

# Behavioral Science Briefs

for the

## TRIAL ADVOCATE



A deep understanding of human behavior offers an edge to trial advocates. Yet the sheer volume of studies published each month in the behavioral sciences prevents most dedicated attorneys from remaining abreast of this rich literature base. In support of attorneys who seek to practice at the highest level, board-certified forensic psychologists regularly review the latest contents of hundreds of scholarly journals; analyze studies of greatest benefit to trial attorneys; and present key findings in a concise and simple format. The points-of-contact for this service, Dr. Daniel J. Neller and Dr. Maureen L. Reardon, can be reached by email at [danieljneller@gmail.com](mailto:danieljneller@gmail.com) and [forensicpsych@reardonphd.com](mailto:forensicpsych@reardonphd.com).

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### Judicial & Individual Decision-Making

**Oliver Genschow, et al., *Professional Judges' Disbelief in Free Will Does Not Decrease Punishment*, SOC. PSYCHOL. PERS. SCI. (forthcoming).** Nearly 90 judges read excerpts that either refuted or made no reference to free will. Next, they read details of 10 mock crimes, then recommended criminal sentences. Anti-free-will “priming” did not impact sentence severity. Neither did general or specific deterrence. Rather, judicial focus on retribution correlated with sentence severity.

**Kathryn M. Kroeper, et al., *Underestimating the Unrepresented: Cognitive Biases Disadvantage Pro Se Litigants in Family Law Cases*, PSYCHOL. PUB. POL'Y L. (forthcoming).** A small sample of judges and attorney-mediators viewed films of initial divorce proceedings. They indicated cases had greater merit when both parties were represented than when either or both were unrepresented. Wives were viewed as more disadvantaged by the absence of counsel when their husbands were represented than when situations were reversed.

**Marieke Liem, et al., *From Murder to Imprisonment: Mapping the Flow of Homicide Cases – A Systematic Review*, HOM. STU. (forthcoming).** The authors reviewed 71 studies related to the flow of homicide cases through the criminal justice system. Sentence severity increased with number and severity of charges; number of victims and aggravating factors; financial- or sexual-related motivation of offenders; criminal history of offenders; and White race, female sex and older age of victims. Sentence severity decreased when victims had provoked offenders, were friends or relatives of offenders, and were unemployed.

**Brett Parker, *Is Death Different to Federal Judges? An Empirical Comparison of Capital and Noncapital Guilt-Phase Determinations on Federal Habeas Review*, 72 STAN. L. REV. 1655 (2020).** The author analyzed nearly 1500 votes cast during federal habeas reviews of murder cases. Likelihood of guilt-phase relief slightly increased when offenders had been sentenced to death or judges had been appointed by a Democratic president. Likelihood of guilt-phase relief slightly decreased when offenders were White.

**Nicholas Scurich & Daniel A. Krauss, *Public's Views of Risk Assessment Algorithms and Pretrial Decision Making*, 26 PSYCHOL. PUB. POL'Y L. 1 (2020).** In a survey of community members, seriousness of an alleged crime was rated as highly relevant to pretrial detention decisions. Generally, survey respondents viewed a 33%

or lower risk of re-offense or failure to appear as sufficient to justify pretrial release, and a 60% or higher risk as sufficient to justify pretrial detention.

## Jury Selection & Decision-Making

**Brandon L. Garrett, et al., *Error Rates, Likelihood Ratios, and Jury Evaluation of Forensic Evidence*, J. FOR. SCI. (forthcoming).** In an online survey, nearly 1000 laypeople read a scenario of a mock crime and a report of fingerprint or voice comparison evidence linking a defendant to it. One-third of mock jurors voted the defendant guilty. Fingerprint evidence was more persuasive than voice evidence. Inclusion of error rates decreased persuasiveness of fingerprint but not voice evidence. The greater their concern about failing to convict a guilty person, the more likely jurors were to vote guilty, view the case as strong, have a high opinion of the reliability of fingerprint and voice evidence, and believe people brought to trial are guilty.

