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Trial Consultation: A New Direction in Applied Psychology

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Increasingly, professional psychologists are faced with the challenge of the changing marketplace, and some choose to meet that challenge by forging new career paths. In this article, the field of trial consultation is reviewed with special emphasis on common tasks trial consultants undertake. It is argued that because of the large number of civil and criminal trials conducted annually and the comparatively small proportion of consultants, the field remains an untapped source of career options for psychologists who have many of the skills necessary to be successful trial consultants. Controversies concerning the effectiveness of trial consultation, ethical issues surrounding its use, and suggestions for appropriate training in the field are explored.

Psychologists in the 21st century are faced with the challenge of expanding their borders of practice. One area ripe for expansion is the field of trial consultation. Although trial consultation was a rare occupation only two decades ago, recent estimates indicate there are approximately 700 trial consultants in the United States (Strier, 1999). Moreover, although the field has grown considerably in the last few decades, there appears to be little reason to believe the market is anywhere near the saturation point. Surveys indicate that there are more than 900,000 lawyers in the United States, with approximately 40,000 new lawyers sworn in annually (American Bar Association, 1997, as cited in Wrightsman, Nietzel, & Fortune, 1998). Thus, the potential client base is substantial. There also appears to be no shortage of trial work. Every year in the United States, there are more than 1 million criminal trials (Wrightsman et al., 1998) and 18 million new lawsuits (Johnson & Kamlani, 1991). Consequently, there is strong reason to believe that trial consultation will continue to be a growth field well into the new millennium.

There is also evidence to suggest trial consulting is lucrative. According to Gordon (1995), it is a $400 million industry, and estimates indicate consultants charge between $75 to $300 per hour (Torry, 1994). Expense is, of course, related to the detail of services provided. However, some firms focus on "high-end litigation" with routine costs of several hundred thousand dollars (Abercrombie, 1996), and others have suggested fees of $50,000 as a starting point (Lambert, 1994). Furthermore, law firms are increasingly hiring permanent in-house consultants to assist their team of attorneys (Stolle, Robbennolt, & Wiener, 1996). In fact, some (e.g., Strier, 1999) have suggested that trial consulting is "fast becoming de rigeur in major litigation" (p. 93). These facts, along with evidence that demand for traditional practice careers in psychology may be dwindling (Phelps, Eisman, & Kohout, 1998; Robiner & Crew, 2000), suggest the need for psychologists to expand into other areas. Trial consultation is an area that seems particularly well-suited to psychologists because the occupation focuses on the analysis of human behavior. Indeed, although some trial consultants have backgrounds in such areas as marketing, sociology, and communication, at present, the majority are psychologists by training (Strier, 1999).

Although many of the functions trial consultants serve have traditionally been performed by attorneys themselves, increasingly, attorneys contract out many of these trial duties (Scott, 1993). There may be a number of reasons for this, but one practical reason is that attorneys are experts in legal matters, not human behavior, and understanding how a jury operates requires expertise in the social sciences. A second reason may be that many attorneys would prefer to contract out many of their trial duties. That is, because attorneys spend much of their time debating and attempting to influence other attorneys, they tend to ignore their true target—the jury (Nietzel & Dillehay, 1986). Employing trial consultants allows attorneys the freedom to focus their duties on legal matters that are more consistent with their training.

We review some of the more typical tasks in which trial consultants engage, with an eye toward the training necessary to effectively perform these duties. This is by no means an exhaustive review but rather is intended to give the reader a picture of the tasks trial consultants are routinely asked to perform. In addition, because these tasks involve the measurement and analysis of human behavior, we argue that they are best undertaken by those uniquely trained to study human behavior (e.g., psychologists).

Basic Services of Trial Consultation

Community Surveys for Change of Venue Motions

This area of trial consultation has been researched extensively, and the research indicates that the harmful effects of pretrial publicity are substantial (see Steblay, Besirevic, Fulero, & Jimenez-Lorente, 1999, and Studebaker & Penrod, 1997, for reviews). When the publicity surrounding a case leads the defense to

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question whether an impartial jury may be difficult to obtain, consultants may be asked to help attorneys prepare a motion for a change of venue.

