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# The Influence of Jury Deliberation on Juror Perception of Trial, Credibility, and Damage Awards\*

S. Femi Sonaike\*\*

Although in theory jurors are factfinders and return verdicts based strictly "upon the law and the evidence," it is now widely accepted that in practice jurors give recognition to "values which fall outside the official rules."<sup>1</sup> Erlanger, for example, notes that juries

tend to show leniency when the defendant has been punished enough (e.g., was hurt in the commission of the crime, has had great family misfortune since then, and the like), when the punishment threatened is "too severe," when another party involved in the crime and equally responsible received preferential treatment or was not charged, when the crime occurred in a "subculture," or, in some cases, when the police have used improper methods.<sup>2</sup>

It is not surprising, therefore, that jurists and social scientists have given much attention to the innumerable factors relevant to the jury decisionmaking process. Particular attention has been given to the social and psychological characteristics that jurors bring with them into the jury experience, and specialists have examined with some care how these characteristics affect the interaction of jury members and the outcome of their deliberations.<sup>3</sup> Little attention has, however, been given to the other side of the coin, namely, how the judicial context—and more specifi-

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1. Erlanger, *Jury Research in America: Its Past and Future*, 4 LAW & SOC'Y REV. 345, 346, 349 (1970).

2. *Id.* at 349-50 (footnotes omitted).

3. Three characteristics that have been widely investigated are sex, race, and social status. See generally Bullock, *Significance of the Racial Factor in the Length of Prison Sentences*, 52 J. CRIM. L.C. & P.S. 411 (1961); McGinnis & Vaughn, *Some Biographical Determiners of Participation in Group Discussion*, 41 J. APPLIED PSYCH. 179 (1957); Strodtbeck, James, & Hawkins, *Social Status in Jury Deliberations*, 22 AM. SOC. REV. 713 (1957); Strodtbeck & Mann, *Sex Role Differentiation in Jury Deliberation*, 19 SOCIOMETRY 3 (1956).

cally the jury deliberation process itself—affects the perceptions and individual verdicts of jurors.

The need for a serious exploration of this question was suggested by Miller in 1975.<sup>4</sup> Based on experience gathered during research into the impact of videotape technology on the trial process, Miller noted two areas of judicial activity that deserve close empirical investigation: “(1) the degree to which jurors explicitly consider inadmissible testimony during the deliberation; and, (2) *the degree to which the deliberation process affects and alters individual perceptions and verdicts . . .*”<sup>5</sup> Both questions are of great interest to jurists and communication scientists alike because they “demonstrate the existence of a unique judicial problem. That is, how do legal procedures affect jury deliberation and verdict?”<sup>6</sup>

The purpose of this study is to determine the impact of jury deliberation on individual jurors. Specifically, the study attempts to measure any changes in jurors’ perceptions of the trial participants and the trial itself that may be attributable to the group phenomenon of deliberation.

This study has both academic and practical utility. It puts to the test the general reliance of contemporary jury research on the predeliberation verdicts of individual jurors.<sup>7</sup> If, as argued by Kalven and Zeisel,<sup>8</sup> jury deliberation serves the purpose of achieving consensus through eliminating *minority* opinions, then the simple aggregation of individual verdicts without deliberation can be used with greater confidence. If, on the other hand, deliberation serves purposes other than or in addition to achieving consensus, an understanding of the nature of these effects is of critical interest to jury research. Furthermore, since individuals in many judicial districts go through the jury experience more than once, their impressions of one trial and the deliberation

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4. G. Miller, *The Influence of Videotape on Juror Response to Court Material* (Sept. 1, 1975) (Michigan State University research proposal to the National Science Foundation).

5. *Id.* at 14 (emphasis added).

6. *Id.*

7. Two examples of studies that have relied on verdicts arrived at without deliberation are Williams, Farmer, Lee, Cundick, Howell, & Rooker, *Juror Perceptions of Trial Testimony as a Function of the Method of Presentation*, 1975 B.Y.U. L. REV. 375; G. Miller & F. Siebert, *Effects of Videotaped Testimony on Information Processing and Decision-Making in Jury Trials* (1975) (final report, RANN Program Project, National Science Foundation). The argument for using undeliberated verdicts, as articulated by Miller and Siebert, is that it allows researchers to study the impact of specific variables on jury trials without the confounding influence of group process variables associated with deliberation.

8. See H. KALVEN & H. ZEISEL, *THE AMERICAN JURY* 487-91 (1966).

process involved may affect their performance in future trials. An investigation of jurors' perceptions of one trial may help predict their reactions to future trials.