**Craig Thorley, et al., *Misinformation Encountered during a Simulated Jury Deliberation Can Distort Jurors' Memory of a Trial and Bias Their Verdicts*, LGL. CRIM. PSYCHOL. (forthcoming).** Over 100 undergraduates viewed footage of a murder trial. Next, they read the jury deliberation transcript. When pro-prosecutorial misinformation and new information were added to the deliberation transcript, subjects often erroneously stated the information had been presented at trial. And the more misinformation they misremembered as having appeared at trial, the more likely they were to reach a guilty verdict. Notetaking did not reduce these effects.

## Negotiation, Persuasion, Influence

**Dana L. Joseph, et al., *The Manipulation of Affect: A Meta-Analysis of Affect Induction Procedures*, 146 PSYCHOL. BULL. 355 (2020).** The authors analyzed more than 500 studies – involving nearly 1,000 samples and over 50,000 participants – that had examined the effectiveness of methods for inducing emotions in others. Inducing emotions in women was easier than inducing emotions in men. Inducing negative emotions, particularly disgust, was easier than inducing positive emotions. Directing someone to recall a relevant autobiographical event was the most effective tactic for inducing anger and anxiety. Showing relevant pictures was the most effective tactic for inducing sadness.

**David M. Markowitz & Paul Slovic, *Communicating Imperatives Requires Psychological Closeness but Creates Psychological Distance*, J. LANG. SOC. PSYCHOL. (forthcoming).** The authors analyzed the use of imperatives (e.g., “You *must* find him guilty”) in 4 diverse samples. Among other findings, (a) when prompts lacked imperatives, participants responded with language that suggested they felt increased agency; and (b) when prompts contained imperatives, participants responded with language that suggested a reduced focus on themselves or individual actors.

**Birga M. Schumpe, et al., *The Reactance Decoy Effect: How Including an Appeal Before a Target Message Increases Persuasion*, J. PERS. SOC. PSYCHOL. (forthcoming).** People may reject persuasive messages when they feel their freedoms are threatened, a phenomenon known as *reactance*. In 11 studies involving nearly 5000 observations, persuasiveness of a target message increased when preceded by a *reactance decoy* – i.e., another message that induces reactance and offers an opportunity to vent and reassert freedom to choose.

**Dan Simon, et al., *The Adversarial Mindset*, PSYCHOL. PUB. POL'Y L. (forthcoming).** In 2 experiments involving about 700 people, the authors found that adversarial situations led to: (a) favorable evaluations of oneself and one's positions, (b) unfavorable evaluations of competitors and their positions, (c) expectations that competitors would judge them negatively, and (d) perceptions that competitors' views were more extreme than they actually were.

## Credibility

**Natalie Martschuk & Siegfried L. Sporer, *Mock Jurors' Awareness of Age-Related Changes in Memory and Cognitive Capacity*, PSYCHOL. PSYCHIA. L. (forthcoming).** About 200 jury-eligible adults read trial summaries in which all defendants had been identified by photo line-up. When the alleged offense was severe, participants rated younger adult victims as more credible than older adult victims.

**Brianna L. Verigin, et al., *A Within-Statement Baseline Comparison for Detecting Lies*, PSYCHIA. PSYCHOL. L. (forthcoming).** *Baselining* involves observing someone's demeanor when statements are known to be true and comparing it to demeanor when statements are known to be false. In a small sample of people who judged

veracity of an alibi statement from a mock suspect, instructions to use *baselining* did not improve ability to distinguish truths from lies.

**Aldert Vrij, et al., *The Efficacy of Using Countermeasures in a Model Statement Interview*, 12 EURO. J. PSYCHOL. APPL. L. CTXT 23 (2020).** The authors studied the ability of liars to adjust response styles after being coached about interviewers' deception detection strategies. In 3 culturally diverse samples, coached liars still responded more like liars than truth-tellers.

