

The Basis of Citizens' Perceptions of the Criminal Jury

Procedural Fairness, Accuracy, and Efficiency*

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Two studies examined citizens' perceptions of the criminal jury and their evaluations of 6- or 12-person juries operating under unanimous or majority decision rules. Study 1 was a telephone survey of 130 adult citizens in which respondents evaluated alternative jury structures in the abstract. In Study 2, students were asked to evaluate jury structures for a hypothetical trial in which they were either the defendant or the victim in a crime with a mild or serious outcome. In both studies, jury size and decision rule were related to ratings of procedural cost, and the severity of the crime moderated procedural evaluations. In Study 1, juries were preferred to judges and the 12-person unanimous jury was preferred over other jury structures when the crime involved was serious. In Study 2, there were no direct effects due to variations in jury structure, but subjects appeared to trade off procedural cost and thoroughness of deliberation as a function of the seriousness of the crime. Procedural fairness emerged as the strongest independent predictor of desirability for jury procedures, and fairness was related to representativeness and accuracy. The role manipulation did not influence subjects' responses. In both studies, respondents were very supportive of the jury as an institution, despite a perception that erroneous jury verdicts do occur.

INTRODUCTION

Although controversy has surrounded the petit jury throughout its history, the 20th century has been especially inhospitable to an institution once considered

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“the lamp that shows that freedom lives” (Devlin, 1956). Jury trials have been abolished in Continental Europe, and severely restricted in Great Britain. In the United States, the Supreme Court has upheld reductions in jury size (*Williams v. Florida*, 1970; *Colgrove v. Battin*, 1973) and a relaxation of the traditional unanimity rule for consensus (*Apodoca et al. v. Oregon*, 1972; *Johnson v. Louisiana*, 1972) in jury trials at the state level. There is increasing support for the abolition of jury trials in complex civil litigation (see Lempert, 1981; Sperlich, 1982). And judges appear to impose a “jury tariff,” imposing harsher sentences on defendants who request a trial by jury (Tybor & Eissman, 1985).

In part, the diminishing status of the jury seems attributable to a concern with the quality of jury performance; i.e., with the ability of juries to accurately determine guilt in criminal cases or liability and compensation in civil cases. Many commentators have questioned the ability of lay jurors to serve as competent, impartial, and lawbound factfinders (see Hans & Vidmar, 1986). In a popular critique of the courts, still widely read today, former federal judge Jerome Frank (1949; Paul, 1957) provided a blunt legal-realist portrait of the jury as incompetent, prejudiced, and lawless. Skepticism toward the jury is implicit in the development of rules governing the admissibility of evidence in jury trials, each of which presumes that a judge is capable of discounting prejudicial factors while jurors are not (Broeder, 1954). More recently, critics (e.g., Rubin, 1982) have argued that lay jurors are not capable of comprehending the factual and legal complexity inherent in much modern civil litigation, a viewpoint that is shared by former Supreme Court Chief Justice Warren Burger (1981).

Social scientists have devoted a great deal of attention to the empirical assessment of various aspects of the jury's performance (see Hans & Vidmar, 1986; Hastie, Penrod, & Pennington, 1983; Stasser, Kerr, & Bray, 1982).¹ Conclusions from the empirical literature have been at odds with several Supreme Court decisions regarding the jury, most notably the decisions permitting smaller juries and nonunanimous juries in state courts. For example, in *William v. Florida* (1970), the Court asserted a “functional equivalence” among juries of varying sizes. However, social psychological theory and research indicate that jury size reliably influences a variety of aspects of jury performance, including hung jury rates, deliberation time, memory for trial evidence, minority influence, and community representation (see Kerr & MacCoun, 1985). In 1972, the Court made a similar assertion regarding the effects of decision rules for jury consensus (*Johnson v. Louisiana*, *Apodeca et al. v. Oregon*). As with the jury size literature, decision rules appear to have reliable effects upon such factors as hung jury rates, deliberation time, and minority influence (see Hastie et al., 1983). Group structure does influence jury performance.

Although these results have led social scientists to question the Court's rea-

¹ Lempert (1981) has argued that the appropriate standard by which to evaluate the quality of jury performance is not some absolute benchmark of accuracy, but rather the performance of the most likely alternative fact finder, the trial judge. However, jury research has neglected comparisons involving judges, presumably because of the immense practical difficulties involved. Instead, most simulation research has adopted an intermediate strategy, viz., assessing the performance of some juries relative to others operating under a different set of conditions.

soning, several scholars (e.g., Saks, 1982) have speculated that the Court's primary motivation was to promote innovations that might reduce some of the inefficiencies associated with jury trials. This concern by legal authorities with efficiency in court management has been another source of antagonism toward the jury (e.g., Burger, 1977; Desmond, 1963). In general, there is a perception that the current backlog in most courts is, in part, an inevitable byproduct of jury trials. In addition to the expense involved in maintaining a jury pool, jury trials involve a number of time-consuming features not associated with a bench trial, including the voir dire process, pre- and mid-trial conferences regarding the admissibility of evidence, and the judge's charge to the jury. Judges have adopted strategies to minimize the number of lengthy jury trials that occur, including a greater emphasis on pretrial mediation and negotiation (Resnik, 1982), arbitration (Hensler, 1986), and the aforementioned jury tariff (Tybor & Eissman, 1985).

Concern with jury performance and trial efficiency is reasonable, but can obscure the wider social significance of the jury. Traditionally, the role of the jury has been to bring community values into the legal decision making process. Decisions in criminal and civil cases typically require judgments about community norms concerning reasonable conduct, standards of proof, and appropriate compensation or sanctions. By entrusting such judgments, at least in part, to juries, there is an assurance that legal verdicts are consistent with community values. This larger political role of the jury evolved during a historical period in which English and American citizens were concerned with maintaining checks and balances on the power of political authorities (see Hans & Vidmar, 1986).

