found memory impairment in recall of presented evidence against appropriate charges (Tanford et al., 1985); however, the differences in charges varied from murder to rape, two different acts completely. It is possible that our different charges did not vary enough to allow for a complete disparity.
between presented charges and identification of each defendant, thus reducing differences within charge similarity, and reducing the potential effect on TM scores.

For my third hypothesis, I predicted that charge similarity would moderate the effects of the number of defendants on verdict decisions and perception of the target defendant, specifically that the effects of number of defendants would be larger when they were facing similar rather than dissimilar charges. Charge similarity did not moderate the influence of number of defendants present at trial on verdict decisions nor on jurors’ perceptions of the target defendant’s credibility, criminal disposition, or strength of the evidence against the target defendant. Increasing the number of defendants, all charged with the same charges, increases trial complexity (e.g., Heuer & Penrod, 1994; Horowitz et al., 1996). Horowitz and colleagues (1996) suggested implicational clarity as a dimension of trial complexity; thus, as the number of defendants present at trial, with similar charges, increased, evidence clarity should have decreased. Based on implicational clarity, jurors’ verdict, perceptions of the defendant, and case strength should have decreased in similar charge trials as the number of defendants present increased. Contrary to source monitoring research on task difficulty (e.g., Lindsay, 1990), charge similarity did not moderate the influence of number of defendants on juror TM scores; TM scores remained consistent. Lindsay (1990) changed the gender of narrators between information and misinformation; with the same gender (female) narrator increasing task difficulty – the difference in task difficulty in this research may not have been sufficient enough to influence juror decisions; the different charges may not have shown enough contrast to reduce task difficulty. A possible explanation for this lack of effect could be the trial itself; it is possible the target defendant trial did not differ
in complexity from the two or three defendant trials. Each trial could have been overly complex, or not complex enough to facilitate a change in implicational clarity.

Additionally, the strength of evidence against each defendant for each charge, similar and different, may not have been disparate or clear enough to allow for differences to emerge.

My fourth hypothesis focused on judicial admonitions; jurors given judicial admonitions would have higher TM scores, lower criminal disposition ratings, and higher credibility ratings of the defendant than jurors not presented with judicial admonitions. Contrary to predictions, the presence of judicial admonitions did not increase TM scores. Some source monitoring research found instructing participants to attend to the specific source of information decreased the likelihood of SMEs, thus improving accuracy, when instructed both pre- and post-misinformation presentation (e.g., Lindsay, 2008; Frenda et al., 2011). Some research on SMEs has found improved accuracy occurred not only with traditional SM tasks (Lindsay, 1990), but also in other research investigating eyewitness errors (Lindsay & Johnson, 1989). Looking at warnings research, Gerrie and Garry (2010) posited that false recall of information could be improved if individuals were encouraged, or warned, to use better evaluative processing when recalling the event. Thus, warning a participant prior to the encoding process, in this case pretrial, of potential SMEs may improve memory recall (Gallo, Roediger & McDermott, 2001).

In this research, the judge admonished jurors prior to presentation of the trial – before encoding – and based on the above research, there should have been an improvement in target recognition of information for admonished jurors. However, it is possible the instructions did not work due to a lack of specificity. Other research on warnings has found that providing a specific warning of potential misinformation prior to
encoding has a more significant reduction in SMEs than general or no warnings (Butler, Zaromb, Lyle & Roediger, 2009). Specific warnings inform participants not only of potential misinformation, but also what that misinformation may be; general warnings just inform participants of the potential for misinformation (Butler et al., 2009). Thus, it is possible the judicial admonitions were not specific enough to produce differences in TM scores. Judicial admonitions had no influence on juror perceptions of the target defendant; criminal disposition and credibility ratings remained consistent whether or not jurors had been presented with instructions to pay close attention to presented evidence for each charge against each defendant.

In my fifth hypothesis, I posited that because judicial admonitions would be more beneficial in the more complex, three defendant trial, there would be an interaction of judicial admonitions and number of defendants. In the three defendant trial, jurors given judicial admonitions would have lower TM scores, lower criminal disposition ratings, and higher credibility ratings of the target defendant than jurors presented with a two defendant trial. Contrary to findings by FosterLee and colleagues (1993) TM scores did not vary by number of defendants, regardless of the presence, or absence, of judicial admonitions prior to evidence presentation at trial. Additionally, the influence of number of defendants on juror perceptions of criminal disposition and credibility was not moderated by judicial admonitions. Research in trial complexity found an improvement of plaintiff differentiation; plaintiff awards appropriately varied according to level of injury with the presence of preinstructions (FosterLee et al., 1993). Source monitoring warnings research (e.g., Butler et al., 2009) shows instructions should be very specific to the task and potential errors. The judicial admonitions may not have been specific enough
for jurors’ perceptions of the target defendant to have been influenced by the judicial admonitions.