## Interview & Interrogation

**Victoria Hall, et al., *An Exploration of Laypeople's Perceptions of Confession Evidence and Interrogation Tactics*, Can. J. Beh. Sci. (forthcoming).** In 3 studies, the authors explored public perceptions of a wide range of interrogation tactics. Participants rated overtly aggressive tactics (e.g., physically abusing, degrading, denying food) as less appropriate than psychological tactics (e.g., appealing to pride, normalizing crime). They more readily accepted the use of aggressive tactics when crime severity was high rather than low; evidence of guilt was strong rather than weak; and tactics were judged effective rather than ineffective.

**Katherine Hoogesteyn, et al., *Examining Witness Interviewing Environments*, J. INV. PSYCHOL. OFF. PROFIL. (forthcoming).** A small sample of university students and staff viewed a virtual reality scenario that depicted an armed robbery and shooting. One week later, they were interviewed in their homes or in a bare university room. They reported feeling more comfortable and in control at home than at school. Interview location did not impact disclosure of information or perception of rapport.

**Jeffrey Kaplan, et al., *Perceptions of Coercion in Interrogation: Comparing Expert and Lay Opinions*, 26 PSYCHOL. CRIM. L. 384 (2020).** In an online survey, a small sample of jury-eligible laypeople viewed prohibited interrogation tactics as less coercive than did criminal justice officials and social scientists with self-reported expertise in interrogations and confessions.

**Feni Kontogianni, et al., *"Tell Me More about This...": An Examination of the Efficacy of Follow-up Open Questions Following an Initial Account*, APPL. COGNIT. PSYCHOL. (forthcoming).** In 2 experiments, people viewed mock crimes, then were interviewed in 2 phases – initial recall and follow-up. In the follow-up phase, they

reported additional – but less accurate – information than they had reported during the initial phase. The decrease in accuracy was not matched by a comparable reduction in their confidence level.

**Kureva Matuku & Steve D. Charman, *Enhancing Innocent Suspects' Memories for Corroborating Alibi Evidence*, PSYCHOL. PUB. POL'Y L. (forthcoming).** Undergraduates were asked to provide "evidence" of their participation in a study that had taken place 1 week earlier. Students who were instructed to recount events in chronological sequence provided more corroborating data than those in the free recall condition.

## Professional Well-Being & Effectiveness

**Nathan W. Hudson, et al., *Change Goals Robustly Predict Trait Growth: A Meta-Analysis of a Dozen Intensive Longitudinal Studies Examining Volitional Change*. SOC. PSYCHOL. PERS. SCI. (forthcoming).** The authors studied young adults' abilities to change aspects of their normal personality traits over a 4-month period. In 12 samples, expressed desires to change traits were associated with very slight self-reported changes in those same traits (in the desired directions).

**Jian Peng, et al., *Transformational Leadership and Employees' Reactions to Organizational Change: Evidence from a Meta-Analysis*. J. APPL. BEH. SCI. (forthcoming).** Some leaders adopt a style that aims to foster an inspiring vision, stimulate new thinking, and transform employees' self-interest into self-realization. In this analysis of 30 studies, such a leadership style was associated with moderate increases in employees' commitment to change.

**Maarten Vansteenkiste, et al., *Basic Psychological Need Theory: Advancements, Critical Themes, and Future Directions*, 44 MOTIV. EMOT. 1 (2020).** The authors review decades of research on the most widely studied psychological needs, each essential to well-being and thriving: *autonomy* (volition, willingness); *relatedness* (warmth, bonding, care); and *competence* (effectiveness, mastery). When these needs are not satisfied, people feel they are, respectively: pushed in unwanted directions, socially alienated, and helpless. When these needs are satisfied, people tend to experience, respectively: integrity and authenticity, connection, and usefulness and achievement.

## Other Psycho-Legal Topics

**Laura Dellazizzo, et al., *Association Between the Use of Cannabis and Physical Violence in Youth*. AM. J. PSYCHIA. (forthcoming).** An analysis of 30 published studies involving nearly 300,000 subjects found a modest association between marijuana use and violence, especially among chronic, heavy users of the substance.

**John F. Edens, et al., *Classification Accuracy of the Rare Symptoms and Symptom Combination Scales of the Structured Inventory of Malingered Symptomatology in Three Archival Samples*, 44 L. HUM. BEH. 167 (2020).** In this study of prison inmates, community adults and college students, a self-report measure designed to assess feigned mental problems performed poorly at discriminating feigners from non-feigners.