### I. BACKGROUND

The questions examined in this study cut across two areas of research: group influence and jury interaction. Perhaps for this reason the initial expectations of this study were not clear-cut. The literature on group influence asserts that groups impinge on the perceptions of their individual members—but the nature, gravity, and direction of this influence depend on numerous factors such as the importance that the individual attaches to the group, the perceived ambiguity of the "object," and the degree of attraction between the members.<sup>9</sup> Nevertheless, it is clear that groups do have impacts on the perceptions of their individual members in the course of their interaction. As for jury interaction, half a century of research has established several major correlates of juror behavior. These include the order in which evidence is presented;<sup>10</sup> differences in sex, race, or social status;<sup>11</sup> the degree of attraction generated for a defendant;<sup>12</sup> and the range of alternative verdicts open to jurors.<sup>13</sup>

The study that bears most directly upon the present issue of the effect of deliberation on the perceptions of individual jurors was done by Harry Kalven and Hans Zeisel.<sup>14</sup> Through posttrial interviews of jurors, the researchers reconstructed the first ballot votes (*i.e.* individual predeliberation verdicts) for twelve-person juries in 225 trials. They found that in all the cases in which the jurors were initially unanimous for conviction, the final verdict was for conviction. Similarly, when all twelve jurors initially favored acquittal, the final verdict was for acquittal. This tendency for the final verdict to fall in line with the first ballot vote was less pronounced as the initial unanimity of the individual verdicts

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9. See, *e.g.*, A. HARE, *HANDBOOK OF SMALL GROUP RESEARCH* 30-31, 35 (1962); Block & Bennett, *The Assessment of Communication*, 8 *HUMAN REL.* 317 (1955); Festinger, Torrey, & Willerman, *Self-Evaluation as a Function of Attraction to the Group*, 7 *HUMAN REL.* 161 (1954).

10. See, *e.g.*, Weld & Roff, *A Study in the Formation of Opinions Based upon Legal Evidence*, 51 *AM. J. PSYCH.* 609, 625 (1938).

11. See note 3 *supra*.

12. See, *e.g.*, Landy & Aronson, *The Influence of the Character of the Criminal and His Victim on the Decisions of Simulated Jurors*, 5 *J. EXPERIMENTAL SOC. PSYCH.* 141 (1969).

13. See, *e.g.*, Vidmar, *Effects of Decision Alternatives on the Verdicts and Social Perceptions of Simulated Jurors*, 22 *J. PERSONALITY & SOC. PSYCH.* 211 (1972).

14. H. KALVEN & H. ZEISEL, *supra* note 8.

was reduced, but the final verdict still corresponded closely with the initial stand of the majority. Kalven and Zeisel concluded that jury decisions are often made prior to deliberation and argued that the function of the deliberation process may not be so much to decide the case as to bring about consensus in the direction of the majority first ballot vote.

This conclusion calls for several comments. First, the final verdict of a jury may not be as much in line with the first ballot vote as Kalven and Zeisel assert. In a close case, there is about equal probability that a simple majority of the jurors will initially favor conviction as will favor acquittal. After extensive deliberation, the simple majority could easily become a minority. Secondly, while Kalven and Zeisel's conclusion is important as to juries determining guilt or innocence of a criminal defendant, it is of little utility in the majority of civil trials which usually involve agreeing on adequate monetary compensation for the plaintiff. Finally, the use of posttrial interviews for reconstructing the individual decisions of jurors, in many cases conducted months after the trial, has always raised questions concerning the validity of the data collected. Commenting on the posttrial behaviors of the Panther 21 jury, Zimroth noted that

[s]ome jurors could not remember precisely what happened in the jury room. Some confused what was discussed afterward—with the press and with each other—with what was said during deliberations. And the recollections conflicted. Several, I felt, explained away evidence they had not thought much about before in order to justify a decision already made—perhaps on grounds other than the weakness of the evidence or perhaps on grounds they thought they could not adequately defend.<sup>15</sup>

It is therefore conceivable that at least some of the jurors may have confused their predeliberation decisions with the group verdicts or were unwilling to admit that they were influenced by the group to change their minds. The present study avoids this danger by utilizing a design that allows predeliberation decisions to be noted *before* deliberation.

## II. QUESTIONS AND HYPOTHESES

The following were the central questions underlining this study:

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15. Zimroth, *How They Picked the Panther 21 Jury*, JURIS DOCTOR, July/August 1974, at 38, 41.

- (1) Does deliberation affect jurors' perceptions of the credibility of parties to a trial and the jurors' individual verdicts and awards? If so, in what manner?
- (2) Does deliberation affect jurors' evaluation of a trial, their satisfaction with the trial, and their willingness to participate in future jury duty? If so, in what manner?

Expectations arising out of these questions and the relevant literature were formulated into a number of hypotheses.

- (1) The postdeliberation credibility ratings given by jurors to the plaintiff, the defendant, their attorneys, and their nonexpert witnesses will be significantly reduced in comparison to their predeliberation credibility ratings, but this phenomenon will be reversed with regard to the expert witnesses.
- (2) There is a significant positive relationship between the degree of importance accorded to a particular trial element and the degree to which the jurors, as a result of deliberation, change their credibility ratings of the trial participant testifying or commenting on that element.
- (3) There is a significant positive relationship between the degree to which jurors perceive the trial in favorable terms and the degree to which they are willing to participate in future jury activities.
- (4) The mean of individual awards by jurors prior to deliberation will be significantly larger than the mean of the group awards.
- (5) The greater the difference between group awards and individual predeliberation awards, the less the jurors' satisfaction with the group award and with the interaction in general.