The purpose of the present paper is to examine the extent to which citizens still view the jury as having larger political and social functions that go beyond the efficient determination of guilt and innocence. Our approach develops out of a political-psychology-based perspective on the courts. That perspective views legal institutions as requiring the consent of the citizenry if they are to function effectively (Tyler, 1984). If we focus on what citizens view as important in their evaluations of the desirability of various types of legal institutions, issues of procedural fairness typically emerge as a key factor to citizens (e.g., Lind, 1982; Lind & Tyler, 1988; Tyler, 1984). Thus, the approach we are taking is different from other recent research on juries in several ways. First, it examines subjective perceptions of the jury system rather than objective measures of performance. Second, it focuses on the opinions of citizens rather than those of legal experts. Finally, it looks beyond performance to include other dimensions that might influence public views about the appropriate structure for the jury.

Conceivably, high-quality performance and procedural fairness might by synonymous in the minds of citizens. If so, the jury system would be perceived as being fair to the extent that it minimizes biases and errors. Research on other aspects of the legal system suggests, however, that in some areas fairness and performance are viewed by citizens as conceptually distinct aspects of legal procedures. For example, research on the psychology of procedural justice (e.g., Lind, 1982; Sheppard & Vidmar, 1980) indicates that the adversary trial procedure tends to be more biased than the inquisitorial procedure; i.e., it appears to lead to less objectivity in the gathering and presentation of evidence, and may be

more vulnerable to the influence of the personal dispositions of the decision maker (Kaplan & Miller, 1978).

Despite evidence of its objective inferiority as a method of fact finding, citizens of common law countries typically view the adversary system as a fairer and more desirable procedure for dispute resolution (Thibaut & Walker, 1975). This suggestion that preference, assessments of fairness, and accuracy are not necessarily synonymous in the public consciousness is supported by the work of Austin and Tobiasen (1984). They found that without detailed information about different procedures for dispute resolution subjects preferred the adversary process over other methods. After viewing videotapes showing the adversary and other procedures enacted, subjects rated other methods as more likely to produce the "best" trial outcome, but they continued to rate the adversary process as fairer (p. 250). Both of these results suggest that the public has additional bases for its procedural preferences beyond issues of performance quality.

Our particular interest is in the basis of public preferences for varying types of jury structure, including: (1) 12- and 6-person juries and (2) unanimous or majority decision rules. Although social scientists have examined the effects of these structural variables on jury performance, they have largely neglected to assess public opinion regarding the structure of the jury. The present paper describes two studies, both focusing on the basis of citizen judgments about the appropriate type of jury structure for resolving cases. The first study described these different types of juries to citizens and asked them to assess their appropriateness for resolving criminal cases involving shoplifting and murder. The second study presented college students with scenarios in which they were asked to imagine being involved in a trial to resolve a case involving a hit-and-run car accident. Subjects were asked to imagine being either the plaintiff or the defendant and the crime outcome was either relatively trivial (a damaged bicycle) or quite serious (a paralyzed victim). They were then asked about the appropriateness of different types of jury for resolving the specific case they were considering. The key concern in both studies was with the basis of public judgments of appropriateness.

STUDY 1

Method

Study 1 was a telephone survey in which adult citizens were interviewed about their jury preferences. Respondents were selected from the Evanston, Illinois telephone directory using systematic random sampling of listed telephone numbers. Of those telephone numbers called, 49% resulted in completed interviews. A total of 130 interviews were completed.

The goal of the sampling process was to generate an approximate random sample of the community with range of types of respondents. The demographic characteristics of the sample suggest that this goal was achieved. The sample was 45% male, 14% nonwhite, and ranged in age from 18 to 88 (with a mean age of 40). It is important to note, however, that this is not a true random sample of citizens,

since only listed numbers were contacted, the first adult to answer the telephone was interviewed, and the response rate was relatively low.

Respondents were asked to evaluate the four types of juries outlined above on a number of dimensions, including desirability, freedom from error, freedom from prejudice, thoroughness of deliberation, minority representation, cost, and procedural fairness. The order of presentation of the four jury types was counter-balanced to control for potential order effects. In addition, respondents separately indicated which of the four jury types would be most desirable for resolving a case of shoplifting and a case of murder. Finally, citizens' general level of support for the jury system was examined.

Results

The results of the survey suggest that the citizens interviewed were generally quite supportive of the jury system. Ninety-seven percent of respondents viewed the jury system as "somewhat" or "very" important as a national institution (mean = 3.72 on a four-point scale), while 90% rated the jury system as "somewhat" or "very" fair and 92% were generally satisfied with jury verdicts they had heard about.

Although those citizens interviewed generally liked the jury system, this does not mean that they were blind to its limits or to the possibility that it might produce errors. When asked to estimate the percentage of truly guilty defendants that are convicted in jury trials, the average response was 81%. Similarly, when asked to estimate the percentage of truly innocent defendants that are acquitted in jury trials, the average response was 65%. Although citizens recognize a potential for error in jury trials,² they support the jury system nonetheless.