My final hypothesis predicted that judicial admonitions would also moderate the charge similarity effect, such that admonitioned jurors would have higher TM scores and render fewer guilty verdicts based on presented evidence against the target defendant, as compared to not admonished jurors in both the similar and different charge conditions; with a larger effect in the similar charge conditions. Judicial admonitions did not moderate the influence of charge similarity on verdict decision making; jurors in all conditions rendered similar verdict decisions. Although overall TM scores did not change, juror recognition of “knowing” information was influenced by the interaction between judicial admonitions and charge similarity. Admonished jurors falsely recognized “knowing” information that was not presented at trial more often when viewing a trial with similar charges than when viewing a trial with different charges; no differences emerged when no judicial admonitions were present. Source monitoring literature has shown SMEs are reduced when presented information has distinct differences between sources (e.g., male vs. female voice; Lindsay, 1990) and when participants are instructed to pay close attention to the source of information (e.g., Lindsay, 2008; Frenda et al., 2011). Factors that tend to reduce SMEs appear to aide in type of phenomenological experience accompanying recognition of target information. Providing jurors with admonitions that a memory error could occur may have increased juror vigilance with evidence recognition. Yet the increased vigilance was not enough to improve recognition of “knowing” not presented evidence was, in fact, not presented.
when the evidence felt familiar to actual presented evidence, specifically in similar charge trials.

**Caveats**

There are some limitations to this research. I used student participants for half of my sample, and community members for the other half. Although some researchers argue that students should not be used when investigating jury decision making, research has shown no significant differences exist in decision making between student and community member participants (Bornstein, 1999). I analyzed all data using sample as a predictor and found no differences between samples for any DV but confidence in verdict decision. Thus, it appears that both students and community members had similar decisions and memory recognize; however, community members had more confidence in their verdict decision than students.

Second, defendants in the trial were police officers; it is possible that the culture of the institution where the research was conducted – a school for criminal justice – may have influenced juror expectations for behavior and police officers are atypical defendants, both make it difficult to rule out alternative explanations for the null results throughout. Additionally, verdict decisions for the target defendant piloted at over 60% guilty for both counts, therefore, it is possible guilty verdicts did not have enough room for necessary movement.

Jurors completed their TM questionnaire within minutes of the video ending, in a real life setting, trials can last for days, even weeks. The longer the delay between the presentation of information and recognition, the more SMEs occur (e.g., Frye & Lord, 1999; Neuschatz, Payne, Lampinen & Toglia, 2001). Tulving (1985) noted this
phenomenon when first researching remember and know responses, showing false report rates to be much higher eight days after presentation than one day after presentation of information. This lack of time delay may offer an explanation as to why TM scores did not vary across conditions.

Finally, this research investigated jurors and not juries. Juries convene at the conclusion of a trial and discuss presented information from the trial, opinions of guilt and opinions of the defendant(s), all of which has been shown to influence on memory (e.g., Roediger, Meade, & Bergman, 2001). Social contagion literature suggests intruding information from one individual can manipulate the memory of another – just by talking about that memory (Roediger et al., 2001). Jury deliberations, therefore, may be another avenue for TMEs to occur – if one juror has a TME it may influence the memory of another juror (e.g., Ruva et al., 2007). Investigating jury deliberations allows for a qualitative analysis of TMEs through coding of the deliberation process.

Future Directions

Future research should use a time delay between presentation of trial evidence and jury decision making. Time should also be included as a manipulation to determine if length of time between presented information and memory recognition are related. Although data collection with a time delay may be more difficult, this manipulation allows for stronger ecological testing, which could create differences in memory and juror decision making.

Also, timing of instructions, pre- or post-instructions should be investigated as well. Although jurors did not fare well on recognizing the absence of judicial admonitions, I was not able to determine why with my data. Alternatively, lack of
multiple defendant admonition recognition could be due to receiving traditional jury admonitions post-trial in addition to judicial admonitions pretrial. Judicial admonitions should be written to be specific to the potential intruding information present at trial, and not just general judicial admonitions, as used in this research.

Conclusions

I conducted this research in an effort to provide courts with evidence of the prejudicial impact of multiple defendant trials on juror decision making. The U.S. Supreme Court asserts that the act of joining defendants’ trials is not biasing for defendants. If joining defendants’ trials had increased the likelihood that the target defendant was found guilty due to a better understanding of the case and events leading up to the charges being evaluated, then the Supreme Court could have been right – defendants are not inherently biased with a joined trial. However, the current research provided few answers to the questions of prejudicial impact. The lack of results in this study should be interpreted with caution; just because no effects were found, does not mean multiple defendant trials have no damaging influence on juror decision making.
Appendix A

Judicial admonitions for multiple defendant trials

"There are <insert number of defendants> defendants on trial here. Although the defendants are being tried together, you must consider the case against each separately. That is, your findings in one case do not in themselves establish a basis for similar findings in the other case[s]. Each defendant is to be considered as if (he/she) were on trial alone for the offense or offenses for which (he/she) stands charged. You will be required, therefore, to render a verdict upon each defendant separately. The charges against each defendant are contained in different counts. Each count charges a separate crime joined for the convenience of the trial in one session. You must consider each count separately and decide whether or not the state has proved each of the elements of that crime beyond a reasonable doubt.

I remind you that during the course of the trial certain evidence of <describe evidence> was admitted for you to consider in the case of <insert name of defendant>, but you were instructed not to consider this particular evidence in connection with the charges against the other defendant[s]. Your verdict for each defendant must be based solely on the evidence that was admitted for your consideration with respect to that particular defendant. Where evidence was admitted with respect to one defendant and not the other[s], you must consider it only with regard to the appropriate defendant and disregard it as to the other[s]. Remember that you will be required to return a separate verdict for each count."

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Appendix B

Jury Decision Making
(Students)

Researchers at John Jay College of CUNY are asking you to take part in a study on jury decision making. The researchers want to learn more about jury decision making. If you choose to take part, we would ask you to view a videotaped trial, answer some questionnaires about the trial and render a verdict. The total time required to complete the experiment should be no longer than 3 hours. You will be one of approximately 405 student participants in this study.