The consultant may begin by collecting evidence of negative pretrial publicity and producing a brief (e.g., approximately 20 min in length) questionnaire in which to query respondents. Depending on the jurisdiction, voter registration or driver's license registration lists are obtained to establish the pool of eligible jurors. A sample of approximately 400 respondents (e.g., Bennett & Hirschorn, 1993; Nietzel & Dillehay, 1986; Wrightsman, 2001) are then interviewed, either by telephone, mail, or in person. Although less common, a separate sample may be contacted from another county in that state to compare the level of publicity and level of defendant prejudgment. If it can be shown that (a) a high proportion of individuals in the county in which the trial is scheduled is familiar with the case and the publicity surrounding it, (b) those familiar with the publicity are more likely to believe the defendant is guilty than those not familiar with the case, and (c) those in the neighboring county are significantly less likely to have been exposed to the negative publicity and therefore exhibit lower likelihood of prejudgment, a strong case can be made for the need for a change of venue.

Some (e.g., Pollock, 1977) have suggested that change of venue motions are rarely successful, citing methodological limitations of the surveys as a major cause. However, because a research literature now exists that focuses on improving the methods by which change of venue surveys are conducted (e.g., Leach, Arbuthnot, & Myers, 1998; Lennox, 1990; Moran & Cutler, 1991), consultants who use these methods may be more successful than has previously been the case. Nevertheless, methodological limitations of the surveys are not the sole obstacle consultants must face because many change of venue motions are likely to be unsuccessful for reasons related to the financial and political costs of moving the trial (Wrightsman et al., 1998).

Because the success of the change of venue motion will be related, to some extent, to the methodological quality of the survey, a strong background in methodological design and statistical analysis is critical. This type of training is not typically encountered in law school, but it is a basic component in graduate psychology programs. In addition, the trial consultant who is familiar with the relationship between attitudes and behavior, as well as basic memory processes, is better able to carry out research that can best identify and articulate the dangers of pretrial publicity. Those wishing to become familiar with the research on the damaging effects of pretrial publicity, along with information more specific to the construction of change of venue surveys, may also consult excellent guides in this area (e.g., Krauss & Bonora, 1979; Nietzel & Dillehay, 1986).

Jury Selection

This role is most commonly associated with trial consultants—a role some find objectionable. Objections to jury selection techniques are no doubt related to the belief that these methods threaten constitutionally protected rights to trial by a fair and impartial jury. However, the notion of an impartial jury is likely more a myth than a reality (Kaplan, 1982), and proponents of scientific jury selection are likely to believe in the adversarial nature of trials (Nietzel & Dillehay, 1986). For example, one trial manual provides the following instruction:

> you want a jury that will be open-minded, receptive to your proof, favorably disposed to you and your party, and ultimately will return a favorable verdict. Your opponent, of course, while also looking for a jury with an open mind, is also looking for a jury that will react favorably to her, her client, and her case. (Mauet, 1992, p. 23)

From this latter perspective, juror bias may be considered the norm rather than the exception, and the trial process is assumed to impart justice as long as both sides have adequate opportunity to identify and deselect those jurors who are likely to be unsympathetic to their case.

The use of social science methods to select jurors (i.e., scientific jury selection) can be traced back to the early 1970s and the trial of the "Harrisburg Seven" (Hans & Vidmar, 1982; Strier, 1999; Wrightsman, 2001). In this case, seven defendants were charged with conspiracy to raid draft boards and kidnap Secretary of State Henry Kissinger. The defense team hired sociologist Jay Schulman, who used an extensive community survey and developed profiles of desirable and undesirable jurors based on the results of this survey. The trial ended in a hung jury and sparked the increased use of social science methods in litigation in other high-profile cases such as the Wounded Knee trial and the trial of Joan Little (Hans & Vidmar, 1982).