The results of an examination of public ratings of the four types of jury are shown in Table 1. Respondents generally viewed the traditional 12-person unanimous jury as having a number of positive attributes. They indicated that the 12-person unanimous jury was most accurate (63%), most thorough (62%), most likely to represent minorities (67%), most likely to listen to holdouts (36%), most likely to minimize bias (41%), and fairest (59%). Respondents also recognized, however, that this procedure was the most expensive form of jury (91%). In the case of the murder trial most respondents regarded the 12-person jury as most desirable (68% with a unanimous verdict; 27% with majority rule). In the case of the shoplifting trial, public views about the best form for the jury were less consistent. Many respondents still preferred the 12-person jury (22% unanimous verdict; 13% majority verdict), but 66% preferred the 6-person jury (23% unanimous; 43% majority; as opposed to 6% preferring the 6-person jury with murder trials).

² These estimates of the relative accuracy of jury verdicts seem to imply that on average, subjects believe that juries acquit 19% (i.e., 100 - 81) of all guilty defendants and convict 35% (i.e., 100 - 65) of all innocent defendants. However, additional results discussed below in Study 2 caution against this interpretation.

Table 1. Study 1: Percentage of Respondents Selecting Each Jury Procedure for Selected Attributes

Attribute	Twelve-person		Six-person	
	Unanimous	Majority	Unanimous	Majority
Most accurate	63.3	26.7	5.8	4.2
Most thorough	61.9	17.8	13.6	6.8
Listen to holdout	36.1	19.3	25.2	19.3
Minimize bias	41.3	33.0	12.8	12.8
Represent minorities	67.3	30.0	1.8	0.9
Most expensive	90.8	6.7	2.5	0.0
Fairest	58.5	32.5	6.5	2.4
Most desirable:				
For shoplifting trial	21.8	12.9	22.6	42.7
For murder trial	67.5	26.8	4.9	0.8

Hence, public views about the appropriate form for the jury depend on the nature of the case involved.

It is also possible to assess citizen feelings about the jury system by considering whether people would prefer to have cases tried by a jury or by a judge. A direct comparison of views about these two modes of case disposition is shown in Table 2. That table indicates that citizens regard the jury as fairer, more accurate, less biased, and more representative of minorities than the judge. Judges and juries are regarded as equally thorough and juries are seen as more expensive. In terms of overall desirability the jury is overwhelmingly preferred for murder cases (93%), while the jury and the judge are about equally preferred for shoplifting cases (44% prefer the jury for such cases).

Our key concern was with the basis of public preferences for varying types of jury. Respondents were asked which of the four possible types of jury best achieved each of the objectives listed in Table 1. Responses for each objective were coded as traditional or nontraditional depending on whether the respondent

Table 2. Study 1: Percentage of Respondents Selecting Judge or Jury for Selected Attributes

Attribute	Judge	Jury	No preference
Most accurate	31.0	65.5	3.4
Most thorough	45.5	50.0	4.5
Minimize bias	33.0	64.8	2.3
Represent minorities	8.0	90.9	1.1
Most expensive	13.5	85.4	1.1
Fairest	22.5	68.5	9.0
Most desirable:			
For shoplifting trial	52.8	43.8	3.4
For murder trial	5.7	93.2	1.1
If victim of crime	21.8	67.7	10.5
If accused of crime	15.4	76.4	8.1

selected the 12-person, unanimous jury or one of the other jury forms. This allowed us to compute phi correlations establishing the relationship between jury preferences and respondent judgments of the characteristics of the varying procedures. These analyses were performed separately for shoplifting and for murder. In addition, the correlates of procedural fairness ratings were analyzed separately.

The results of these correlational analysis are shown in Table 3. They indicate that respondents' preferences were related to a variety of dimensions of the jury, with different preferences emerging for the shoplifting and murder cases. With the mild crime of shoplifting respondent's desirability ratings were linked only to their assessments of the thoroughness of deliberation. In the case of the more severe crime of murder a number of additional attributes were related to preferences. Those included the ability to reduce bias, thoroughness of deliberation, procedural fairness, verdict accuracy, and the likelihood that holdouts would be listened to. These findings suggest that respondent concerns differ considerably when mild and severe crimes are involved.

The correlates of procedural fairness judgments about the different juries were also examined. The results, shown in Table 3, suggest that several of the respondent judgments about juries were related to their views about whether those jury procedures were fair. Those judgments included assessments of the accuracy of verdicts, judgments about the thoroughness of deliberation, assessments of a jury's ability to reduce bias, and judgments about the degree to which a jury allowed for minority representation.

Discussion

The results of Study 1 suggest that those interviewed have a relatively high level of satisfaction with the jury system. The jury is highly regarded both in the abstract and in comparison to its most likely alternative—trial before a judge.

Table 3. Study 1: The Correlates of Preferences for Jury Procedures and Perceived Fairness of Jury Procedures^a

Attribute	Desirability for		Procedural fairness
	Shoplifting trial	Murder trial	
Accuracy	.03	.27 ^b	.54 ^c
Thoroughness	.27 ^b	.37 ^c	.46 ^c
Listen to holdout	.13	.24 ^c	.15
Minimize bias	.14	.38 ^c	.42 ^c
Minority representation	.10	.16	.29 ^b
Cost of procedure	.06	.14	.16
Procedural fairness	-.06	.36 ^c	—

^a Entries are zero-order phi coefficients. Variables coded (0) nontraditional jury, (1) traditional jury.

Listwise $N = 87$.

^b $p < .01$.

^c $p < .001$.

This does not mean that respondents ignored the possibility of error in jury trials. Respondents clearly recognized that juries might make mistakes.

It is also evident that the public's preference for the jury trial was not universal. In the case of the more serious crime of murder the public overwhelmingly favored jury trials. With the less serious crime of shoplifting the public was much less likely to favor a jury trial. In fact the majority of those interviewed (53%) favored a bench trial for that crime. Similarly, traditional 12-person unanimous juries were generally viewed most favorably, but 65% of the citizens preferred nontraditional 6-person juries for shoplifting trials. This discerning pattern of evaluation suggests that respondents were not simply endorsing traditional juries out of a preference for familiarity.