There are no foreseeable risks for participating in this research. Upon completion of the research, you will be awarded class credit.

Your responses to all of the questions will remain confidential. Only trained researchers will have access to your answers, which will be stored in a locked laboratory. We will not ask you to put your name on any of the response sheets.

Taking part is voluntary. You have a right to refuse to participate without consequences. If you decide not to participate your decision will not affect your relationship with John Jay College or any of the researchers involved with this study.

If you decide to participate you may discontinue participation at any time. You may refuse to answer any specific questions or refuse to engage in any task at any time during the study. Withdrawal or refusing to answer specific questions or engage in specific tasks will not result in any consequences to you and will not affect your relationship with John Jay College or any of the researchers involved with this study.

If you have questions about the study, please ask the researcher or contact the Principal Investigator, Professor Margaret Kovera at John Jay College, 212-484-1112.

If you have questions about your rights as a participant in this study, please contact the IRB office at 212-237-8364.

Participant Signature ___________________________ Date ___________________________

Researcher Signature ___________________________ Date ___________________________
Jury Decision Making
(Community Members)

Researchers at John Jay College of CUNY are asking you to take part in a study on jury decision making. The researchers want to learn more about jury decision making. If you choose to take part, we would ask you to view a videotaped trial, answer some questionnaires about the trial and render a verdict. The total time required to complete the experiment should be no longer than 3 hours. You will be one of approximately 195 community member participants in this study.

There are no foreseeable risks for participating in this research. Upon completion of the research, you will be given $25 in cash.

Your responses to all of the questions will remain confidential. Only trained researchers will have access to your answers, which will be stored in a locked laboratory. We will not ask you to put your name on any of the response sheets.

Taking part is voluntary. You have a right to refuse to participate without consequences. If you decide not to participate your decision will not affect your relationship with John Jay College or any of the researchers involved with this study.

If you decide to participate you may discontinue participation at any time. You may refuse to answer any specific questions or refuse to engage in any task at any time during the study. Withdrawal or refusing to answer specific questions or engage in specific tasks will not result in any consequences to you and will not affect your relationship with John Jay College or any of the researchers involved with this study.

If you have questions about the study, please ask the researcher or contact the Principal Investigator, Professor Margaret Kovera at John Jay College, 212-484-1112.

If you have questions about your rights as a participant in this study, please contact the IRB office at 212-237-8364.

Participant Signature

Date

Researcher Signature

Date
Appendix C
Individual Verdict Questionnaire – defendant AARON JONES

THE DEFENDANT WAS CHARGED WITH ONE COUNT OF RECKLESS ENDANGERMENT AND ONE COUNT OF ASSAULT.

YOU WILL NOW GO THROUGH EACH OF THE COUNTS AND PROVIDE A DECISION ON EACH COUNT BASED ON THE EVIDENCE YOU WERE PRESENTED.

COUNT 1: RECKLESS ENDANGERMENT

(1) _____ GUILTY    (2) _____ NOT GUILTY

How confident are you in your verdict decision?

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Not at all
Complete
Confident
Confident

COUNT 2: ASSAULT

(1) _____ GUILTY    (2) _____ NOT GUILTY

How confident are you in your verdict decision?

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Not at all
Complete
Confident
Confident
THE DEFENDANT WAS CHARGED WITH ONE COUNT OF OBSTRUCTION OF THE INVESTIGATION AND ONE COUNT OF WITNESS TAMPERING.

YOU WILL NOW GO THROUGH EACH OF THE COUNTS AND PROVIDE A DECISION ON EACH COUNT BASED ON THE EVIDENCE YOU WERE PRESENTED.

**COUNT 1: OBSTRUCTION OF THE INVESTIGATION**

(1) _____ GUILTY   (2) _____ NOT GUILTY

How confident are you in your verdict decision?

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Not at all                                      Completely

Confident                                      Confident

**COUNT 2: WITNESS TAMPERING**

(1) _____ GUILTY   (2) _____ NOT GUILTY

How confident are you in your verdict decision?

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Not at all                                      Completely

Confident                                      Confident
THE DEFENDANT WAS CHARGED WITH ONE COUNT OF MANSLAUGHTER AND ONE COUNT OF EXCESSIVE FORCE.

YOU WILL NOW GO THROUGH EACH OF THE COUNTS AND PROVIDE A DECISION ON EACH COUNT BASED ON THE EVIDENCE YOU WERE PRESENTED.

**COUNT 1: MANSLAUGHTER**

(1) ____ GUILTY  (2) ____ NOT GUILTY

How confident are you in your verdict decision?

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Not at all       Completely
Confident        Confident

**COUNT 2: USE OF EXCESSIVE FORCE**

(1) ____ GUILTY  (2) ____ NOT GUILTY

How confident are you in your verdict decision?

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Not at all       Completely
Confident        Confident
THE DEFENDANT WAS CHARGED WITH ONE COUNT OF RECKLESS ENDANGERMENT AND ONE COUNT OF ASSAULT.

YOU WILL NOW GO THROUGH EACH OF THE COUNTS AND PROVIDE A DECISION ON EACH COUNT BASED ON THE EVIDENCE YOU WERE PRESENTED.

**COUNT 1:** RECKLESS ENDANGERMENT

(1) _____ GUILTY   (2) _____ NOT GUILTY

How confident are you in your verdict decision?

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<td>Confident</td>
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**COUNT 2:** ASSAULT

(1) _____ GUILTY   (2) _____ NOT GUILTY

How confident are you in your verdict decision?