The methods by which "scientific" jury selection are achieved are highly varied. Among the mainstream methods are interviews and surveys for community and case analysis and construction of focus groups and mock trials.[1] Less typical and more controversial are the reading of nonverbal cues (e.g., body language and facial expression analysis) and the investigation of prospective jurors by interviewing their friends and associates (i.e., questioning key informants). These latter two methods are not covered here because opinion is so heavily divided among experts along issues of both efficacy and ethics. The use of key informants may be too vulnerable to charges of jury tampering to be worth advocating, and although the use of nonverbal cues may be seen as credible by those in the legal profession, a closer examination of the research in this area suggests these methods may be of little use in the courtroom. Nietzel and Dillehay (1986) noted that the research on assessing nonverbal cues and detecting deception relies on highly controlled settings that place few limits on the opportunity to effectively view the participants (e.g., DePaulo, 1992; Ekman, 1985). This is not the case in courtroom settings where distance, time, and field of vision all conspire against the accuracy of the consultant who engages in nonverbal cue analysis. In addition, detecting deception through nonverbal cues is a difficult skill in the best of circumstances, which few achieve, even after years of

[1] Both mock trials and focus groups involve extensive questioning of small samples of individuals representative of the jury venire. Mock trials are typically more extensive (and expensive) in that they may include more detailed aspects of the trial (e.g., testimonies by various mock witnesses, opening and closing statements, and group deliberation) than do focus groups. Neither focus groups nor mock trials should be confused with shadow juries. Shadow juries involve a sample of participants witnessing the actual trial and reporting their feelings and reactions to the evidence as the trial progresses.

experience (Ekman & O'Sullivan, 1991). Thus, we limit our discussion to more routinely advocated jury selection tools.

These more routinely advocated tools are used to present case evidence to samples who are representative of the jury venire, to measure their reactions to the evidence, and to develop a profile of the ideal or acceptable juror and the dangerous or unacceptable juror (Mauet, 1992). This method presumes that individuals who are similar along a number of demographic characteristics (e.g., race, educational background, socioeconomic status, age), as well as attitudes regarding case-relevant issues (e.g., crime problems, police power, due process, tort reform), will be similar in their verdict tendencies (Loh, 1984). The consultant uses a regression approach that consists of complicated weighting systems to identify the factors that best predict verdict tendencies on the basis of these methods (Suggs & Sales, 1978). Once the important factors are identified, profiles are developed of the ideal and less than ideal juror on the basis of demographic and attitudinal characteristics. Prospective jurors are then compared with these profiles and assigned numerical scores based on how favorably their demographics and attitudes match the profiles (Suggs & Sales, 1978). This information can then be used by the attorney during the voir dire.

Research on the effectiveness of scientific jury selection is mixed. Horowitz (1980) tested the effectiveness of scientific jury selection. Here, conventional methods by attorneys were compared with the use of social science methods for four trials. Neither method was found to be superior. In a series of studies addressing demographics such as age (Hepburn, 1980; Mills & Bohannon, 1980), race (Bernard, 1979), and gender (e.g., Hastie, Penrod, & Pennington, 1983; Mills & Bohannon, 1980; Moran & Comfort, 1982), all were found to be significantly related to verdicts. However, a series of studies have found no relationship between many of these same measures (Hepburn, 1980; Penrod, 1990; Saks, 1976). Overall, demographic and attitudinal factors account for little variability in verdicts—between 5% and 15% (Hans & Vidmar, 1982; Hepburn, 1980)—which is small compared with the influence of evidence on verdicts (Visher, 1987).

Although these relationships appear to be rather modest, it is important to note that even small differences can have appreciable effects on a trial outcome and that the effects of scientific jury selection are greater when the evidence presented at trial is equivocal (Moran, 1990). Perhaps the best evidence for the effectiveness of social science methods is that they are systematic and that they are based on the notion that specific attitudes may be related to specific behaviors, a relationship that has been well-documented elsewhere (Fazio, 1986). In contrast, attorneys tend to rely on stereotypes based on various trial strategy manuals, advice from other attorneys, and their own experiences. According to Olczak, Kaplan, and Penrod (1991), "written accounts of attorney theories of the 'preferred' and 'nonpreferred' juror appear to be laced with everyday stereotypes" (p. 432). These stereotypes are sometimes termed implicit personality theories—preconceptions about how certain traits are related to one another (Schneider, 1973). For example, Olczak et al. (1991) found that attorneys tend to pay particular attention to juror occupation when selecting jurors (Fulero & Penrod, 1990). Often these stereotypes are perpetuated in trial manuals (Fulero & Penrod, 1990; Ruben, 1995). Yet, the methods have not been empirically demonstrated to be effective, nor do they reflect highly complex criteria. In fact, Olczak et al. (1991) found that when juror selection was compared between attorneys and college sophomores, "attorneys did not use different bases, nor show greater complexity in their reasoning [than college sophomores]" (p. 442).

