

THE INFLUENCE OF FOREPERSONS AND NONFOREPERSONS ON MOCK JURY DECISIONS

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The foreperson guides jury deliberations, thus most attorneys assume the foreperson is the most influential member of the jury. The present study examined whether forepersons were more influential than other members of mock juries in a civil trial. The participants were either university students (n=87) or jury eligible residents (n=103) of the same state. Forepersons had significantly more influence on other jurors and were more confident in their decisions than nonforepersons. The most and least influential jurors were compared. Opinion leaders tended to be older, but did not differ in gender or marital status from low influencers. Opinion leaders thought the plaintiff was more responsible, but awarded her more monetary damages than did low influencers. Forepersons do have a good deal of influence on jury decisions. However, other members of the jury also wield influence.

An important process for trial lawyers is the selection of jury members, or more accurately, dismissing people from the jury panel. The process of voir dire determines whether or not a particular juror is favorable to the attorney's point of view. As any trial attorney knows, an unfavorable juror can propel the jury to decide against the best of cases. Jury consultants are often hired to help lawyers in the selection process. Among other things, these experts conduct mock jury trials to determine the characteristics of the persons most likely to agree with one side of the case at the expense of the other. Although selecting jurors favorable to the attorney's case has become a rather exact science, predictions concerning what each jury member does during deliberations is not as accurate. Because the final verdict represents shared knowledge about the case, it is far more than the average of jurors' decisions (1). If the selected juror remains silent, is unable to influence the other members of the jury, or is unduly swayed by

the differing opinions of others, that juror, no matter how favorably predisposed toward the attorney's client, is useless in helping the attorney's case.

While some evidence indicates that jurors decide on the verdict prior to discussing it with the other jurors, there is also evidence that some change in opinions occurs during deliberations (2-4). Opinion change results from two distinct types of influence: normative influence and informational influence (5, 6). Normative influence results from appeals to common sense and pressures to conform and is especially likely to occur when unanimity is required. Informational influence arises from the persuasive nature of a particular set of facts and is primarily intellectual in nature. Both types of influence affect jury decisions. For example, assigning a percentage of responsibility to the plaintiff and defendant is largely an intellectual task requiring informational influence techniques (5). As consensus is sought, however, normative influences take the lead as the jury seeks to bring everyone in line with the majority opinion. Past research has shown that members of the jury are definitely influenced by other jurors when discussing the case (4, 5). This is particularly true when a juror holds an opinion which differs from that of the majority of the jurors. "Others' preferences provide a norm, and the individual is motivated to conform to the norm" (5). Changes in opinion also occur when other jurors present convincing arguments for change (4).

When deliberating a case, the jury must accomplish a series of steps involving consideration of the evidence and the law (see 7 for a breakdown of the deliberations process). Deliberations are focused on two areas: discussion of case facts and statements of verdict preferences (6). Influence among jurors occurs at each stage in the deliberations process as arguments are outlined and consensus is sought. As deliberations progress, emphasis moves from consideration of factual information to making certain the law is followed (1). As consensus is sought, jurors make opinion statements to see if they are on "the right track." If other jurors convince someone that he/she is wrong, additional information is provided and individual opinions often change (8). Because jurors are exposed to the same

information, it is rare that a critical argument suggests itself to only one juror (9). Rather, arguments center around the weight to be given to particular facts and often the most forceful jurors win the arguments which arise throughout deliberations (1).

The person who guides the deliberations is the foreperson of the jury. Thus, trial lawyers are particularly interested in whom the jury will select as foreperson. Attorneys and most legal researchers make the assumption that the foreperson of the jury is the most influential member of a jury. For example, Deosaran describes the foreperson as "first among equals" (10). He logically assumes that the person elected to lead the group will, as a consequence of being elected, have some influence on the decision. The foreperson certainly is in a position to guide the direction of deliberations. However, there is little or no empirical evidence to support the viewpoint that the foreperson is the most influential member of the jury. In fact, there is some evidence (11) that forepersons do not exert more influence on deliberations than other jurors. Rather, it is the opinion leader, who may or may not be the foreperson, who is the most influential person on the jury.