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<td>Confident</td>
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THE DEFENDANT WAS CHARGED WITH ONE COUNT OF RECKLESS ENDANGERMENT AND ONE COUNT OF ASSAULT.

YOU WILL NOW GO THROUGH EACH OF THE COUNTS AND PROVIDE A DECISION ON EACH COUNT BASED ON THE EVIDENCE YOU WERE PRESENTED.

**COUNT 1: RECKLESS ENDANGERMENT**

(1) _____ GUILTY   (2) _____ NOT GUILTY

How confident are you in your verdict decision?

0%  10%  20%  30%  40%  50%  60%  70%  80%  90%  100%

Not at all  Completely
Confident    Confident

**COUNT 2: ASSAULT**

(1) _____ GUILTY   (2) _____ NOT GUILTY

How confident are you in your verdict decision?

0%  10%  20%  30%  40%  50%  60%  70%  80%  90%  100%

Not at all  Completely
Confident    Confident
Appendix D
Evidence against Defendant AARON JONES

Please circle “Presented” or “Not presented” for each piece of evidence listed below. After you indicate whether or not the evidence was presented for Defendant Aaron Jones, please provide a confidence rating by circling the appropriate number below. Additionally, indicate whether you ‘Remember’, ‘Know’ or ‘Guess’ that the evidence was (or was not) presented for Defendant Aaron Jones.

By circling “Remember” you are indicating that recognition of this piece of evidence was accompanied by some recollective experience (i.e. you were able to recollect details of the evidence presented or you experienced a feeling when you saw the evidence initially and later upon recollecting the evidence you were able to recall that same experience).

By circling “Know” you are indicating that recognition of this evidence was accompanied by strong feelings of familiarity in the absence of any recollective experience (i.e., the evidence for this defendant just felt familiar to you but you were not able to recall any memories of seeing that evidence before).

By circling “Guess” you are indicating that your response was really just a guess (e.g., you think it is possible that the evidence was presented to you but you really aren’t certain).

1. Witness Joe Gonzalez identified as shooter
   
   Presented  Not presented

How confident are you in your decision?

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Not at all Confident Very Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember Know Guess
2. Not wearing badge during event in question
   Presented  Not presented

How confident are you in your decision?
1 2 3 4 5 6 7 8 9
Not at all  Very
Confident    Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember  Know     Guess

3. Shot bullet that killed Mark Hughes
   Presented  Not presented

How confident are you in your decision?
1 2 3 4 5 6 7 8 9
Not at all  Very
Confident    Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember  Know     Guess

4. Eyewitness testimony from resident in neighborhood
   Presented  Not presented

How confident are you in your decision?
1 2 3 4 5 6 7 8 9
Not at all  Very
Confident    Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember  Know     Guess
5. Shot weapon 31 times
   Presented Not presented

How confident are you in your decision?
1 2 3 4 5 6 7 8 9
Not at all Confident Very Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember Know Guess

6. Fabricated story with other defendant
   Presented Not presented

How confident are you in your decision?
1 2 3 4 5 6 7 8 9
Not at all Confident Very Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember Know Guess

7. Lied under oath
   Presented Not presented

How confident are you in your decision?
1 2 3 4 5 6 7 8 9
Not at all Confident Very Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember Know Guess

8. Threatened witness
   Presented Not presented
How confident are you in your decision?

1 2 3 4 5 6 7 8 9
Not at all Very
Confident Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember Know Guess

9. Intercepted text messages

Presented Not presented

How confident are you in your decision?

1 2 3 4 5 6 7 8 9
Not at all Very
Confident Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember Know Guess

10. Never shot weapon

Presented Not presented

How confident are you in your decision?

1 2 3 4 5 6 7 8 9
Not at all Very
Confident Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember Know Guess

11. Video surveillance from street corner

Presented Not presented
How confident are you in your decision?

1  2  3  4  5  6  7  8  9

Not at all  Confident  Very
Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember  Know  Guess

12. Shot weapon 4 times

Presented  Not presented

How confident are you in your decision?

1  2  3  4  5  6  7  8  9

Not at all  Confident  Very
Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember  Know  Guess

13. The defendant confessed

Presented  Not presented

How confident are you in your decision?

1  2  3  4  5  6  7  8  9

Not at all  Confident  Very
Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember  Know  Guess


Presented  Not presented
How confident are you in your decision?
1  2  3  4  5  6  7  8  9
Not at all  Very
Confident  Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
Remember  Know  Guess

15. Ignored order from supervisor to stop firing
Presented  Not presented

How confident are you in your decision?
1  2  3  4  5  6  7  8  9
Not at all  Very
Confident  Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
Remember  Know  Guess
Defendant JAMES AUSTIN Presented Evidence

Please circle “Presented” or “Not presented” for each piece of evidence listed below. After you indicate whether or not the evidence was presented for Defendant Aaron Jones, please provide a confidence rating by circling the appropriate number below. Additionally, indicate whether you ‘Remember’, ‘Know’ or ‘Guess’ that the evidence was (or was not) presented for Defendant Aaron Jones.

By circling “Remember” you are indicating that recognition of this piece of evidence was accompanied by some recollective experience (i.e. you were able to recollect details of the evidence presented or you experienced a feeling when you saw the evidence initially and later upon recollecting the evidence you were able to recall that same experience).