The first hypothesis was suggested by reasoning that deliberation may serve to draw the jurors' attention to the credibility of the major trial parties and their attorneys and witnesses. The importance of credibility cannot be overemphasized since, as noted by Miller and Boster, the duty of the judge and jury as factfinders is not merely to weigh the information and evidence, but also to "evaluate the veracity of the opposing evidential and informational sources."<sup>16</sup> Increased attention to credibility may lead jurors to exercise greater caution in assessing trial participants, resulting in reduced willingness to give high postdelibera-

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16. G. Miller & F. Boster, *Three Images of the Trial: Their Implications for Psychological Research*, in *PSYCHOLOGY IN THE LEGAL PROCESS* 19, 28 (B. Sales ed. 1977).

tion credibility scores to the participants. This tendency was expected to be greatest with regard to the plaintiff and defendant (who have the greatest to gain or lose).

The tendency to be cautious may, however, work in reverse with respect to those witnesses whose testimonies are respected as a result of their special training, *i.e.*, "expert witnesses" such as doctors and police officers (considered as expert witnesses for this study). Perlmutter found that in discussion groups members who were seen as influential were assigned desirable personality traits,<sup>17</sup> presumably because the group members would like to believe they were being influenced by "worthy" persons. A reflection of this tendency in the present case may be increased credibility ratings for the physician and the police officer (who both featured prominently in the stimulus trial) as a result of deliberation.

The second hypothesis follows the reasoning that jurors' changes in credibility perceptions as a result of deliberation should depend on the importance attached by the jury to the elements identified with the particular attorney, witness, or trial party. This reasoning is consistent with the literature on group influence reviewed earlier.

The rationale for hypothesis three and hypothesis five are intuitively obvious. The fourth hypothesis concerns monetary awards of compensation. Kalven reported that in civil cases there was a tendency for the group damage award to approximate the average of the original sums suggested by individual jurors.<sup>18</sup> However, the earlier hypothesis that deliberation may generate increased juror caution suggests that group awards may be relatively more conservative than individual predeliberation awards.

### III. RESEARCH PROCEDURE

The subjects of this study were 101 college students who simulated six-person juries.<sup>19</sup> Anapol provides evidence that there

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17. Perlmutter, *Impressions of Influential Members of Discussion Groups*, 38 J. PSYCH. 223 (1954).

18. Kalven, *The Jury, The Law, and the Personal Injury Damage Award*, 19 OHIO ST. L.J. 158, 177 (1958).

19. Although all groups were to contain six jurors, it turned out that in fact six of the juries had compositions smaller than this number. Jury membership was randomly determined, and extra steps were taken to ensure that all members of a jury attended the session set for them. In addition to the jury membership notice and carefully worded appeal for attendance, members of the juries were reminded by telephone the day preceding their attendance. However, as is inevitable in a study of this kind, a few last minute dropouts still occurred. As a result, one of the juries had five members, three had four

is no statistically significant difference between the verdicts of student and nonstudent role-playing juries.<sup>20</sup> This does not go against reason since college students who are of age do in fact qualify for jury duty.

The subjects volunteered from several sections of two undergraduate communication courses offered at Michigan State University during spring and summer 1976. They signed up to participate in the study in response to face-to-face solicitation by the researcher, who also arranged with the Department of Communication to give 0.25 credit hours as compensation for participation.

A few of the volunteers were ineligible for the 0.25 credit hours because of involvement in other research during the term. These volunteers were paid five dollars each. To ensure relatively even distribution of motivation across groups, however, care was taken to avoid concentration of these paid members in any group.

The juries were shown an abridged videotape recording of a civil trial reenacted in full from the transcripts of an actual case.<sup>21</sup> This recording was presented in three segments with five-minute breaks for coffee to minimize boredom. Along with the evidence for both parties, the tapes contained the opening and closing statements of both attorneys and the judge's charge to the jury.<sup>22</sup> After the trial had been presented, members of each jury group retired and deliberated with the objective of reaching a consensus on liability of the defendant, and the amount of compensation (if negligence was established) due the plaintiff.

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members, and two had only three members. Only the thirteen complete groups were used in the analysis.

20. M. Anapol, A View from Inside the Jury Room (Dec. 27-30, 1974) (paper presented at the 60th Annual Speech Communication Association Convention, Chicago, Illinois) (Anapol's study measured postdeliberation verdicts).

21. See G. Miller & F. Siebert, *supra* note 7 (Stimulus I).

22. A videotape recording of a trial was used in an effort to hold as constant as possible the trial upon which deliberation by the several groups would be based. The videotaped case was entitled *Nugent v. Clark* and was a reenactment of a trial in which a woman sued for compensation for injuries allegedly suffered in a car accident. The names of the parties were changed. The roles were played by professional actors and actresses, with an actual judge from Flint, Michigan.

The original action included a derivative suit by the husband of the plaintiff for a refund of the hospital bill, automobile repair costs, etc., so that the reenactment ran for about four hours. However, since the juries in this study, in addition to viewing the trial, had to complete two questionnaires and deliberate, "subject fatigue" was minimized by abridging the videotaped trial in a manner that would not destroy the relative merits of the evidence for both sides. Consequently, the husband's derivative action was removed from the tapes leaving only the evidence for the substantive action. Also, one witness was dropped from each side. Included in the witnesses who were retained was one eyewitness to the accident for each party. These were individuals who were in the two cars along with the plaintiff and the defendant when the accident occurred. The abridged version of the trial ran for just under three hours.