Research on the foreperson of the jury frequently focuses on how the foreperson is selected. The selection process can provide clues as to who is likely to be chosen foreperson. Persons claiming to have experience on juries, even if their claim is not completely true, are likely to be selected (1). People who sit at the head of the table are also likely to be selected (1). Interviews with former jurors found that the person selected as foreperson appeared to other jurors to be more confident than those not chosen. Many of the former jurors said that the person selected foreperson "looked able to be a foreperson" (10). Some forepersons are not nominated by their peers; they volunteer for reasons known only to themselves.

Apparently, little thought or discussion goes into selecting a foreperson (1). Jurors are not given guidelines for this selection process and must do it quickly. The foreperson is selected immediately prior to deliberations. At this point in time, each juror believes that his or her viewpoint is universally held and "the extent and depth of disagreement on the jury has not been revealed" (1). Jurors believe that every other juror has come to

the same conclusion that they did. Therefore, they do not have strong feelings about who the foreperson should be, since he or she is seen as merely a facilitator. Thus, this important decision is made quickly with little information gathered or thought put into the selection.

Boster et al. (9) found three factors which predicted the selection of a foreperson: being male, being white, and mentioning the task. These researchers postulate that the person first mentioning the task is someone who has low communication apprehension. This person is chosen as foreperson 45 percent of the time. Persons having low communication apprehension speak more and are more influential. Boster et al. state that "...in the main, forepersons had a disproportionate impact on these jury decisions" (p. 538). They rightly point out that the foreperson's role virtually demands that he or she speak frequently, regardless of initial level of communication apprehension.

The purpose of the present study was to determine whether the forepersons of mock juries are more influential in the decision making process than other members of the jury. A second purpose was to determine whether forepersons differ from the other members of the mock jury in any significant characteristic. It is hypothesized that persons chosen as foreperson will be more confident than nonforepersons. In addition, this study will determine if there are other members of the jury who are influential in the decision making process. If there are other influencers, known as opinion leaders (11), the study will determine how these people differ from the other members of the jury.

METHOD

Participants

Eighty-seven of the participants were students in Introductory Psychology at a university in the southeast who volunteered as one option for obtaining course credit. These participants varied in age from 17 to 47 with a mean age of 19.8 and a mode of 18. Most participants were white (n=52), although some were black (n=13), Hispanic (n=7), Asian (n=7), and other (n=5).

The remaining participants (N=103) were jury eligible residents of the same state who had been recruited for participation as mock jurors in various counties in that state. These participants varied in age from 19 to 84. The mean age was 47.8, although the ages were evenly distributed across the range. Most participants were white (n=82) although some were black (n=17), Hispanic (n=3), and other (n=1). These participants were paid for their participation.

Mock jurors came to a conference room in groups of five to ten. Participants were informed about the study and asked to fill out and sign a consent form. Participants then filled out a demographic questionnaire, the Legal Attitudes Questionnaire, the Universal Orientation Scale, the Internal External Locus of Control Scale, and the Just World Scale. When all participants had completed the questionnaires, the experimenter showed them a photograph of the stimulus person (plaintiff) and played a taped description of the facts of a civil case and the jury instructions. The case involved a rape victim who sued the owner/manager of the apartment complex where she was raped for damages she sustained. Mock jurors were then asked to individually indicate the amount of responsibility that the apartment owner/manager and victim had for the incident. The total amount of responsibility for both parties had to equal 100 percent. Participants next were asked to determine what monetary damages the victim should be awarded and their confidence in their decision.

Then, participants were asked to form a jury, select a foreperson, deliberate, and come to a consensus concerning the responsibility of the defendant and the plaintiff and the amount to be awarded to the plaintiff. The foreperson of the jury wrote the group decision on a verdict form. Jurors then indicated the amount of influence that each other member of the jury had on their decision. Next, participants were asked to indicate again their individual opinion about the responsibility of the defendant and the plaintiff, the amount of money that the plaintiff should receive in damages, and their confidence in these decisions.

Measures

Demographic Variables: All mock jurors completed a brief demographic questionnaire that measured the following characteristics: age, gender, education, political orientation, ethnicity, marital status, number of children, employment status, student status, occupation, spouse's occupation (if applicable) and crime victimization.

Legal Authoritarianism: All participants completed the Legal Attitudes Questionnaire (LAQ) developed by Boehm (12). The LAQ, a 30-item scale, measures attitudes on a 6-point Likert scale ranging from 0 (strongly disagree) to 5 (strongly agree). The form of the LAQ used in the current study is a revised version of the original scale in which higher scores are indicative of legal authoritarianism (13-15).