The finding that procedural preferences were related to the nature of the case in question might be explained by reference to the judgments respondents made about the attributes of the jury. While traditional juries were viewed as more accurate, more thorough, and fairer, they were also seen as more expensive than judges and nontraditional juries. Conceivably, citizens might have perceived a tradeoff between "quality" and cost. Perhaps this tradeoff might have been resolved in favor of quality in the murder trial and cost in the shoplifting trial. If so, we would expect to find a negative relationship between procedural cost and desirability in the shoplifting case. However, as seen in Table 3, we found no such relationship. This null result is probably due to the severe range restriction in the cost variable. Ninety-one percent of the respondents identified the traditional 12-person unanimous jury as the most expensive procedure. Additional evidence regarding the cost-desirability relationship is provided by the results of our second study.

STUDY 2

In a second study, we explored public views about the jury in more depth. We did so using a modified procedure that allowed the basis of public preferences to be more clearly established. Instead of soliciting citizens' opinions regarding juries in the abstract, we asked college student respondents to evaluate jury procedures that might be used to resolve a specific legal dispute in which they were hypothetically involved.

The second study used a factorial design in order to manipulate four factors: the seriousness of the crime involved; whether the subject was the plaintiff or the defendant; whether the jury being evaluated was a 12- or 6-person jury; and whether the jury being evaluated used a unanimous or a majority decision rule. Each subject was asked to imagine that they were involved in a mild or serious case as a defendant or a plaintiff. They were then asked to evaluate the desirability of having that case resolved by one of four potential types of jury. In addition, subjects rated that particular jury on a variety of dimensions such as thoroughness of deliberation.

Based upon the results in Study 1, we hypothesized that the relative impor-

tance of issues of cost and fairness might depend in part on the seriousness of the matter under dispute. For this reason, half of the participants in Study 2 were told that the incident in question—a hit-and-run car accident—left the victim partially paralyzed (a serious outcome), while the remaining participants were told that the incident merely resulted in the destruction of the victim's bicycle and rose bush (a mild outcome). The use of a specific trial scenario also allowed the participant's point of view to be manipulated. Because defendants and crime victims have very different concerns and motivations in a criminal trial, we asked half of our participants to take the perspective of the person accused of the crime, and the others to imagine that they were the victims of the crime.

Asking respondents to make abstract evaluations about the desirability of procedures, as was done in Study 1, could potentially lead to vague and superficial judgments. We hoped to counteract any such tendencies in Study 2 by asking subjects to focus on a specific case and by heightening their involvement in that case. Studies on other legal issues have shown that abstract views can be quite distinct from beliefs about specific instances (e.g., McClosky & Brill, 1983; Tyler & Weber, 1982).

Method

Subjects and Design

Ninety-six Northwestern University undergraduates were recruited from Introductory Psychology courses and participated as part of a course requirement. A $2 \times 2 \times 2 \times 2$ (role \times seriousness \times jury size \times jury decision rule) factorial design was employed.

Stimulus Materials and Procedure

Subjects met in a large classroom and were seated individually in separate cubicles. Each subject received a 13-page test booklet and was asked to read it carefully and answer every question to the best of his or her ability. Subjects were told that we were interested in their views about the best way to resolve legal problems, and that our goal in the study was "to aid the legal system in understanding what citizens view as the best way for the jury system to operate."

In an initial set of questionnaire items subjects were asked to estimate the likelihood of each of four possible criminal jury trial outcomes: convicting a guilty defendant, acquitting a guilty defendant, convicting an innocent defendant, or acquitting an innocent defendant. Subjects were also asked to rate the desirability or undesirability of each outcome using an 11-point (-5 to +5) scale. Subjects were then asked to evaluate the accuracy, fairness, and importance of the criminal jury system more generally, using four 7-point scales.

Next, subjects read a brief scenario describing a hit-and-run car accident. The role factor was manipulated by varying whether the subject was the driver of the car (defendant condition) or the victim of the accident (victim condition). Crime seriousness was manipulated by varying whether the car hit a parked bicycle and a rosebush (mild condition) or a pedestrian (severe condition). In the

examples provided below, the mild outcome follows the severe outcome in parentheses. Subjects in the defendant role read the following scenario:

Imagine that you drive your car home from work one day, and a half an hour later your doorbell rings. When you open your door, two police officers inform you that you are under arrest. They handcuff you, read you your rights, and take you to the police station. The police inform you that a hit-and-run accident has taken place, in which a speeding automobile veered across the sidewalk and struck a pedestrian, resulting in a serious spinal injury that could result in permanent paralysis (struck a parked bicycle, destroying it and tearing out a large rose bush as well). The victim of this accident gave the police a description of the car and the first four digits of its license plate, and the police matched the identification to your car and noted that the location of the accident is near your home. Eventually, the case comes to trial. Although you are certain of your innocence, the prosecutor insists that his evidence identifies you as the culprit.

In the victim versions, subjects were asked to:

Imagine that you are standing on the sidewalk outside your home one day, and suddenly a speeding automobile veers across the sidewalk and hits you and quickly drives away (hits your parked bicycle, destroying it and tearing out a large rose bush before quickly driving away). An ambulance takes you to the hospital, and the doctors inform you that you have a serious spinal injury that could result in permanent paralysis. The police visit you and you give them a description of the car and the first four digits of its license plate. The police later notify you that they have found a car that matches the description you provided, and that the driver lives near the location of the accident. Eventually, the case comes to trial. Although you are certain that your description of the car is accurate, the defendant's attorney insists that you are mistaken.