To ensure that the juries took the experiment seriously, the participants were told the case was a reenactment of an actual trial and the study was being conducted in collaboration with the Michigan judiciary which was interested in how students viewed certain legal situations. They were of course debriefed after the study.

Two questionnaires were used. The first was administered after the presentation of the trial but before deliberation. It obtained measures of the "perceptual" variables already discussed. The second questionnaire was administered after deliberation and contained some of the items in the first questionnaire plus a few others on reactions to the deliberation.

Semantic differential scale items were used to assess the perceived credibility of eight participants in the trial: the two attorneys; the plaintiff; the defendant; a police witness; the plaintiff's doctor; and two eyewitnesses, one each for the defendant and the plaintiff.

Each trial participant was rated on fifteen bipolar adjective scales selected on the basis of their relevance to the particular participant. The scales were constructed so that five items related to each of three dimensions of credibility: competence, trustworthiness, and dynamism. Each bipolar adjective scale had nine points with the structure shown below:

dishonest:\_\_\_\_:\_\_\_\_:\_\_\_\_:\_\_\_\_:\_\_\_\_:\_\_\_\_:\_\_\_\_:\_\_\_\_:\_\_\_\_:honest

The order in which the negative and positive ends of the scales were presented to the jurors was periodically reversed to ensure that the ratings were not systematically influenced by the "primacy" or "recency" of either the positive or negative adjectives. The items were scored such that the extreme end of the negative side of the scale received a value of one, and the extreme end of the positive side received a value of nine.

A "total" credibility measure was computed by summing the values for all fifteen scales. In the same manner, measures were obtained for each of the three dimensions of credibility. Thus a "total" score of 15 or a "dimension" score of 5 represented maximally unfavorable perceptions of credibility, while a total score of 135 or a dimension score of 45 reflected maximally favorable perceptions of the participant's credibility. Other nine-point scales were used to assess the jurors' perceived utility of the trial exercise, degree of satisfaction with the individual and group decisions as well as with the general interaction, and degree of importance attached to the various trial issues.

## IV. RESEARCH RESULTS

Support for the first hypothesis was found with respect to the credibility ratings for the plaintiff's attorney (Mr. Simmon), and for the plaintiff's witness (Ann Nugent, plaintiff's daughter) (Table 1). There were no significant differences between pre-deliberation and postdeliberation credibility ratings for the defendant's attorney (Mr. Albright), nor for his witness (Mrs. Parrish). The differences between pre-deliberation and postdeliberation credibility ratings for the plaintiff (Mrs. Nugent) and the defendant (Mr. Clark) themselves were not statistically significant at the 0.05 level.<sup>23</sup>

TABLE 1 — *T-tests of Mean Differences Between Predeliberation and Postdeliberation Credibility Ratings for the Plaintiff, the Defendant, Their Attorneys, and Witnesses*

Trial Participant	Number of Cases	Mean		T-Value	Probabilities	
		Pre-	Post-		2-Tailed	1-Tailed +
Mr. Simmon (plaintiff's Attorney)	78	97.29	93.29	2.68	0.009*	0.0045**
Mr. Albright (defendant's Attorney)	78	107.10	106.63	0.39	0.695	0.347
Mrs. Nugent (plaintiff)	77	75.12	72.58	0.88	0.381	0.190
Mr. Clark (defendant)	77	92.34	94.29	-1.39	0.168	0.840
Police Officer (for plaintiff)	77	82.65	76.30	3.78	0.000**	0.000**
Ann Nugent (plaintiff's witness)	77	76.71	72.53	2.67	0.009*	0.0045**
Doctor (plaintiff's doctor)	78	113.41	109.24	2.11	0.038*	0.019*
Mrs. Parrish (defendant's witness)	78	85.67	88.69	-0.60	0.551	0.225

+ Note that one-tailed probabilities are used in the tests because the hypotheses are directional.

\* Significant beyond the 0.05 level.

\*\* Significant beyond the 0.005 level.

With regard to the expert witnesses, the hypothesis is not supported as it stands. The results of the t-test suggest that the

23. A difference between the means or averages of two sets of observations is "statistically significant at the 0.05 level" when there is only a five percent probability that the difference is due solely to chance. The t-test is a statistical procedure to determine this level of significance.

*direction* of change as hypothesized is incorrect. The differences are statistically significant, but in the opposite direction. With both the doctor and the police officer the credibility ratings were reduced, rather than increased, from predeliberation to postdeliberation (Table 1).

Overall, the highest predeliberation credibility rating was given to the medical doctor, followed in descending order of magnitude by those of Mr. Albright (defendant's counsel), Mr. Simmon (plaintiff's counsel), Mr. Clark (defendant), Mrs. Parrish (defendant's witness), the police officer, Ann Nugent (plaintiff's witness), and Mrs. Nugent (plaintiff). This ordinal structure did not change much after deliberation; the defendant, his attorney, and his witness still maintained their credibility lead over the plaintiff, her attorney, and her witness (Table 1).