Indeed, the application of social science methods in assessing juror beliefs has been extensively examined. For example, scales used to uncover pretrial biases have been shown to reliably predict verdicts (e.g., Kassin & Wrightsman, 1983; Kravitz, Cutler, & Brock, 1993; Myers & Lecci, 1998). Furthermore, an extensive research literature exists on a variety of issues and their relation to juror judgments, such as the characteristics of the defendant and victim (e.g., Dane & Wrightsman, 1982) as well as how juror characteristics such as authoritarianism (e.g., Kaplan & Miller, 1978), sociomoral reasoning (e.g., Arbuthnot, 1986), need for cognition (e.g., Kassin, Reddy, & Tulloch, 1990), race (e.g., Pfeiffer, 1990), and gender (e.g., Brigham & Wasserman, 1999) can interact with the evidence in ways that may influence judgments. Fulero & Penrod (1990) argued that the true test of the effectiveness of social science methods is whether or not these methods exceed the effectiveness of techniques used presently by attorneys. Because these issues have been empirically tested, consultants who use these methods can inform attorneys of their documented effectiveness. This alone, we argue, is a significant reason behind relying on social science methods over the armchair theorizing and largely anecdotal findings presented in trial manuals.

Trial Strategy Testing

This task relies heavily on consultants using community samples either in the form of focus groups, mock trials, or community surveys to provide attorneys with feedback regarding how their planned trial strategies are likely to be accepted by jurors (Nietzel & Dillehay, 1986; Wrightsman, 2001). Although attorneys may typically rely on experience to predict juror reaction to evidence, measuring the reactions of representative samples, prior to trial, may be more effective. Those experienced with the trial process understand that attorneys routinely establish a strategy before the trial and that strategy chosen can have an appreciable impact on the trial outcome (Krauss & Bonora, 1979). Thus, trial strategies may involve deciding what evidence may be most damaging (or most easily challenged) and preparing methods designed to discredit, challenge, or minimize their impact. Trial consultants can aid this process by working with samples of jury-eligible adults through the use of focus groups, mock trials, or surveys (Scott, 1993; Wrightsman, 2001). Participants provide feedback to consultants about what trial facts most influenced their decisions and why. Consultants can then present this information to attorneys so that they may begin to develop strategies to counter this evidence. The effectiveness of these counterstrategies can then be tested on a new sample.

Further refinements are possible, including the shaping and ordering of testimonies in ways that are likely to conform to both juror schemas and to primacy and recency effects. For example, research suggests that individuals routinely interpret incoming information according to existing schemas (Fiske & Taylor, 1991; Moore, 1989). Along these lines, when processing trial information, jurors attempt to create a "story" of what happened (Pennington & Hastie, 1986) and evaluate the probative value of each piece of evidence according to how well it fits the existing story (Moore, 1989). By identifying the story or "theme" (e.g., Mauet, 1992; also

"case theory"; Krauss & Bonora, 1979) that will be represented in the case, attorneys can use trial consultants to test jurors' reactions to these themes. The consultant will use surveys, focus groups, and trial simulations to determine whether each testimony is consistent with the case theme. Thus, if we may regard trial testimony as the manner in which a story is told to the jury, the trial consultant helps arrange the testimonies in a way that does not alter the evidence, but rather, presents the testimonies in a manner that best facilitates juror comprehension.

The ideal background for competence in this area is a substantial familiarity with issues related to decision making, social psychological research on attribution theory, and research on memory and cognition. Again, extensive use of trial simulations and surveys requires some sophistication in the area of data analysis and research design. We maintain that although attorneys may choose to study these areas so that they become familiar with the research and perform these functions without the aid of a trial consultant, competency in these areas requires training most consistent with a graduate degree in psychology.