By circling “Know” you are indicating that recognition of this evidence was accompanied by strong feelings of familiarity in the absence of any recollective experience (i.e., the evidence for this defendant just felt familiar to you but you were not able to recall any memories of seeing that evidence before).

By circling “Guess” you are indicating that your response was really just a guess (e.g., you think it is possible that the evidence was presented to you but you really aren’t certain).

1. Witness Joe Gonzalez identified as shooter
   Presented Not presented

How confident are you in your decision?

1 2 3 4 5 6 7 8 9
Not at all Confident
Very Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember Know Guess
2. Not wearing badge during event in question
   Presented          Not presented

How confident are you in your decision?

1  2  3  4  5  6  7  8  9
Not at all  Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember          Know          Guess

3. Shot bullet that killed Mark Hughes
   Presented          Not presented

How confident are you in your decision?

1  2  3  4  5  6  7  8  9
Not at all  Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember          Know          Guess

4. Eyewitness testimony from resident in neighborhood
   Presented          Not presented

How confident are you in your decision?

1  2  3  4  5  6  7  8  9
Not at all  Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember          Know          Guess
5. Shot weapon 31 times
   Presented     Not presented

How confident are you in your decision?
1 2 3 4 5 6 7 8 9
Not at all Very
Confident     Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember     Know     Guess

6. Fabricated story with other defendant
   Presented     Not presented

How confident are you in your decision?
1 2 3 4 5 6 7 8 9
Not at all Very
Confident     Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember     Know     Guess

7. Lied under oath
   Presented     Not presented

How confident are you in your decision?
1 2 3 4 5 6 7 8 9
Not at all Very
Confident     Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember     Know     Guess

8. Threatened witness
   Presented     Not presented
How confident are you in your decision?
1 2 3 4 5 6 7 8 9
Not at all Very Confident
Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
Remember Know Guess

9. Intercepted text messages
Presented Not presented

How confident are you in your decision?
1 2 3 4 5 6 7 8 9
Not at all Very Confident
Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
Remember Know Guess

10. Never shot weapon
Presented Not presented

How confident are you in your decision?
1 2 3 4 5 6 7 8 9
Not at all Very Confident
Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
Remember Know Guess

11. Video surveillance from street corner
Presented Not presented
How confident are you in your decision?

1  2  3  4  5  6  7  8  9
Not at all Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
Remember Know Guess

12. Shot weapon 4 times
Presented Not presented

How confident are you in your decision?

1  2  3  4  5  6  7  8  9
Not at all Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
Remember Know Guess

13. The defendant confessed
Presented Not presented

How confident are you in your decision?

1  2  3  4  5  6  7  8  9
Not at all Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
Remember Know Guess

Presented Not presented
How confident are you in your decision?

1 2 3 4 5 6 7 8 9
Not at all Very
Confident Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember Know Guess

15. Ignored order from supervisor to stop firing

Presented Not presented

How confident are you in your decision?

1 2 3 4 5 6 7 8 9
Not at all Very
Confident Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember Know Guess
Defendant MICHAEL PETERS Presented Evidence

Please circle “Presented” or “Not presented” for each piece of evidence listed below. After you indicate whether or not the evidence was presented for Defendant Aaron Jones, please provide a confidence rating by circling the appropriate number below. Additionally, indicate whether you ‘Remember’, ‘Know’ or ‘Guess’ that the evidence was (or was not) presented for Defendant Aaron Jones.

By circling “Remember” you are indicating that recognition of this piece of evidence was accompanied by some recollective experience (i.e. you were able to recollect details of the evidence presented or you experienced a feeling when you saw the evidence initially and later upon recollecting the evidence you were able to recall that same experience).

By circling “Know” you are indicating that recognition of this evidence was accompanied by strong feelings of familiarity in the absence of any recollective experience (i.e., the evidence for this defendant just felt familiar to you but you were not able to recall any memories of shearing that evidence before).

By circling “Guess” you are indicating that your response was really just a guess (e.g., you think it is possible that the evidence was presented to you but you really aren’t certain).

1. Witness Joe Gonzalez identified as shooter
   Presented      Not presented

How confident are you in your decision?
1  2  3  4  5  6  7  8  9
Not at all                 Very
Confident                          Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
Remember  Know  Guess
2. Not wearing badge during event in question
   
   Presented  Not presented

   How confident are you in your decision?
   
   1  2  3  4  5  6  7  8  9
   Not at all    Very
   Confident     Confident

   Do you Remember, Know or Guess the evidence was (or was not) presented?
   
   Remember  Know  Guess

3. Shot bullet that killed Mark Hughes
   
   Presented  Not presented

   How confident are you in your decision?
   
   1  2  3  4  5  6  7  8  9
   Not at all    Very
   Confident     Confident

   Do you Remember, Know or Guess the evidence was (or was not) presented?
   
   Remember  Know  Guess

4. Eyewitness testimony from resident in neighborhood
   
   Presented  Not presented

   How confident are you in your decision?
   
   1  2  3  4  5  6  7  8  9
   Not at all    Very
   Confident     Confident

   Do you Remember, Know or Guess the evidence was (or was not) presented?
   
   Remember  Know  Guess
5. Shot weapon 31 times
   Presented  Not presented

How confident are you in your decision?

1  2  3  4  5  6  7  8  9
Not at all  Confident  Very Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember  Know  Guess

6. Fabricated story with other defendant
   Presented  Not presented

How confident are you in your decision?

1  2  3  4  5  6  7  8  9
Not at all  Confident  Very Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember  Know  Guess

7. Lied under oath
   Presented  Not presented

How confident are you in your decision?