In an effort to throw more light on these results, separate t-test were performed on the *dimensions* of credibility (Table 2).

The dimension of credibility that seemed most pertinent in the evaluation of Mr. Simmon was his competence (t-test significant beyond 0.005 level). The dynamism of his opponent, Mr. Albright, also functioned most importantly in his evaluation at both predeliberation and postdeliberation stages but this was upset by his poor showing on the competence and trustworthiness dimensions. A similar situation occurred with respect to both the plaintiff and the defendant. There were significant differences on all three dimensions of the police officer's credibility, but only on the competence and trustworthiness dimensions of the doctor's credibility. The credibility ratings for the plaintiff's witness, Ann Nugent, differed significantly only on the competence dimension.

In order to test the second hypothesis the degree of importance given by the jury to each of the various trial elements must first be measured. Table 3 contains the jurors' assessments of the degree of importance which they gave to the various trial elements during their deliberation. The mean assessments are arranged in order of magnitude. The testimony and comments of the defendant, his attorney, and his witness received consistently higher prominence than the testimony and comments of the plaintiff, her attorney, and her witness. The sketch of the accident scene, which was displayed and used throughout the trial, seemed to have received much attention, as did the judge's instruction to the jury. The integrity of the attorneys featured relatively more prominently during deliberation than the evidence of both the defendant's and plaintiff's witnesses. Perhaps of most interest, the three lowest rankings were for the testimony of Ann Nugent, the physician, and the police officer—three of the four

TABLE 2 — *T-tests of Mean Differences Between Predeliberation and Postdeliberation Ratings Credibility Dimensions for the Plaintiff, the Defendant, Their Attorneys, and Witnesses*

Trial Participant	Credibility Dimension	No. of Cases	Mean		T-Value	Probabilities	
			Pre-	Post-		2-tailed	1-tailed +
Mr. Simmon (plaintiff's attorney)	Competence	78	31.55	28.96	3.71	0.000**	0.000**
	Trust	78	34.06	33.21	1.47	0.146	0.730
	Dynamism	78	31.68	31.24	0.65	0.521	0.260
Mr. Albright (defendant's attorney)	Competence	78	32.06	32.17	-0.16	0.873	0.436
	Trust	78	38.17	38.01	0.31	0.760	0.178
	Dynamism	78	37.77	36.22	3.40	0.001**	0.000**
Mrs. Nugent (plaintiff)	Competence	77	30.84	29.12	1.74	0.086	0.043*
	Trust	77	24.60	23.56	0.93	0.356	0.178
	Dynamism	77	17.17	19.12	-1.69	0.095	0.047*
Mr. Clark (defendant)	Competence	77	30.70	31.23	-0.66	0.511	0.255
	Trust	77	31.92	32.22	-0.47	0.639	0.319
	Dynamism	77	29.74	30.79	-1.67	0.099	0.049*
Police (for plaintiff)	Competence	77	29.95	27.71	3.25	0.002**	0.001**
	Trust	77	26.56	24.60	1.93	0.057	0.028*
	Dynamism	77	26.00	23.84	3.07	0.003**	0.001**
Ann Nugent (plaintiff's witness)	Competence	77	31.82	29.79	2.68	0.009*	0.004**
	Trust	77	24.94	24.14	1.13	0.263	0.131
	Dynamism	77	19.83	19.32	0.98	0.330	0.165
Doctor (plaintiff's doctor)	Competence	78	36.99	35.96	1.98	0.051	0.025*
	Trust	78	40.86	40.01	1.90	0.061	0.030*
	Dynamism	78	33.45	33.22	0.48	0.634	0.317
Mrs. Parrish (defendant's witness)	Competence	78	26.71	26.12	0.99	0.327	0.163
	Trust	78	27.14	26.13	1.51	0.135	0.067
	Dynamism	78	31.69	31.24	0.83	0.411	0.205

+ Note that one-tailed probabilities are used in the tests because the hypotheses are directional.

\* Significant beyond the 0.05 level.

\*\* Significant beyond the 0.005 level.

persons about whom credibility ratings changed significantly from predeliberation to postdeliberation.

Table 4 shows that the second hypothesis is not supported as it stands. The direction of the relationship is opposite to the one hypothesized. However, because the correlation is so large, and in light of the earlier findings regarding the pattern of change in the perception of credibility following deliberation, the indicated relationship deserves to be given further consideration.

TABLE 3 — *Jurors' Assessments of the Degree of Importance Given Trial Elements During Jury Deliberation*

Trial Element	No. of Cases	Mean*
Testimony of Mr. Clark (defendant)	77	6.74
Testimony of Mrs. Nugent (plaintiff)	78	6.56
Sketch of accident scene	71	6.16
Submission of Mr. Albright (defendant's attorney)	72	5.74
Submission of Mr. Simmon (plaintiff's attorney)	71	5.49
Judge's instructions	71	5.01
Integrity of the attorneys	61	4.74
Testimony of Mrs. Parrish (defendant's witness)	75	4.57
Testimony of Ann Nugent (plaintiff's witness)	74	3.77
Testimony of doctor (plaintiff's doctor)	60	3.62
Testimony of police officer (for plaintiff)	67	3.54

\* Means are in descending order of magnitude. The degree of importance was measured on a nine-point scale (maximum value = nine).