**Thomas W. Hughes, et al., *The Influence of Body-Worn Cameras, Minority Threat, and Place on Police Activity*, 48 J. COMM. PSYCHOL. 68 (2020).** The authors studied policing activities before and after body-worn cameras (BWCs) were introduced in Louisville. Overall, negligible changes were observed; however, in areas with larger populations and high crime rates, officers substantially increased self-initiated activity, total enforcement, and arrests after BWCs were introduced.

**Arthur J. Lurigio & Monte D. Staton, *The Measurement and Prevalence of Violent Crime in the United States: Persons, Places, and Times*, J. CRIME. JUST. (forthcoming).** The authors used data from the Uniform Crime Report and National Crime Victimization Survey to study crime trends in the US. Property crimes far outnumber violent crimes; crime rates are higher in cities than suburbs; young men are most likely to be victims and perpetrators of violent crimes; non-stranger homicides are more common than stranger homicides; and rape, sexual assault, and intimate partner violence are among the crimes least likely to be reported to police.

**Ian V. McPhail & Mark E. Olver, *Interventions for Pedehebephilic Arousal in Men Convicted for Sexual Offenses against Children: A Meta-Analytic Review*, CRIM. JUST. BEH. (forthcoming).** The authors examined the effectiveness of treatment on child sex offenders' arousal levels. Across more than 20 studies involving over 1000 offenders, behavioral and pharmacological treatments were associated with moderate reductions in arousal while viewing depictions of children.

**Ryan T. Motz, et al., *Does Contact with the Justice System Deter or Promote Future Delinquency? Results***

***from a Longitudinal Study of British Adolescent Twins*, 58 CRIM. 307 (2020).** Nearly 900 twin pairs were followed from ages 5 to 18. Contact with the criminal justice system was a strong predictor of later misbehavior.

**Jessica M. Salerno & Justin Sanchez, *Subjective Interpretation of "Objective" Video Evidence: Perceptions of Male vs. Female Police Officers' Use-of-Force*, 44 L. HUM. BEH. 197 (2020).** A large community sample viewed body-worn camera footage of officer-civilian interactions. Generally, use-of-force decisions were seen as driven by external factors (e.g., situation) for female officers, and by internal factors (e.g., aggressiveness) for male officers. Officer race had no effect.

**Kerry Johanna Smith, et al., *The Relationship Between Insight and Violence in Psychosis: A Systematic Literature Review*. J. FOR. PSYCHOL. PSYCHIA. (forthcoming).** This review of 18 studies provided partial support for the long-held link between poor insight and violence among persons with psychotic disorders.

**Chelsea M. Spencer, et al., *What Puts Individuals at Risk for Physical Intimate Partner Violence Perpetration? A Meta-Analysis Examining Risk Markers for Men and Women*, TRAUMA VIOL. ABUSE (forthcoming).** The authors analyzed 500 studies that had examined the relationship between several variables and interpersonal violence (IPV). Variables most strongly related to IPV included: (a) prior physical, sexual or emotional IPV perpetration; (b) threats; (c) stalking; (d) controlling behaviors; (e) mental health problems; and (f) prior arrest.

**Christopher Wildeman & Lars Højsgaard Andersen, *Long-Term Consequences of Being Placed in Disciplinary Segregation*, CRIM'Y (forthcoming).** The authors studied outcomes of a population of prison inmates. Compared to those who had committed in-custody infractions but were not placed in disciplinary segregation, inmates placed in disciplinary segregation had a 5.0-7.5 percentage-point increase in reconviction rate.

## Public Attention & Announcements

Last year, *The Proceedings of the National Academies of Sciences* published a peer-reviewed article that showed race-specific county-level rates of violent crime strongly predicted race of civilians killed by police. *PNAS* recently retracted the article after the study's authors expressed concerns about potential misuse of the findings. Similarly, but over the author's objections, *Society* recently retracted an essay on race and poverty immediately following its publication.