1  2  3  4  5  6  7  8  9
Not at all  Confident  Very Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?
   Remember  Know  Guess

8. Threatened witness
   Presented  Not presented
How confident are you in your decision?

1 2 3 4 5 6 7 8 9
Not at all Confident Very Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember Know Guess

9. Intercepted text messages

Presented Not presented

How confident are you in your decision?

1 2 3 4 5 6 7 8 9
Not at all Confident Very Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember Know Guess

10. Never shot weapon

Presented Not presented

How confident are you in your decision?

1 2 3 4 5 6 7 8 9
Not at all Confident Very Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember Know Guess

11. Video surveillance from street corner

Presented Not presented
How confident are you in your decision?

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**Do you Remember, Know or Guess the evidence was (or was not) presented?**

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**12. Shot weapon 4 times**

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How confident are you in your decision?

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**Do you Remember, Know or Guess the evidence was (or was not) presented?**

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<th>Guess</th>
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**13. The defendant confessed**

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How confident are you in your decision?

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**Do you Remember, Know or Guess the evidence was (or was not) presented?**

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**14. Injured suspect during arrest.**

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How confident are you in your decision?

1 2 3 4 5 6 7 8 9
Not at all  Very Confident
Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember  Know  Guess

15. Ignored order from supervisor to stop firing

Presented  Not presented

How confident are you in your decision?

1 2 3 4 5 6 7 8 9
Not at all  Very Confident
Confident

Do you Remember, Know or Guess the evidence was (or was not) presented?

Remember  Know  Guess
Appendix E
Juror Questionnaire 1 – Aaron Jones

Next, I would like you to describe your impressions of the witnesses. In particular, I would like you to rate some of the potential witnesses using a series of adjective pairs. The scales are designed so that you can express the degree to which the person that you are rating seems to fit one end of the scale or the other. Which space you check should depend on the degree to which the word describes the person you are rating. For example, if you thought that Sam was slightly tall, you would mark the item as follows:

Tall : _____ : _____ : _____ : ______ : ______ : Short

However, if you thought that Sam was extremely short, you should place the “X” next to short:


If you have any questions about this task, you may ask them at this time.

Based on the testimony you heard, carefully rate your impressions of defendant Aaron Jones as best you can on each of the following dimensions:

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<tr>
<td>competent</td>
<td>not competent</td>
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</table>
Juror Questionnaire 1 – Aaron Jones and James Austin

Next, I would like you to describe your impressions of the witnesses. In particular, I would like you to rate some of the potential witnesses using a series of adjective pairs. The scales are designed so that you can express the degree to which the person that you are rating seems to fit one end of the scale or the other. Which space you check should depend on the degree to which the word describes the person you are rating. For example, if you thought that Sam was *slightly* tall, you would mark the item as follows:

Tall :_____ :_____ :_____ :_____ :X :_____ :_____ :_____ :_____ : Short

However, if you thought that Sam was *extremely* short, you should place the “X” next to short:

Tall :_____ :_____ :_____ :_____ :_____ :_____ :X :_____ : Short

If you have any questions about this task, you may ask them at this time.

Based on the testimony you heard, carefully rate your impressions of defendant **Aaron Jones** as best you can on each of the following dimensions:

- immoral :_____ :_____ :_____ :_____ :_____ :_____ :_____ :_____ : moral
- respectable :_____ :_____ :_____ :_____ :_____ :_____ :_____ :_____ : not respectable
- intelligent :_____ :_____ :_____ :_____ :_____ :_____ :_____ :_____ : unintelligent
- good :_____ :_____ :_____ :_____ :_____ :_____ :_____ :_____ : bad
- unlikable :_____ :_____ :_____ :_____ :_____ :_____ :_____ :_____ : likable
- trustworthy :_____ :_____ :_____ :_____ :_____ :_____ :_____ :_____ : untrustworthy
- honest :_____ :_____ :_____ :_____ :_____ :_____ :_____ :_____ : dishonest
- sincere :_____ :_____ :_____ :_____ :_____ :_____ :_____ :_____ : insincere
Based on the testimony you heard, carefully rate your impressions of defendant James Austin as best you can on each of the following dimensions:

immoral: moral
respectable: not respectable
intelligent: unintelligent
good: bad
unlikable: likable
trustworthy: untrustworthy
honest: dishonest
sincere: insincere
not believable: believable
convincing: unconvincing
certain: uncertain
not credible: credible
competent : not competent
Juror Questionnaire I – Aaron Jones and Michael Peters

Next, I would like you to describe your impressions the witnesses. In particular, I would like you to rate some of the potential witnesses using a series of adjective pairs. The scales are designed so that you can express the degree to which the person that you are rating seems to fit one end of the scale or the other. Which space you check should depend on the degree to which the word describes the person you are rating. For example, if you thought that Sam was slightly tall, you would mark the item as follows:


However, if you thought that Sam was extremely short, you should place the “X” next to short:


If you have any questions about this task, you may ask them at this time.