After reading the scenario, subjects rated the seriousness of the crime. The remainder of the questionnaire assessed their evaluations of one of the four different types of juries that might try the case, using a series of 7-point scales. The list of dimensions used in Study 1 was extended and modified in two ways. First, verdict accuracy was broken down into two dimensions: the probability of convicting a guilty defendant and the probability of acquitting an innocent defendant. Second, representation of the community-at-large was assessed, as well as minority representation.

Results and Discussion

General Evaluations of the Jury System

The items described in this section were assessed prior to the experimental manipulations; we therefore collapse across conditions in the analyses described here. As in Study 1, subjects were found to be generally positive about the jury system. Overall, jury verdicts were seen as both accurate ($M = 5.10$) and fair ($M = 5.10$), and the jury system was seen as a fair system ($M = 5.11$) and an important national institution ($M = 6.20$).

Students' estimates of the probability of correct trial outcomes were quite similar to the estimates provided by adult citizens in Study 1. On average, subjects predicted that juries convict about 78% of all guilty defendants and acquit 64% of all innocent defendants. Although one might infer from these percentages that subjects believed that juries acquit about 22% (i.e., $100 - 78$) of all guilty

defendants and convict 36% (i.e., 100 – 64) of all innocent defendants (see footnote 2), direct estimates of these outcomes averaged 30% and 11%, respectively. These results and related findings involving perceptions of alternative trial outcomes are discussed in more detail elsewhere (MacCoun, 1987a; MacCoun & Kerr, in press).

The correlations between these accuracy estimates and a composite index of the four jury system evaluation items (coefficient alpha = .748) were computed. These analyses indicate that the jury system was evaluated more favorably to the extent that the guilty are convicted ($r = .31, p < .001$) and the innocent are acquitted ($r = .21, p < .02$), and evaluated less favorably to the extent that the innocent are convicted ($r = -.29, p < .003$). However, there was no significant relationship between evaluations of the jury system and the probability of acquitting the guilty ($r = -.14, n.s.$).

As one would expect, subjects believed that it is desirable to convict guilty defendants ($M = 4.86$) and acquit innocent defendants ($M = 4.89$), and that it is undesirable to convict innocent defendants ($M = -4.80$) and to acquit guilty defendants ($M = -4.27$). A t test contrasting the absolute values of these ratings indicated that subjects were significantly less concerned with acquitting the guilty than the other three outcomes, $t(95) = 5.95, p < .001$. This is consistent with results reported by McClosky and Brill (1983), and with the previously mentioned finding that the perceived probability of acquitting the guilty was not related to evaluations of the jury system.

Manipulation Checks

Questions designed to test the effectiveness of the manipulations indicated that subjects understood the role that they were to take (plaintiff/defendant) and were aware of whether their case was serious or mild. Although subjects understood that they were to assume different roles, a preliminary multivariate analysis of variance indicated that the role the subjects assumed did not affect their responses in this study, so the role variations were collapsed in the analysis. Since subjects correctly indicated their role, the failure of the role manipulation suggests either that subject's views about procedure did not differ across roles or that subjects had difficulty imagining the consequences of being in different roles in a trial.

Research on role effects conducted by Thibaut and Walker (1975) as part of their study of procedural justice suggests that there are procedural concerns that transcend the role any particular party has in a particular dispute. As a result, the role manipulation could have been effective without influencing other judgments. Given the hypothetical nature of the case, however, this lack of role effects should be viewed as tentative until confirmed using more involving methods. The effects of the other independent variables will be described below using a multiple regression analytic framework.

Effects of Variations in Jury Procedure

Table 4 presents the zero-order correlations indexing respondent judgments of the relationship between jury size and decision rule and a variety of attributes

Table 4. Study 2: Perceived Relationships Between Jury Size and Decision Rule and Performance, Cost, Fairness, and Desirability Ratings^a

	Independent variables	
	Jury size	Decision rule
Performance:		
Accuracy		
<i>p</i> (Convict guilty)	.07	-.34 ^d
<i>p</i> (Acquit innocent)	.07	.14
Deliberation quality		
Thoroughness	.02	.07
Listen to holdout	-.21 ^b	.03
Minimize bias	.17 ^b	-.08
Representation		
Community	.24 ^c	-.02
Minorities	.19 ^b	.01
Cost of procedure	.49 ^d	.21 ^b
Procedural fairness	.17 ^b	-.02
Desirability	.07	-.06

^a Entries are zero-order point-biserial correlation coefficients. Jury size is coded (1) six, (2) twelve. Decision rule is coded (1) two-thirds majority rule, (2) unanimity. *N* = 96.

^b *p* < .05.

^c *p* < .01.

^d *p* < .001.

of the jury such as its accuracy, thoroughness, and fairness. Judgments of verdict accuracy were not influenced by jury size, but unanimous decision rule juries were seen as less likely to convict the guilty. Larger juries were seen as less likely to listen to a lone holdout that disagrees with the majority, but as more likely to put aside personal biases and to represent the community and minority members. Both size and decision rule were related to cost, with 12-person and unanimous juries seen as more expensive. Larger juries were seen as fairer. However, neither structural feature of the jury had a direct relationship with desirability.

Desirability of Jury Procedures

The major issue addressed in Study 2 is the basis of public assessments of the desirability of resolving cases using juries of varying sizes and with differing decision rules.

A series of multiple regression analyses were conducted to determine the predictors of judgments about the desirability of varying jury procedures. The results of these analyses are presented in Table 5. Product-moment correlations identified three reliable predictors of desirability: The thoroughness with which a jury evaluates evidence, the extent to which a jury represents the community as a whole, and the perceived fairness of a jury procedure. Neither the anticipated accuracy of jury verdicts nor the anticipated cost of a jury procedure had a reliable zero-order relationship with desirability.