Witness Preparation

Witness preparation is just one element in a vast array of postselection tools provided by consultants (see Strier, 1999, for a review). Witness preparation involves efforts to improve witness communication skills. It is important to note that the role of the consultant is not to change the evidence provided by the witness but to modify the manner in which the evidence is conveyed to the audience. As a popular manual in witness preparation suggests, "preparation enhances the witness' ability to speak clearly and honestly so that the story unfolds in a way that is understandable to the jury" (Krauss & Bonora, 1979, p. 15).

To better assist this process, the consultant may evaluate the witness beforehand to determine how he or she should best be questioned by the attorney. Depending on the capacity for the witness to communicate effectively, the consultant may suggest the attorney use either a fragmented style of questioning (brief witness responses) or a narrative style of questioning (extensive witness responses). Research suggests that style of questioning is related to perceptions of witness competence, trustworthiness, and intelligence (Lind, Erickson, Conley, & O'Barr, 1978; Roberts, 1987).

Furthermore, there are a host of factors consultants may consider to aid the testimony and further the case for their client, such as the order of witness presentation, the need to disclose negative information about a client to the jury before the other side does (i.e., "stealing thunder"), and reducing witness anxiety. Regarding the latter issue, some have argued that witness stress is one of the chief undermining factors in witness credibility (Roberts, 1987). Witnesses may appear terse, arrogant, or even deceptive and untrustworthy as a result of the stress associated with testifying in court.

Another element of effective witness presentation is the analysis of powerful versus powerless speech. Consultants can examine the testimony of witnesses and look for factors known to decrease persuasiveness in a trial context: (a) excessive use of hedging (e.g., " I think"), (b) overuse of intensifiers, (c) hypercorrect speech (i.e., using advanced vocabulary or excessive use of jargon), and (d) use of a questioning intonation with declarative statements. These tendencies limit the ability of the witness to persuade the audience, and trial consultants can work to make witnesses aware of these tendencies (Erickson, Lind, Johnson, & O'Barr, 1978).

Comprehension of the message is another key to effective testimony, and researchers warn that jurors understand far less of what they are told during a trial than attorneys assume (English & Sales, 1997). As Krauss and Bonora (1979) noted, trial consultants can be especially useful in evaluating witness testimony because they are less familiar with the case than is the attorney, and they are therefore better able to identify aspects of the testimony that are missing or confusing. In addition, some trials may be particularly complex. Expert witnesses are often required to testify concerning facts that may be difficult for jurors to comprehend (Nietzel & Dillehay, 1986). Consultants can estimate the likelihood of juror confusion by presenting videotapes of mock testimony by the witness to jury-eligible adults and can measure the degree to which participants understand the testimony. With this feedback, attorneys can ask appropriate follow-up questions so the expert can increase juror comprehension.

Familiarity with the social psychological literature regarding persuasion is necessary to be successful in this area of trial consultation. The trial consultant with advanced training in social psychology is likely to be familiar with (a) research relevant to communicator credibility (e.g., Hovland, Janis, & Kelley, 1953; Zimbardo & Leippe, 1991), (b) the relationship between the audience and the message (e.g., Chaiken, 1980; Petty & Cacioppo, 1986), (c) factors related to audience resistance and openness to persuasion (e.g., McGuire, 1964; Sherif, Kelly, Rodgers, Sarup, & Tittler, 1973), and (d) the relationships between values, attitudes, and judgments (e.g., Ajzen & Fishbein, 1980). This level of training is typical of graduate-level courses in social psychology or social cognition.

Professional Issues

Although trial consultation has been identified as an emerging field with significant growth potential, it has not gone without some criticism (Nietzel & Dillehay, 1986; Strier, 1999). These criticisms have largely concerned the fear that the practice of trial consultation serves to threaten our system of justice and the belief that the field is poorly regulated and therefore open to well-intentioned incompetents or deliberate fakery.