Based on the testimony you heard, carefully rate your impressions of defendant AARON JONES as best you can on each of the following dimensions:


Based on the testimony that you heard, carefully rate your impressions of defendant **MICHAEL PETERS** as best you can on each of the following dimensions:

- **immoral**: immoral
- **respectable**: not respectable
- **intelligent**: unintelligent
- **good**: bad
- **unlikable**: likable
- **not qualified**: qualified
- **trustworthy**: untrustworthy
- **honest**: dishonest
- **sincere**: insincere
- **not believable**: believable
- **convincing**: unconvincing
- **certain**: uncertain
- **not credible**: credible
- **competent**: not competent
Juror Questionnaire I – Aaron Jones, James Austin and Michael Peters

Next, I would like you to describe your impressions of the witnesses. In particular, I would like you to rate some of the potential witnesses using a series of adjective pairs. The scales are designed so that you can express the degree to which the person that you are rating seems to fit one end of the scale or the other. Which space you check should depend on the degree to which the word describes the person you are rating. For example, if you thought that Sam was slightly tall, you would mark the item as follows:

Tall :____:_____:_X_ :____:_____:_____:_____ : Short

However, if you thought that Sam was extremely short, you should place the “X” next to short:

Tall :_____ :_____ :_____ :_____ :_____ :_____ :_____ : Short _X_

If you have any questions about this task, you may ask them at this time.

Based on the testimony you heard, carefully rate your impressions of defendant AARON JONES as best you can on each of the following dimensions:

immoral :_____ :_____ :_____ :_____ :_____ :_____ :_____ : moral
respectable :_____ :_____ :_____ :_____ :_____ :_____ :_____ : not respectable
intelligent :_____ :_____ :_____ :_____ :_____ :_____ :_____ : unintelligent
good :_____ :_____ :_____ :_____ :_____ :_____ :_____ : bad
unlikable :_____ :_____ :_____ :_____ :_____ :_____ :_____ : likable
trustworthy :_____ :_____ :_____ :_____ :_____ :_____ :_____ : untrustworthy
honest :_____ :_____ :_____ :_____ :_____ :_____ :_____ : dishonest
Based on the testimony you heard, carefully rate your impressions of defendant JAMES AUSTIN as best you can on each of the following dimensions:
Based on the testimony that you heard, carefully rate your impressions of defendant **MICHAEL PETERS** as best you can on each of the following dimensions:

- **competent** : not competent

- **immoral** : moral
- **respectable** : not respectable
- **intelligent** : unintelligent
- **good** : bad
- **unlikable** : likable
- **trustworthy** : untrustworthy
- **honest** : dishonest
- **sincere** : insincere
- **not believable** : believable
- **convincing** : unconvincing
- **certain** : uncertain
- **not credible** : credible
- **competent** : not competent
1. Defendant Aaron Jones was responsible for the crimes of reckless endangerment and assault.

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<td>Agree</td>
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2. I have no reasonable doubt Detective Aaron Jones is guilty.

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<td>Agree</td>
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3. The defense’s case was strong.

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4. The prosecution’s case was strong.

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</table>
1. Detective Aaron Jones was responsible for the crimes of reckless endangerment and assault.

   1 2 3 4 5 6 7 8 9
Strongly Disagree
Strongly Agree

2. Detective James Austin was responsible for the crimes of obstruction of justice and witness tampering.

   1 2 3 4 5 6 7 8 9
Strongly Disagree
Strongly Agree

3. I have no reasonable doubt Detective Aaron Jones is guilty.

   1 2 3 4 5 6 7 8 9
Strongly Disagree
Strongly Agree

4. I have no reasonable doubt Detective James Austin is guilty.

   1 2 3 4 5 6 7 8 9
Strongly Disagree
Strongly Agree

5. The defense’s case for Detective Aaron Jones was strong.

   1 2 3 4 5 6 7 8 9
Strongly Disagree
Strongly Agree

6. The defense’s case for Detective James Austin was strong.

   1 2 3 4 5 6 7 8 9
Strongly Disagree
Strongly Agree
7. The prosecution’s case was strong.

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1. **Detective Aaron Jones was responsible for the crimes of reckless endangerment and assault.**

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2. **Detective Michael Peters was responsible for the crimes of manslaughter and excessive use of force.**

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3. **I have no reasonable doubt Detective Aaron Jones is guilty.**

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4. **I have no reasonable doubt Detective Michael Peters is guilty.**

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5. **The defense’s case for Detective Aaron Jones was strong.**

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6. **The defense’s case for Detective Michael Peters was strong.**

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7. The prosecution’s case was strong.

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Juror Questionnaire II – defendant AARON JONES, defendant JAMES AUSTIN & defendant MICHAEL PETERS

1. Detective Aaron Jones was responsible for the crimes of reckless endangerment and assault.

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2. Detective James Austin was responsible for the crimes of obstruction of the investigation and witness tampering.

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3. Detective Michael Peters was responsible for the crimes of manslaughter and excessive use of force.

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4. I have no reasonable doubt Detective Aaron Jones is guilty.

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5. I have no reasonable doubt Detective James Austin is guilty.

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6. I have no reasonable doubt Detective Michael Peters is guilty.

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7. The defense’s case for Detective Aaron Jones was strong.

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8. The defense’s case for Detective James Austin was strong.

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9. The defense’s case for Detective Michael Peters was strong.

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10. The prosecution’s case was strong.

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Juror Questionnaire III A

Please circle the best answer for the questions below.

1. Although there were multiple involved people in the incident in question, how many defendants were being tried in this particular trial?
   1   2   3

2. How difficult was it for you to keep straight which evidence was associated with which of the charges being tried?
   1   2   3   4   5   6   7   8   9
   Very
   Easy       Very
   Difficult

3. Was the presented evidence easy for you to understand?
   1   2   3   4   5   6   7   8   9
   Very
   Easy       Very
   Difficult
Juror Questionnaire III B

Please circle the best answer for the questions below.