Table 5. Study 2: Desirability of a Jury Procedure as a Function of Jury Size Decision Rule, Performance, Cost, and Fairness^a

Independent variable	Zero-order <i>r</i>	Standardized beta weights		
		Eq. (1)	Eq. (2)	Eq. (3)
Jury size	.07	.02	.12	.11
Decision rule	-.06	-.08	-.04	-.06
Accuracy				
<i>p</i> (Convict guilty)	.04	-.03	-.03	-.16
<i>p</i> (Acquit innocent)	.01	-.10	-.10	-.11
Deliberation quality				
Thoroughness	.40 ^d	.38 ^d	.40 ^d	.37 ^d
Listen to holdout	.00	-.04	-.05	-.10
Minimize bias	.05	-.08	-.08	-.19 ^b
Representation				
Community	.36 ^d	.30 ^c	.32 ^c	.12
Minorities	.13	-.09	-.11	.05
Cost of procedure	-.05	—	-.19	-.30 ^c
Procedural fairness	.54 ^d	—	—	.55 ^d
Adjusted <i>R</i> ²	—	.17	.20	.44

^a *N* = 96.

^b *p* < .05.

^c *p* < .01.

^d *p* < .001.

Our first regression analysis indicates that the performance items alone account for 17% of the variance in desirability ratings. Adding cost to the equation has a negligible impact on these ratings (20% of the variance is explained when cost is added). The final equation included ratings of anticipated performance, procedural cost, and procedural fairness. When fairness is added to the equation in addition to performance and cost, 44% of the variance in desirability ratings is explained, doubling the amount of variance accounted for. This analysis indicates that fairness has an independent impact on the desirability of jury procedures.

As in Study 1, we found no zero-order relationship between procedural cost and desirability. However, Table 5 shows that the expected cost of using a particular type of jury has an independent, negative relationship with desirability after judgments of procedural fairness have been partialled out. This suggests that subjects prefer an inexpensive procedure provided that it does not jeopardize their chances to receive fairness.

Two aspects of these results are important. First, assessments of procedural fairness clearly involved more than the performance dimensions assessed here. When the influence of issues of accuracy, deliberation quality, representation, and cost was controlled for by their inclusion in the final regression equation, procedural fairness still had a major independent influence (beta = .55, *p* < .001).

In addition, issues of accuracy did not emerge as significant predictors of desirability. This does not mean that subjects did not care about verdict accuracy—analyses presented earlier indicate that they did. Thus, this result is somewhat surprising. We can suggest several plausible explanations. First, subjects saw

only minor differences between the ability of various types of juries to reach accurate verdicts. Mean ratings for juries of different structures ranged between 4.58 and 5.62 for accuracy at convicting the guilty, and between 4.58 and 4.96 for accuracy at acquitting the innocent in this case. A stronger relationship between accuracy and desirability might have emerged if we had used more extreme procedural variations.

Second, it is possible that accuracy effects were masked by the impact of the thoroughness variable. It may be the case that subjects focus on the quality of jury deliberation, a process issue, assuming that a high-quality deliberation will lead to an accurate verdict. Some support for this suggestion is provided by the zero-order correlation between thoroughness and verdict accuracy. Subjects thought that the thoroughness of deliberation would be associated with a greater probability of acquitting the innocent, $r(96) = .31, p < .01$.

Finally, perhaps concerns with verdict accuracy in the abstract are attenuated when subjects encountered a concrete criminal case. Similar discrepancies have been reported in other political opinion studies (e.g., McClosky & Brill, 1983; Tyler & Weber, 1982). It is not possible to test this hypothesis empirically in the present study.

The Procedural Fairness of Juries

Clearly citizens think about the desirability of juries in procedural justice terms. But what attributes lead people to feel that a procedure is fair? As seen in Table 6, the fairness of a jury procedure is positively related to a number of features of jury performance, including the probability that guilty defendants are

Table 6. Study 2: Fairness of a Jury Procedure as a Function of Jury Size, Decision Rule, Performance, and Cost^a

	Zero-order <i>r</i>	Beta weight
Jury size	.17 ^b	.00
Decision rule	-.02	.03
Accuracy		
<i>p</i> (Convict guilty)	.22 ^b	.24 ^b
<i>p</i> (Acquit innocent)	.07	.00
Deliberation quality		
Thoroughness	.21 ^b	.07
Listen to holdout	.02	.09
Minimize bias	.25 ^c	.20
Representation		
Community	.37 ^d	.35 ^c
Minorities	.13	-.28 ^b
Cost of procedure	.25 ^c	.20
Adjusted <i>R</i> ²		.18**

^a *N* = 96.

^b *p* < .05.

^c *p* < .01.

^d *p* < .001.

convicted, the thoroughness with which a jury evaluates the evidence, the ability of its members to put aside personal biases, and the extent to which it represents the community. Fairer jury procedures are also perceived to be more expensive, indicating that subjects perceive a trade-off between efficiency and fairness. A multiple regression analysis indicates that the probability of convicting the guilty, community representation, and minority representation are each independent predictors of the perceived fairness of a jury procedure.

Note that the representation of racial, ethnic, religious, or political minorities is negatively correlated with fairness once its positive ($r = .55, p < .001$) relationship with community representation is partialled out. This suggests that subjects feel that overrepresentation of minorities jeopardizes the fairness of the jury.

Finally, it is important to recognize that the regression equation accounts for only 18% of the variance in fairness ratings, indicating that the performance issues that we have measured in this study yield an incomplete picture of what subjects mean by a fair process.