TABLE 4 — *Correlation Between the Degree of Importance Given Trial Elements and Change in Credibility Ratings for the Relevant Trial Participants*

Trial Participant	Mean Assessment of Importance	Difference in Mean Credibility*
Mr. Simmon (plaintiff's attorney)	5.49	4.00
Mr. Albright (defendant's attorney)	5.74	0.47
Mrs. Nugent (plaintiff)	6.56	2.54
Mr. Clark (defendant)	6.74	1.05
Police Officer (for plaintiff)	3.54	6.35
Ann Nugent (plaintiff's witness)	3.77	4.18
Medical Doctor (plaintiff's doctor)	3.62	4.17
Mrs. Parrish (defendant's witness)	4.57	3.02

Pearson  $r$ :  $-0.778$ . Significant beyond 0.01 level.

\* The degree of importance and credibility were both measured on nine-point scales with maximum values of nine.

The third hypothesis was supported by the data. The correlation between "evaluation of trial" and "interest in future jury duty" was 0.2384, significant at the 0.018 level. Since evaluation of the trial was obtained both before and after deliberation, additional t-tests of predeliberation and postdeliberation evaluations were performed to see how these two sets of evaluations compared with one another.

The mean evaluation of the trial by jurors *increased* significantly from predeliberation to postdeliberation for four factors: *dull-exciting*, *energetic-tired*, *fatiguing-refreshing*, and *stimulating-tedious* (Table 5). The mean evaluation *decreased* beyond chance from predeliberation to postdeliberation for four other factors: *fair-unfair*, *valuable-worthless*, *subjective-objective*, and *confusing-clear*. The increase in mean evaluation occurred with those factors that could conveniently be labeled as socioemotional dimensions crucial to the well-being of the group but not directly relevant to the legal task of the jury. Conversely, the decrease in the mean evaluation occurred with the more task-related factors.

TABLE 5 — *T-tests of Mean Differences Between Predeliberation and Postdeliberation Evaluations of the Trial for Subvariables That Showed Significant Differences*

Subvariables	No. of Cases	Mean		T- Value	Probabilities	
		Pre-	Post-		2- tailed	1- tailed
Dull-Exciting	77	4.01	4.36	-2.15	0.035*	0.017*
Energetic-Tired	77	4.06	4.51	-2.84	0.006*	0.003**
Fatiguing- Refreshing	77	3.17	3.81	-3.51	0.001**	0.000**
Stimulating- Tedious	77	3.55	3.97	-2.18	0.033*	0.016*
Fair-Unfair	78	6.91	6.12	3.25	0.002**	0.001**
Valuable- Worthless	78	6.29	6.00	2.07	0.042*	0.021*
Subjective- Objective	78	5.18	4.42	3.54	0.001**	0.000**
Confusing-Clear	78	5.49	4.77	3.28	0.002**	0.000**

\* Significant at the 0.05 level.

\*\* Significant at the 0.005 level.

To test the fourth hypothesis it was necessary to compute the mean of the individual awards within each of the thirteen juries. These means were then compared with the group awards (Table 6). The overall mean of individual awards (*i.e.* \$12,120) was larger than the mean of all the group awards but not enough to be significant at the 0.05 level. The wide variance in the group awards is probably responsible for the failure of the differences to reach significance. The juries showed a tendency to be either fully for the plaintiff (and return a high award), or fully against her.

TABLE 6 — *Comparison of Mean Predeliberation Awards Within Juries to Mean of Group Awards*

Mean of Individual Awards by Groups	Group Awards
\$15,834	\$30,000
9,584	1*
20,417	22,500
11,000**	Hung**
3,334	0***
10,834	0
14,500	0
8,767	0
11,251	1
16,667	1
8,834	12,500
18,751	30,000
6,667	1
mean: 12,120	mean: 7,917
s.d.: 5,141	s.d.: 12,469
critical t = 1.717 (one-tailed) with 22 degrees of freedom	
obtained t = 1.036 (not significant at the 0.05 level)	

\* Groups that found the defendant not negligent were coded as awarding \$1 to the plaintiff.

\*\* The mean individual awards for this jury were dropped in the analysis.

\*\*\* Groups that found both the defendant and the plaintiff negligent were coded as awarding \$0 to the plaintiff.

It is important to note that in six of the seven juries (not including the hung jury) whose individual award means were less than the overall mean for individual awards, the group awards were also less than the mean of group awards (\$7,917). Of the remaining five groups whose individual award means were higher than the overall mean for individual awards, three also had group awards that were higher than the mean of group awards.

In an attempt to further understand the relationship between individual predeliberation awards and group awards, the median and mode of the individual awards of the jurors in the twelve groups that returned group verdicts were computed. A comparison of these figures with the median and mode of the group awards is presented in Table 7. The median and mode of the predeliberation awards appear to be better predictors of the group awards than the simple mean of the individual awards. As to changes in the jurors' verdicts on the negligence issue, it was found that only twenty-six percent of the jurors changed their verdicts following deliberation while seventy-four percent were consistent in their verdicts.