Just World Scale: The Just World Scale (16) was completed by all respondents. The Just World Scale measured responses to 20 items on a 6-point Likert scale ranging from 0 (strongly disagree) to 5 (strongly agree). Higher scores indicate greater belief in a just world.

Locus of Control: The Adult Nowicki-Strickland Internal-External Control Scale (I-E) was completed by all participants (17). The I-E, a 40-item scale, measures attitudes with "yes" or "no" responses. Higher scores are indicative of an external locus of control.

Universal Orientation Scale: All participants completed the Universal Orientation Scale (UOS) developed by Ziller and Clark (18). The UOS measures responses to 21 items on a 5-point Likert scale ranging from 1 (does not describe me) to 5 (describes me very well). Higher scores indicate a more universal orientation.

RESULTS

Forepersons

Participants were divided into two groups: forepersons (n=24) and nonforepersons (n=145). There were three juries (n=20) in which the foreperson was not identified. A series of Chi Square analyses indicated that forepersons did not differ from nonforepersons in gender, marital

status, or race. A series of one-way ANOVAs indicated that there were no significant differences between the two groups in political attitudes, political affiliation, age, or whether the participant had been a victim of crime. Forepersons were significantly more educated than nonforepersons ($F [1, 167] = 6.39, p < .012$).

A MANOVA was conducted with the foreperson versus nonforeperson as the predictor variable and the amount of responsibility accorded the plaintiff and the monetary damages awarded before and after deliberations as the dependent variables. Forepersons did not differ significantly from nonforepersons in the amount of money awarded to the plaintiff or the amount of responsibility accorded to the plaintiff.

A MANOVA was conducted with the foreperson versus nonforeperson as the independent variable and the amount of influence, and confidence in decisions before and after deliberations as the dependent variables. A Hotelling's test showed that the model was significant ($F [3, 163] = 5.54, p < .001$). Follow-up univariate F tests indicated that forepersons differed significantly from nonforepersons on all three dependent variables. Forepersons had more influence ($F [1, 165] = 12.13, p < .001$) and said they were more confident than nonforepersons both before ($F [1, 165] = 3.83, p < .052$) and after ($F [1, 165] = 4.63, p < .033$) deliberations.

Opinion Leaders

Participants were divided into quartiles based on their influence on other jurors. The highest ($n=45$) and lowest ($n=46$) groups of influencers were used as predictor variables in the following analyses. A one-way ANOVA indicated that there were no significant differences between the two groups in political attitudes, political affiliation, education, or whether the participant had been a victim of a crime. Opinion leaders tended to be older (36.9 years) than low influencers (30.2 years), although the significance level was borderline ($p < .09$). Chi Square analyses indicated that opinion leaders did not differ from noninfluencers in gender or marital status.

A one-way ANOVA with ethnic group as the independent variable and amount of influence as the dependent variable found a significant effect ($F [4, 184] = 2.95, p < .02$) with blacks ($M = 3.86$) and Hispanics ($M = 3.72$) having more influence than Asians ($M = 2.74$) and whites ($M = 3.42$).

A MANOVA was conducted with the level of influence as the predictor variable and the amount of responsibility accorded the plaintiff and the monetary damages awarded before and after deliberations as the dependent variables. A Hotellings test showed that the model was significant ($F [4, 86] = 3.08, p < .02$). Follow-up univariate F tests indicated that opinion leaders differed significantly from noninfluencers on the amount of responsibility ($F [1, 89] = 3.91, p < .05$) and the awards ($F [1, 89] = 5.13, p < .026$) prior to deliberations. Opinion leaders thought the plaintiff was more responsible, but awarded her more monetary damages than did the low influencers.

A MANOVA was conducted with the level of influence as the predictor variable and the amount of confidence in decisions before and after deliberations as the dependent variables. A Hotellings test showed that opinion leaders were not significantly different in confidence from noninfluencers. (The level of influence was not used as a dependent variable since it is the variable which defined the classification of participants into influencer or noninfluencer.)

A Chi Square analysis comparing high versus low influencers to forepersons versus nonforepersons was highly significant ($\chi^2 [1, N=83] = 10.85, p.0009$). This analysis indicated that 13 of the 15 (86 percent) forepersons were high influencers. It also indicated that 27 of the 68 (39 percent) nonforepersons were high influencers.