We have graphically summarized the direct and indirect influences of the variables that we have discussed using the structural equation model presented in Figure 1. This model provides a satisfactory fit of the data, $\chi^2(31) = 22.36, p = .89$.³ Three factors—cost, fairness, and thoroughness of evidence evaluation—each independently influence judgments about the desirability of jury procedures. Subjects want a jury that is thorough, fair, and inexpensive. Smaller and non-unanimous juries are seen as less expensive. Jury size has an indirect influence on fairness through the mediation of community representation; larger juries are seen as more representative of the community, leading to a fairer procedure.

Moderating Effects of Crime Seriousness

We can also examine the determinants of desirability separately for the mild and the severe cases. Table 7 shows the results of separate regression analyses for these two types of cases. These results suggest that subjects view different issues as important when the trial concerns a more or less serious crime. Consistent with our earlier conjecture, subjects appear to perceive a tradeoff between cost and deliberation quality. When the crime is mild the cost of the jury procedure is an important consideration in its evaluation—costly procedures are less desirable—but when the crime is serious, cost is no longer a significant predictor. Conversely, when the crime is mild, thoroughness and other issues of deliberation quality have little influence on jury desirability, but when the crime is serious, thoroughness emerges as an important issue in jury desirability. Hence, respon-

³ Performance variables were permitted to have correlated residuals; for greater clarity, residuals are not depicted in the figure. Paths are shown if the path coefficients were statistically significant ($p < .05$). Because our work is exploratory, we are presenting this model as one consistent interpretation of our results, rather than confirmation of an *a priori* theory. It should be noted that there are presumably other models that would also fit our data. We hope that future work in this area will lead to alternative models that can be competitively tested.

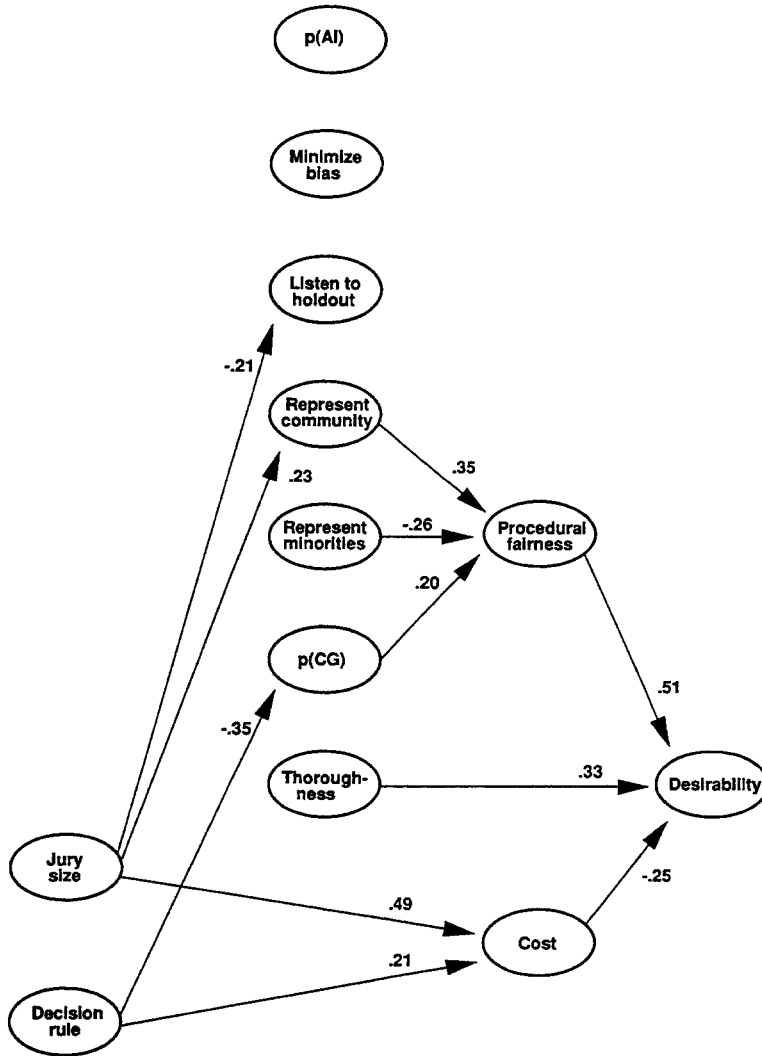


Fig. 1. Structural equation model for Study 2.

dents consider different issues depending on the seriousness of the crime. On the other hand, procedural fairness is an important consideration irrespective of the seriousness of the crime. In fact, assessments of procedural fairness always have the most important independent impact on the desirability of a jury procedure.

An additional finding of interest that emerges with serious crimes is that, when other judgments are partialled out of the equation, a negative influence of bias reduction is found. This suggests that when the direct effect of procedural fairness on jury desirability is removed, there is an additional effect of community values that comes into play. Apparently, some community prejudices or values are seen as fair and desirable in jury deliberation.

Table 7. Study 2: Desirability of a Jury Procedure in Crimes with Either Mild or Serious Outcomes^a

Independent variable	Outcome	
	Mild	Serious
Jury size	.05	.08
Decision rule	-.17	.11
Accuracy		
<i>p</i> (Convict guilty)	-.08	-.20
<i>p</i> (Acquit innocent)	-.15	-.16
Deliberation quality		
Thoroughness	.27	.48 ^d
Listen to holdout	-.22	-.07
Minimize bias	-.10	-.24 ^b
Representation		
Community	.05	.04
Minorities	.04	.17
Cost of procedure	-.36 ^b	-.14
Procedural fairness	.58 ^c	.68 ^d
Adjusted <i>R</i> ²	.25 ^b	.62 ^d

^a Entries are standardized Beta weights. *N* = 48 in each Outcome condition.

