

# 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

**Nicole J. Horstman, et al., *Sentencing Domestic Violence Offenders: A Vignette Study of Public Perceptions*, J. INTERPERS. VIOL. (forthcoming).** The authors surveyed nearly 300 undergraduates, who read vignettes of violent crimes then made judgments about offenders' sentence outcome and length. The student participants recommended more lenient sentences for domestic offenders than stranger-based offenders.

**Peter S. Lehmann, *Race, Ethnicity, Crime Type, and the Sentencing of Violent Felony Offenders*, CRIM. & DELIN'Y (forthcoming).** The author analyzed racial differences in judges' sentences of nearly 200,000 adults convicted of violent felonies in Florida. Race influenced few sentences. An exception was observed for manslaughter convictions, for which minorities were more likely than Whites to be sentenced to prison (and for longer terms) instead of supervision. Another exception was found for sex offense convictions, in which Whites were more likely than minorities to receive harsher sentences.

**Jennifer Skeem, et al., *Impact of Risk Assessment on Judges' Fairness in Sentencing Relatively Poor Defendants*, LAW & HUM. BEH. (forthcoming).** Nearly 350 judges reviewed criminal case vignettes involving defendants who differed exclusively on education level, occupation, and risk assessment information. Judges who reviewed risk information gave more lenient sentences to more wealthy, educated defendants. The pattern held irrespective of judges' ethnicity, political affiliation, and geographic location.

**Stacie St. Louis, *Neighborhood Context and the Pretrial Process: Do Defendants Face Adverse Outcomes Due to Their Home Address?* CRIM. JUST. POL'Y REV. (forthcoming).** The author studied pretrial dispositions of about 100 defendants admitted to a county jail in Massachusetts. Average pretrial detention length was one month. Bond amounts ranged from \$100 to \$500,000. Offense history and index severity predicted pretrial detention length and bond amount. Irrespective of offense history and index severity, defendants who lived in areas with more transient residents received higher bond amounts and spent more time in pretrial detention than did defendants who lived in areas with fewer transient residents.

### Jury Selection & Decision-Making

**Eyal Aharoni, et al., *The Price of Justice: Cost Neglect Increases Criminal Punishment Recommendations*, 25**

**LGL. & CRIMINOLO. PSYCHOL. 47 (2020).** Nearly 200 US voters were surveyed to study the effects that their attention to incarceration costs have on sentencing recommendations. When sentencing costs were made salient, survey respondents were more likely to recommend reduced punishments; otherwise, they neglected those costs and recommended punishments as if sentences were cost-free. Cost salience more strongly influenced sentencing recommendations of liberals than conservatives.

**Yehonatan Givati, *Preferences for Criminal Justice Error Types: Theory and Evidence*, 48 J. LGL. STUD. 307 (2019).**

The author analyzed a large set of survey data to understand preferences for criminal justice error types across 22 countries. Roughly 75% of US respondents preferred letting the guilty go free over convicting the innocent. Compared to their counterparts, each of the following groups more commonly expressed concern over convicting the innocent: nonmarried, middle-aged, Black, educated, liberal, wealthy, men. Respondents were more likely to take the opposing view when they believed that the government should spend more on police and that citizens should always obey the law.

**Christine L. Ruva & Anthony E. Coy, *Your Bias is Rubbing Off on Me: The Impact of Pretrial Publicity and Jury Type on Guilt Decisions, Trial Evidence Interpretation, and Impression Formation*, 26 PSYCHOL. PUB. POL'Y & L. 22 (2020).**

In this experiment, about 500 undergraduates were presented with anti-prosecution, anti-defense, or neutral pre-trial publicity (PTP). Next, they viewed a trial video, rated trial facts on their own, and “deliberated” and rendered “verdicts” in small groups. As individuals, participants generally interpreted evidence consistent with the PTP to which they had been exposed. And in groups, they generally rendered verdicts consistent with the PTP to which they had been exposed; this effect was especially strong for groups exposed exclusively to anti-prosecution PTP and was not corrected by deliberations.

## Negotiation, Persuasion, Influence

**Nadia M. Brashier & Elizabeth J. Marsh, *Judging Truth*, 70 ANN. REV. PSYCHOL. 499 (2020).**

In this review of multiple research studies, the authors show that people tend to judge a statement as true when it is (a) paired with a related image, (b) comprehended easily, (c) repeated or already familiar-seeming, (d) presented clearly, (e) coupled with a positive feeling, (f) consistent

with facts already stored in memory, and (g) offered by a credible source.

**Eva Fourakis & Jeremy Cone, *Matters Order: The Role of Information Order on Implicit Impression Formation*, SOC. PSYCHOL. & PERS. SCI. (forthcoming).**

In 3 experiments involving about 750 participants, people spontaneously evaluated strangers more positively when exposed to positive traits before negative ones than when exposed to the same traits in the reverse order.