1. Although there were multiple involved people in the incident in question, how many defendants were being tried in this particular trial?
   1  2  3

2. How difficult was it for you to keep straight which evidence was associated with which of the charges being tried?
   1  2  3  4  5  6  7  8  9
   Very  Very
   Easy  Difficult

3. Was the presented evidence easy for you to understand?
   1  2  3  4  5  6  7  8  9
   Very  Very
   Easy  Difficult

4. Listed below are instructions that you could have received from the judge. Please read them over carefully and select the instruction that you received. Please check the instruction that you received in the space provided on the left hand side. Only select instructions if you were provided with these specific instructions; if you were not presented with these specific instructions, please check that these instructions were not provided.

   ______ There are <X number> of defendants on trial here. Although the defendants are being tried together, you must consider the case against each separately. That is, your findings in one case do not in themselves establish a basis for similar findings in the other case[s]. Each defendant is to be considered as if (he/she) were on trial alone for the offense or offenses for which (he/she) stands charged. You will be required, therefore, to render a verdict upon each defendant separately. The charges against each defendant are contained in different counts. Each count charges a separate crime joined for the convenience of the trial in one session. You must consider each count separately and decide whether or not the state has proved each of the elements of that crime beyond a reasonable doubt.
I remind you that during the course of the trial certain evidence of <describe evidence> was admitted for you to consider in the case of <insert name of defendant>, but you were instructed not to consider this particular evidence in connection with the charges against the other defendant[s]. Your verdict for each defendant must be based solely on the evidence that was admitted for your consideration with respect to that particular defendant. Where evidence was admitted with respect to one defendant and not the other[s], you must consider it only with regard to the appropriate defendant and disregard it as to the other[s]. Remember that you will be required to return a separate verdict for each count.

I did not receive these instructions.

5. How similar was the evidence presented against each defendant?

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<tr>
<td></td>
<td>Very</td>
<td>Similar</td>
<td>Not at all</td>
<td>Similar</td>
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6. How easy or difficult was it for you to keep presented evidence organized for each defendant at trial?

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<td>Very</td>
<td>Easy</td>
<td>Very</td>
<td>Difficult</td>
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Demographic Information

Please answer the following questions about yourself:

1) How old are you? ______________

2) Which of the following best characterizes your background?
   1) White, non-Hispanic
   2) Black, non-Hispanic
   3) Hispanic
   4) Asian
   5) Pacific Islander
   6) Native American
   7) Other (please specify) _______________________

3) Gender:
   1) Female
   2) Male

4) Have you ever served on a jury before?
   1) Yes
   2) No

5) If you answered “Yes” to item number 4, please provide the following information:

   1) Type of trial (civil or criminal) ____________

Approximate number of juries you have served on ____________
Appendix F

Debriefing
Rule 14 of the Federal Rules of Criminal Procedure states that defendants may be subject to a joint trial if it “promote(s) economy and efficiency…without substantial prejudice to [the] right of the defendants to fair trial.” Although in theory this joining of trials appears efficient and reasonable, a defendant’s right to a fair trial may be abrogated by the addition of other defendants to the trial. Are jurors capable of appropriately assigning evidence presented in multiple defendant trials to the correct defendant or do they use the evidence presented against one defendant to judge the guilt of other defendants? People often have difficulty identifying the specific source of a memory – known as a Source Monitoring Error (SME; Johnson, Hashtroudi, & Lindsay, 1993). SMEs increase when the similarity of sources increases (Johnson et al., 1993), as well as when task complexity increases. Research on joint charges shows that these source errors occur in the court room, causing increased convictions when defendants are tried for more than one charge in a single trial (Tanford & Penrod, 1984). An increase in trial complexity places an additional burden on jurors, forcing them not only to attend to facts presented at trial but also to be cognitively capable of maintaining an organized representation of trial facts (e.g., Heuer & Penrod, 1995). These factors that increase the likelihood of SMEs are common within a trial. Presented evidence is often dense and complex, and charges and evidence are often similar when defendants’ trials are joined. Even jury deliberations can increase the burden on jurors’ memories. Social contagion literature suggests misinformation from one individual can manipulate the memory of another – just by talking about that memory (Roediger, Meade & Bergman, 2001). Thus, if even one juror has a memory error, it could impact every other juror’s memory of the trial.

We argue that in multiple defendant trials, jurors are subject to target monitoring errors – an inability to accurately assign evidence presented to the correct defendant during trial. To date, researchers have focused on the effects of joining criminal charges against a single defendant in a single trial (Tanford & Penrod, 1984). Given the potential miscarriages of justice that can arise due to juror memory errors, it is a logical next step to question how charging multiple defendants in a single trial influences jurors’ memory for the evidence and their verdicts. Are jurors capable of appropriately assigning and weighing evidence presented in multiple defendant trials to the correct defendant, or do they find it difficult to recall the appropriate evidence presented against one defendant only when evaluating the guilt or innocence of that defendant. Does evidentiary target confusion affect jurors’ verdicts in cases with multiple defendants? This research is designed to explore the expected prejudicial impact multiple defendants have on jurors’ memory for evidence, ratings of evidence strength, and verdict choice.

Should you have any further questions about this study, please feel free to contact the faculty supervisor.

Thank you again.

Sincerely,
Dr. Margaret Kovera  212.484.1112
References


http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1503&context=aulr


United States v. Lighty and Flood, III, 616 F. 3d 321 (4th Cir. 2010).