TABLE 7 — *Mean, Median, and Mode for Individual Predeliberation Awards and Group Awards*

Individual Awards		Group Awards	
Median:	\$1	Median:	\$1
Mode:	1	Mode:	0
			1
Mean:	12,120	Mean:	7,917

The final hypothesis was supported by the data. The correlation between "difference of group awards to individual predeliberation awards" and "jurors' satisfaction with the group award" was 0.3939 which was both in the predicted direction and significant at the 0.001 level. The correlation between "difference of group award to individual predeliberation awards" and "jurors' satisfaction with the interaction in general" was 0.2327 which was significant beyond the 0.05 level.

## V. SUMMARY OF RESULTS

Change in credibility ratings after deliberation was found with respect to the plaintiff's attorney, the plaintiff's witness, the medical doctor, and the police officer. In each case the change was a reduction, rather than an increase, in credibility. On the whole, the physician had the highest credibility ratings before deliberation. He was followed in order by the attorneys for the defendant and the plaintiff, the defendant and his prime witness, the police officer, and finally, the plaintiff and her prime witness. This ordinal structure did not change much after deliberation, with the defendant, his attorney, and his witness still maintaining their credibility lead over the plaintiff, her attorney, and major witness.



A comparison of these findings with those of a nonstudent adult sample in Miller's study<sup>24</sup> revealed a remarkable similarity in the ratings of attorneys' credibility in the two studies. Also, the defendant's attorney in both studies, consistently received higher credibility ratings than the plaintiff's attorney.

Contrary to expectations, a strong negative relationship was noted between the degree of prominence given to the trial elements during jury deliberation and the change in credibility ratings for the individuals to whom the trial elements were relevant ( $r = -0.778$ , significant beyond 0.01 level). Again, trial elements relevant to the defendant and his team were accorded greater prominence than those relevant to the plaintiff and her team. The testimony of the physician, the police officer, and the plaintiff's principal witness, three persons whose credibility ratings changed significantly after deliberation, received the three lowest prominence ranks.

A comparison of jurors' evaluations of the trial before and after deliberation showed that their feelings about the trial improved with deliberation on socioemotional dimensions such as the degree to which the trial was dull-exciting, energetic-tired, fatiguing-refreshing, or stimulating-tedious. Conversely, jurors' evaluations worsened on task-relevant factors such as the degree to which the trial was fair-unfair, subjective-objective, confusing-clear, or valuable-worthless. This is an intriguing finding in light of the general tendency to regard jury interaction as primarily a task-oriented activity.

A comparison of the group awards with the corresponding mean of individual awards within each group showed that the overall mean of individual awards, as hypothesized, was larger than the overall mean of group awards—but not enough to be significant at the 0.05 level. The group awards were almost all of extreme values (\$0, \$1, or \$30,000). This wide variance in the group awards may be responsible for the failure of the difference to reach significance. Nevertheless, the group awards tended to reflect the trend of predeliberation awards dominant within the respective groups.

There was evidence that jurors' satisfaction with the interaction was affected by the degree of discrepancy between their predeliberation awards and the awards recommended by their groups. The more the jury awards differed from the predeliberation awards of the individual jurors, the less satisfied the jurors

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24. G. Miller, *supra* note 4.

were with the interaction as a whole ( $r = 0.2327$ , significance = 0.021). Similarly, the jurors expressed greater satisfaction with the amount of the jury awards when they more closely approximated their predeliberation awards.

## VI. DISCUSSION

With respect to the changes in credibility ratings, it seems there was a tendency for the jurors to be more stringent in their assessment of the credibility of those involved with the plaintiff than those involved with the defendant. Not only was the competence of the plaintiff's attorney and her witness called more into question, but the mean credibility ratings given to the defendant, his attorney, and his witness were consistently higher than those accorded the plaintiff, her attorney, and her witness both before and after deliberation. Miller's study sample showed a similar trend; the defendant's attorney received higher credibility ratings than did plaintiff's attorney.<sup>25</sup>

In all cases, credibility ratings were lower after deliberation. This appears to lend support to the argument that one impact of deliberation may be to make jurors more cautious in their credibility evaluations. It seems that this tendency operates more strongly in jurors' evaluations of the plaintiff and of persons involved with the plaintiff. Importantly, both the doctor and the police officer, although expert witnesses, gave testimony favorable to the plaintiff—and both of them were rated lower on competence and trustworthiness after deliberation.

The results of this study also support earlier findings that physicians are perceived as experts and their testimony may be respected partly as a result of their technical training.<sup>26</sup> The physician was given the highest credibility rating both before and after deliberation. The police officer did not receive prominently high credibility ratings, but the two attorneys did. Mr. Simmon and Mr. Albright were given the second and third highest predeliberation credibility ratings, and the second and fourth highest postdeliberation credibility ratings.