## Credibility

**Neil Brewer, et al., *Police Lineups of the Future?* 75 AM. PSYCHOL. 76 (2020).**

The authors studied an alternative lineup procedure in a large sample of adults and older children. All study participants watched a video of a simulated crime. Next, they were shown photos of potential suspects sequentially, then directed to either accept or reject the photo as the suspect and to rate their level of confidence. Compared to traditional lineups, participants’ confidence ratings were associated with greater accuracy in suspect identifications, even after a 2-week delay.

**Letizia Caso, et al., *Police Accuracy in Truth/Lie Detection when Judging Baseline Interviews*, 26 PSYCHIA. PSYCHOL. L. 841 (2019).**

In this experiment, nearly 100 police officers observed 10 videos of mock suspect interviews, half of which contained deceptive statements. Officers were no better than chance at discriminating truths from lies.

**Alistair J. Harvey, et al., *The Influence of Alcohol and Weapon Presence on Eyewitness Memory and Confidence*, APPL. COGNIT. PSYCHOL. (forthcoming).**

In an experiment involving over 500 students in the UK, a man approached a student helpdesk clerk, and either presented an ID card or brandished a firearm. The clerk subsequently gave a laptop to him, the man exited, and the “eyewitnesses” were queried. About half of witnesses had drunk alcohol, with a mean BAC of 0.08%. Neither BAC nor weapon presence impacted overall memory of the scene. In a mock line-up, however, BAC led to poor ability to accurately identify the suspect, whereas weapon presence led to the reverse finding.

**Aldert Vrij & Sharon Vrij, *Complications Travel: A Cross-Cultural Comparison of the Proportion of Complications as a Verbal Cue to Deceit*, 17 J. INV. PSYCHOL. OFF. PROFIL. 3 (2020).**

In credibility assessment, *complications* are

reported details that make situations more difficult (e.g., “I had to take a detour because of an accident”). Over 600 Hispanic, Russian, and South Korean students were interviewed in their native tongues. Truth-tellers discussed a day trip they had made; liars discussed a day trip they had not made. Across cultural groups, the proportion of complications emerged as the strongest discriminator between truth-tellers and liars.

## Interview & Interrogation

**Laura Farrugia & Fiona Gabbert, *Vulnerable Suspects in Police Interviews: Exploring Current Practice in England and Wales*, 17 J. INV. PSYCHOL. OFF. PROF. 17 (2020).** The authors analyzed transcripts of a small sample of police interviews. Compared to interviews of non-mentally ill suspects, interviews of mentally ill suspects lasted 50% longer. With other minor exceptions, interrogation techniques were generally similar for mentally ill and non-mentally ill suspects.

**Silvia Gubi-Kelm, et al., *When Do False Accusations Lead to False Confessions? Preliminary Evidence for a Potentially Overlooked Alternative Explanation*, J. FOR. PSYCHOL. RES. & PRAC. (forthcoming).** The authors interviewed a small sample of prison inmates who reported having been falsely accused of committing a crime at least once in their lifetime. About one-third reported they had falsely confessed. Compared to inmates who maintained their innocence, those who said they had falsely confessed more frequently endorsed (i) perceiving negative consequences from not confessing, and (ii) receiving advice from attorneys to confess.

**Frances Surmon-Bohr, et al., *The Right to Silence and the Permission to Talk: Motivational Interviewing and High-Value Detainees*, AM. PSYCHOL. (forthcoming).** The authors analyzed about 800 videotaped law enforcement interviews of 75 terrorism suspects in the UK. When interviewers asked “assumptive” questions, made accusations, or used confrontation, suspects often disengaged. By contrast, when interviewers created an accepting and respectful atmosphere, listened reflectively, and developed discrepancies, suspects provided increased amounts of useful information.

## Professional Well-Being & Effectiveness

**Marcella A. M. G. Hoogeboom & Celeste P. M Wilderom, *A Complex Adaptive Systems Approach to***

***Real-Life Team Interaction Patterns, Task Context, Information Sharing, and Effectiveness*, 45 GROUP & ORG. MGMT. 3 (2020).** The authors studied nearly 100 real-life teams working in the public sector. Team information-sharing during meetings correlated strongly with perceived team effectiveness.

**Peng Wang, et al., *From Supervisors’ Work-Family Conflict to Employees’ Work-Family Conflict: The Moderating Role of Employees’ Organizational Tenure*, INT’L J. STRESS MGT. (forthcoming).** The authors surveyed 250 employees and supervisors of a Chinese automotive company. Whereas newer employees tended to emulate supervisors’ work-family balance, longer-term employees tended to respond in the opposite direction.

## Other Psycho-Legal Topics

**Louise Almond, et al., *Predicting the Criminal Records of Male-on-Female UK Homicide Offenders from Crime Scene Behaviors*, J. INTERP. VIOL. (forthcoming).** The authors analyzed over 200 adult male-on-female hard-to-solve homicide cases in the UK. Nearly 75% of perpetrators had a prior criminal record. When crime scenes had an arson element, the likelihood that the perpetrator had a history of conviction related to violence or burglary increased substantially. When the victim died by asphyxiation, the likelihood that the perpetrator had been convicted of a prior weapons offense decreased substantially. When the offender brought a weapon to the scene of the crime, the likelihood that he had been convicted of a prior violent offense decreased substantially.