DISCUSSION

The data support the common assumption that forepersons have considerable influence on other members of juries. The vast majority of the forepersons were perceived by other members of the jury to be high influencers. However, forepersons were not the only people who influenced jury decisions. There were other mock jurors who also highly influenced

the outcome of the jury trials without being the elected foreperson. Almost 40 percent of the nonforeperson opinion leaders exerted a considerable amount of influence in the jury deliberations.

The manner in which forepersons differ from nonforepersons lends support to some prior studies of the selection process for forepersons. For example, Deosaran (10) reported that former jurors had chosen as forepersons people who appeared confident. Because jurors have little time to interact prior to selecting a foreperson, Deosaran surmised that nonverbal cues lead jurors to select someone who exhibits outward signs of leadership. The present study found that persons chosen as forepersons were more confident of their decisions than other members of the jury. In addition, they were more highly educated than nonforepersons. Higher education and more confidently held opinions may combine, giving forepersons more self-confidence in expressing their opinions, and leading other jurors to note these characteristics when selecting them as forepersons.

Boster and his associates (9) indicated that one of the three factors which predicted the selection of a foreperson was mentioning the task before anyone else. Their assumption is that the person who speaks first has low communication apprehension. The higher education level of the persons chosen as foreperson in the present study might possibly lower their communication apprehension. If this is the case, possessing confidence in their opinions and lacking communication apprehension, these individuals would be more likely to speak out before other members of the jury. Boster et al. (9) report that people with low communication apprehension speak more and are more influential. Although there was no direct measure of communication apprehension in the present study, there is evidence, via ratings of other jurors, that the people chosen as forepersons had a large impact on the jury decisions.

Low communication apprehension was only one of the three factors which Boster et al. (9) found to predict the selection of a foreperson. The other two factors were being male and being white. Neither of these factors influenced the selection of forepersons in the present study. There was no statistically significant difference in selection of white compared to mi-

minority forepersons. However, because there were many more white jurors than minority jurors, the vast majority of forepersons were white. Only one black juror was chosen as foreperson of a jury of university students and one as foreperson of jury eligible participants. Approximately 9 percent of blacks and 15 percent of whites were chosen as forepersons. There were three other minority members chosen as forepersons of university juries—two Hispanic jurors and one member of another ethnic group. Therefore, although there was no difference in likelihood that an individual black or white would be selected foreperson, because there were so many more white than black jurors, there was a greater likelihood that the foreperson would be white. Interestingly, however, during the actual deliberations, a disproportionate number of black and Hispanic jury members seemed to influence the other jurors. There was no difference in the likelihood of being selected foreperson based on ethnic group. Perhaps these influential minority members are not perceived as “leaders.” (Recall that Deosaran found that jurors selected people who “looked capable” to be a foreperson, p.76).

Similarly, contrary to Boster et al’s (9) findings, men were not more likely to be selected as foreperson than women. In fact, there were about twice as many female forepersons as male forepersons in both the university juries and the jury eligible ones. This ratio is the same as the ratio of women to men in the juror population (n=126 women; n=64 men). It does not appear that gender remains a good predictor of who will be selected foreperson.

The persons selected to be forepersons, while confident of their decisions, did not seem to have an “ax to grind.” The forepersons did not differ significantly from the other mock jurors in their perceptions of the responsibility of the defendant or in the amount of award they thought the plaintiff should receive. In contrast, nonforeperson opinion leaders appeared to have different opinions than the other members of the jury. They perceived the plaintiff as more responsible and yet awarded her more monetary damages. The opinion leaders, in contrast to the forepersons, were not more confident of their opinions. The opinion leaders were somewhat

older than noninfluencers; perhaps their greater age led them to have lower communication apprehension. This decreased concern with speaking in groups, combined with differences in opinion, might have led them to speak more often during deliberations. Thus, the greater amount of speaking would lead to an increase in influence on the other members of the jury (also see 9).

In summary, forepersons do appear to have a good deal of influence on jury decisions. However, other members of the jury also wield influence. It appears that a foreperson is selected primarily because of his or her willingness to speak in a group, a characteristic that has little to do with leadership quality. The results of this study indicate that attorneys and jury selection experts should redirect their efforts in selecting a person who will be the opinion leader in the jury as opposed to merely concentrating on selecting someone who will be the likely foreperson. Attention should be paid to those venire members who tend to answer first when questions are posed to the panel as a whole, an indication of the take-charge kind of attitude often exhibited by opinion leaders.

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