The findings regarding the relative importance given to trial elements during deliberation also tend to confirm the first hypothesis. The defendant's team showed an edge over the plaintiff's; relatively more attention was given to trial elements involving the defendant than to those involving the plaintiff. However,

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25. *Id.*

26. H. Klein, *The Effects of Expert Testimony in Sanity Hearings on Verdicts of Simulated Juries* (1968) (Ph.D. dissertation, University of Oklahoma).

in an absolute sense, and contrary to the second hypothesis, the more the attention accorded by jurors to specific trial elements during deliberation, the less they changed their credibility ratings from predeliberation to postdeliberation. This suggests that the impact of deliberation on jurors' perceptions of credibility may not be as simple and straightforward as earlier assumed. It seems that *with respect to trial elements that were more prominently discussed*, deliberation served to reinforce the opinions of the jurors held before deliberation. Conversely, as such reinforcement was absent *with those trial elements that featured less prominently during deliberation*, the jurors were uncertain about their earlier positions and coped with this situation by being more cautious in their postdeliberation credibility ratings of the persons to whom the elements were relevant.

The results with respect to the jurors' evaluations of the trial are among the most intriguing findings of this study. After hours of listening to court proceedings, the opportunity provided by deliberation to respond appeared to raise the spirits of the jurors. At the same time, however, the exchange seemed to have brought home to the jurors their fallibility as individuals, thereby making them more cautious in their postdeliberation evaluations of the task-relevant dimensions of the trial experience.

These findings agree with those regarding changes in the credibility assessments of the persons involved in the trial. It is important that where significant changes occurred in credibility assessments (a highly task-relevant factor) following deliberation, the direction of the change was also negative.

The findings of this study also illuminate Kalven and Zeisel's assertion that the verdicts of juries closely reflect the dominant opinions of members prior to deliberation.<sup>27</sup> In two juries the individual predeliberation verdicts as to liability were equally divided. One jury could not reach a negligence verdict after deliberation, but of the remaining ten juries seven returned group verdicts that were in line with the verdicts of the majority of members prior to deliberation. This provides some evidence in support of Kalven and Zeisel's conclusions. It may also explain why jurors tend to hold on to their perceptions regarding trial elements given much prominence during deliberation, since these discussions are also likely to be fashioned around the elements considered most important by the majority of members.

Both the individual predeliberation awards and the group awards varied widely, making it difficult to use the mean as the

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27. See text accompanying note 8, *supra*.

best indicator of the central tendencies of these monetary awards. In effect, the median and the mode of individual awards prior to deliberation proved to be much better predictors of the group awards than the simple average of predeliberation awards. In other words, the group awards did in fact reflect the trend of predeliberation awards dominant within the groups—but more in the sense of the median than of the mean.

These findings are important because they reveal the behavior of jurors when faced with two types of decisions: first, where the options are extremely narrow; and second, where the alternatives are relatively unlimited. In making the first decision—the return of a negligence verdict—the groups easily adopted the opinion of the “ruling majority.” In deciding the second issue of damages, however, the groups were more willing to exercise moderation—while at the same time paying due respect to the opinion of the majority. Since in some groups the majority opinion may not be clear-cut (as for example, in bimodal cases), the juries found their best compromise in the median rather than the mean or the mode. Vidmar also found a tendency for the decisions of juries to depend on the range of alternatives open to them.<sup>28</sup>

#### VII. PRACTICAL AND RESEARCH IMPLICATIONS

One of the issues examined by this study was the methodological implications of using individual juror verdicts and awards, given without deliberation, as estimates of what those verdicts and awards would have been had the jurors deliberated. The findings suggest that there is limited risk in this methodology with regard to dichotomous verdicts (*i.e.* negligent/not negligent). However, the situation is more complex with respect to monetary awards. Due no doubt to the almost limitless range of award alternatives, both the individual and group awards in the study showed wide variability and a substantial proportion of extreme scores. This tendency toward wide variability in awards also appeared in an earlier study by Miller and his team<sup>29</sup> and by Anapol.<sup>30</sup> Because of the influence of the extreme scores, it was found that the median of the individual juror awards provided a better estimate of the group awards than the mean of these individual awards. Future researchers intending to use individual awards as estimates of deliberated group awards should give some

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28. Vidmar, *supra* note 13.

29. Miller, *Real Versus Reel: What's the Verdict?*, J. Com., Summer 1974, at 99, 107-08.

30. M. Anapol, *supra* note 20.

thought to the utility of the median test, or of the Mann-Whitney test of median differences, as alternatives to the t-test in their statistical analysis.

The legal community should be interested in the findings regarding the impact of deliberation on jurors' perceptions of the credibility of the expert witness. It seems that there may be some risk in relying on the expert testimony of a physician. Jurors appear to develop unfavorable attitudes toward issues that are not expressly discussed during deliberations and unless physician's evidence is vital to the case its credibility may be taken for granted and not given much consideration during deliberation. There is, however, a positive aspect: notwithstanding the reduction in the credibility ratings for the doctor following deliberation, his was still the highest.

The higher ratings of the socioemotional factors of the trial both before and after deliberation should also be of some interest to the legal community. Although jury duty is basically a task-relevant activity, the legal community should give some consideration to the socioemotional well-being of jurors. In many judicial districts, jurors serve more than once and there is no doubt that their total experience with each trial will affect their performance in subsequent trials.