**Richard B. A. Coupland & Mark E. Olver, *Assessing Protective Factors in Treated Violent Offenders: Associations with Recidivism Reduction and Positive Community Outcomes*. PSYCHOL. ASSESS. (forthcoming).** The authors followed for 10 years nearly 200 Canadian prisoners who had participated in a violence reduction program. The greater the number of “protective” factors (e.g., social support, positive attitudes, etc.) present at release, the lower the likelihood of supervision violation, and the higher the likelihood of favorable community adjustment.

**Grant Duwe, *The Development and Validation of a Classification System Predicting Severe and Frequent Prison Misconduct*, 100 PRIS. J. 173 (2020).** Using data from a very large sample of prison inmates in Minnesota, the author developed a fully automated, gender-specific

system designed to predict serious or frequent prison misconduct. Although the predictors are not published, the system's accuracy is reportedly high.

**Jennifer L. Harrison, et al., *Sexual Offender Treatment Effectiveness within Cognitive-Behavioral Programs: A Meta-Analytic Investigation of General, Sexual, and Violent Recidivism*, PSYCHIA. PSYCHOL. & L. (forthcoming).**

The authors analyzed 25 studies that had examined the relationship between participation in cognitive-behavioral therapy (CBT) and recidivism among nearly 13,000 adult male sexual offenders. Few studies had randomly assigned offenders to treatment and control conditions. Compared to offenders who participated in another form of treatment or no treatment at all, sexual offenders treated with CBT had generally lower sexual-specific and other violent recidivism rates.

**Kirk Heilbrun, et al., *Treatment for Restoration of Competence to Stand Trial: Critical Analysis and Policy Recommendations*. 25 PSYCHOL. PUB. POL'Y & L. 266 (2019).** In this review, the authors examine the state of affairs for both the timely delivery and efficacy of competency restoration programs for juveniles and adults. Instead of automatic commitment to forensic hospitals, the authors encourage decisionmakers to consider diversionary alternatives, wait lists, recidivism risk, charge severity, and specific competency-related deficits when ordering delivery of restoration services.

**Tess M. S. Neal, et al., *Psychological Assessments in Legal Contexts: Are Courts Keeping "Junk Science" Out of the Courtroom*, 20 PSYCHOL. SCI. PUB. INT. 135 (2019).** The authors analyzed about 20 surveys that had addressed the use of psychological tests in forensic settings. Nearly one-third of tests lacked general acceptance. Nearly two-thirds of tests lacked good scientific support of their reliability (repeatability) and validity (accuracy). In their review of recent legal decisions, the authors found *Daubert* challenges were rarely raised for most tests, and were never raised for the poorest-performing tests.

**Kylie Reale, et al., *Is Investigative Awareness a Distinctive Feature of Sexual Sadism?* 35 J. INTERP'L VIO. 1761 (2020).** The authors studied 350 sexual homicide cases in Canada. Compared to less sadistic offenders, more sadistic offenders were more likely to take steps to avoid detection or apprehension (e.g., make contact with the victim at an isolated location, remove or destroy evidence, etc.).

**Paul L. Taylor, *Dispatch Priming and the Police Decision to Use Deadly Force*, POL. Q'RLY. (forthcoming).** The author studied the effect of dispatch information on police officers' decisions to use deadly force. In a firearms simulation lab, more than 300 officers from nearly 20 agencies were confronted with an ambiguously armed subject. When "dispatch" erroneously stated the subject was armed, 62% of officers made a shooting error. When correctly told that the subject was holding a phone, 6% of officers made a shooting error.

**Karl V. Umbrasas, *An Examination of PTSD and Criminal Responsibility among US Servicemembers*, 185 MIL. MED. 92 (2020).** The author analyzed reports of more than 200 forensic psychological assessments that had been conducted pursuant to the Uniformed Code of Military Justice. About 10% of examinees were diagnosed with posttraumatic stress disorder. Of them, none was opined incompetent to stand trial, and 1 was opined not criminally responsible.

**Jennifer N. Weintraub, *Obstructing Justice: The Association Between Prosecutorial Misconduct and the Identification of True Perpetrators*, CRIM. & DELIN'Y (forthcoming).** The author studied over 300 convictions later overturned by DNA evidence. About one-quarter contained alleged or proven prosecutorial misconduct, the most common of which involved *Brady* violations or improper argument. When prosecutorial misconduct was present, the odds that the true perpetrator would later be identified decreased by more than 50%.

## Public Attention & Announcements

Norton & Co. recently published *Mengele: Unmasking the "Angel of Death,"* a first-hand account of the Nazi physician's investigation and trial.

Oxford University Press recently published *Triumph of Doubt*, an insider's look at the machinations of manufactured doubt in science.

A recent issue of *American Journal of Public Health* is focused on effects of mass incarceration in the US.

On May 15, North Carolina Indigent Defense (IDS) and Guilford County Public Defender will host a live webinar on psychological testing in criminal cases. Cost is negligible, and 1 CLE is available. Click [HERE](#) for more information.