^b *p* < .05.

^c *p* < .01.

^d *p* < .001.

GENERAL DISCUSSION

The central conclusion suggested by the studies reported here is that citizen evaluations of different types of jury structure are based on issues beyond the questions of competence and cost which have preoccupied legal scholars and social scientists in their evaluations of the jury system. In particular, citizens are concerned with issues of fair procedure. Those issues suggest a larger political-social conception of the jury. This does not mean that citizens do not care about verdict accuracy. They do. Their concerns, however, are much broader than just accuracy.

Citizen's concerns include questions of cost, issues of representation, thoroughness of deliberation, and questions of process fairness. Cost is a value trade-off issue, since more desirable features of procedures cost more. The importance of representation and thoroughness of deliberation is consistent with concerns raised by social scientists (e.g., Hastie et al., 1983; Kerr & MacCoun, 1985; Saks, 1982). Finally, there is procedural fairness. Clearly procedural fairness matters, and matters beyond its relationship to issues of verdict accuracy.

What might people mean by procedural fairness? Remember that people are referring to variations in jury structure, not rating the general fairness of the jury system per se. What might differ between 12- or 6-person juries governed by unanimous or majority verdict decision rules that would be viewed as a difference in process fairness? This is not very clear. We know that people do not mean

simply the dimensions we asked about, since those judgments only explain 20% of the variance in process fairness judgments (Study 2). What is clear is that people's assessments of fair process influence their judgment of the desirability of varying types of jury. Future research should expand the list of potential components of the fairness of jury procedures.

While our study finds little evidence that citizen preferences for different types of jury are directly linked to assessments of the likelihood that the innocent will be acquitted or the guilty convicted by those juries, we do not interpret this finding as a lack of interest in this issue on the part of juries. We consistently find that subject evaluations are related to assessments of the thoroughness of the deliberation process that would be engaged in by the jury. It seems likely that people are evaluating the accuracy of verdicts indirectly by assuming that a procedure that involves a careful review of the evidence will lead to an accurate verdict. This suggestion is consistent with Lind and Tyler's (1988) argument that people generally evaluate institutions by focusing on their procedures, assuming that fair procedures will produce fair outcomes.

It is also the case that those interviewed in the studies reported here did not see dramatic differences in the ability of the different types of juries considered to produce accurate verdicts. As a result, there was only minor variation along the accuracy dimensions across jury procedures. If subjects had been presented with "trial by ordeal" as a procedural alternative, larger variations in the perceived ability of procedures to produce accurate verdicts would have resulted and the ability of a procedure to produce accurate verdicts might have emerged as a key input into procedural preferences. In the present context, however, variations along other procedural dimensions loomed larger in citizens' minds.

The results of these studies also speak to another issue of concern: the role of error in the legitimacy of the jury system. Legal scholars (Tribe, 1971; also see Nesson, 1985; Saks & Kidd, 1980–1981) have suggested that an explicit acknowledgement of error tradeoffs in legal factfinding can lead to the erosion of the system's legitimacy in the eyes of the public. The results of our research suggest that members of the public are well aware that erroneous verdicts are reached by juries, and that perceptions of verdict accuracy are indeed related to general support for the jury system. But despite perceptions of relatively frequent error in verdicts, the results of both studies suggest that public support for the jury system is quite strong (cf. McClosky & Brill, 1983). These findings suggest that the public may have little difficulty supporting legal procedures that it recognizes to contain error. Citizens may feel that some juridic errors are inevitable, or that other features of jury decision making compensate for the inaccuracy. This is an important issue that merits more thorough study.

Subjects in both studies appeared to trade off concerns with cost and procedural quality in forming their own preferences for various types of jury. Both studies also suggest that people do not have procedural preferences that are constant across all types of dispute. Instead, people view different types of jury as more or less desirable for resolving disputes of different seriousness. In both studies procedural safeguards that add expense to the trial process were viewed as more desirable when the crime involved was more serious.

There were some inconsistencies in the findings reported in these two studies. For example, citizens voiced strong preferences for specific jury structures in Study 1, but the jury structure variables had only indirect effects in Study 2. In addition, some of the specific predictors of desirability and fairness differed across the two studies. These discrepancies might result from differences between our research designs. Study 1 utilized community residents as subjects, while Study 2 utilized college students. In addition, Study 2 asked for abstract judgments about the procedure for resolving criminal cases, while Study 2 asked subjects to consider a specific case, imagining that they were a party to that case. Considering these differences, we are encouraged by the number of consistent patterns across the two studies.

We wish to stress that our studies have certain characteristics that potentially limit the generalizability of our results. Both studies involved relatively small samples of citizens from Cook County, Illinois; and the students who participated in Study 2 presumably differ from the larger population of adult citizens in many ways. Whether similar results would be obtained in surveys of other regions of the country—or other countries—remains a question for future research.

We hope that future research will expand this work. While we have focused on the criminal jury, the civil jury is currently the focus of a great deal of controversy. Conceivably, different concerns come into play when considering the civil jury's role (MacCoun, 1987b). Moreover, our perspective explicitly focused on the citizen. It is important to note that professionals involved in the legal system may not share public views about how differently structured juries would function, or about what criteria are important in picking the structure of the jury. Research on legal professionals' perceptions of the jury would inform the policy debate, as well as yielding insights into lawyers' trial strategies and their frequent decision to negotiate a guilty plea or settle out-of-court rather than bringing their case before a jury.

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