Some have argued that the first belief is most strongly felt by those less comfortable with the justice systems (i.e., criminal and civil) operating in an adversarial fashion. As Stolle et al. (1996) indicated, journalists tend to believe that "the use of a trial consultant can provide a litigant with an advantage, only large corporations and wealthy individuals will have access to this high-priced advantage, leaving the average litigant with some form of second class justice" (p. 147). Although it may be true that effective consultation may place one side of a dispute at an advantage, this may also be true of virtually every other participant in the trial process. That is, attorneys, witnesses, experts, and judges all differ from case to case and allow for variations in the "justice" associated with a judgment.

In addition, critics may be unaware of the various factors that serve to unbalance the scales of justice and therefore are less likely to see a trial consultants' efforts as work to restore the balance. For example, those who routinely study jurors are all too aware of the prevalent belief by jurors that most defendants charged with crimes are probably guilty (Kassin & Wrightsman, 1983; Myers & Lecci, 1998) and that a significant proportion of jurors hold misconceptions such as the belief that it is the duty of the defendant to

prove his or her innocence. Critics may also be unaware of the biases present that serve to undermine impartiality in civil cases, such as negative attitudes toward corporations (i.e., plaintiff bias; Hulbert, Parks, Chen, Nam, & Davis, 1999) and "deep pockets" attitudes (Hans & Lofquist, 1992; Vidmar, 1993). Given the plethora of factors that threaten the reality of the fair and impartial jury, one wonders whether the perceived injustice associated with trial consultation is more a function of the fear that outsiders (e.g., psychologists) may soon invade a domain that was exclusively handled by attorneys.

Regarding the second belief, the field indeed is largely unregulated, which allows greater possibility for poorly trained practitioners or charlatanism. Although we have outlined some basic foundational training that would prepare individuals for this line of work, this is by no means sufficient. That is, although psychologists may have greater preparation to work in the area of trial consultation than would attorneys (who have little training in the analysis of human behavior), standard training in most graduate programs in psychology is not sufficient to prepare individuals to enter the field of trial consultation. Individuals interested in obtaining more advanced training may attend conferences offered through the American Society of Trial Consultants as well as the American Psychology–Law Society (APA division 41).[2] In addition, interested readers may want to consult some excellent guides to trial consultation (e.g., Abbott & Batt, 1999; Krauss & Bonora, 1979) as well as subscribe to *Law and Human Behavior*, a journal that frequently publishes research on jury decision making.

For the field to advance, we argue that standards in both training and methods need to be established. The development of some of these standards (i.e., survey methodology) are currently in the process of taking place (American Society of Trial Consultants, 1998). Standards in training will likely increase the efficacy of trial consultation, although measuring success is difficult because the presence of a consultant will normally covary with the experience and economic resources of the attorney. Nevertheless, standards in training allow for practitioners to be educated about issues they might not normally encounter in standard graduate programs in psychology (e.g., ethical issues that are unique to trial consultation). Nietzel & Dillehay (1986) cited such ethical concerns as accepting fees on a contingency basis, assuming dual roles such as testifying as an expert in cases in which one also works as a consultant for one side, exaggerating claims of competence to prospective clients, and encouraging witnesses to change the facts of the testimony (see also Berman & Sales, 1977, and Strier, 1999, for other ethical concerns). Indeed, psychologists in more traditional practices may have little experience in these matters.

We argue that the most prudent course of action involves educating those who may benefit from the expertise of a trial consultant (e.g., attorneys) about the degree of training appropriate for competency in the area. Ignoring the potential for poorly trained individuals to engage in trial consultation, in some instances because adequate training standards have not been properly established, seems antithetical to the growth of trial consultation as a field.

[2] The American Society of Trial Consultants offers a workshop in trial consultation ("Trial Consulting 101") at their annual conference. The Web site for the American Society of Trial Consultants can be found at www.astcweb.org/, and the Web site for the American Psychology–Law Society can be found at www.unl.edu/ap-ls/.

References

Abbott, W. F., & Batt, J. (Eds.). (1999). *A handbook of jury research.* Philadelphia: American Law Institute–American Bar Association.

Abercrombie, P. (1996, November 29). Trial consultants: Juries are us. *Tampa Bay Business Journal, 16*, p. 19.

Ajzen, I., & Fishbein, M. (1980). *Understanding attitudes and predicting social behavior.* Englewood Cliffs, NJ: Prentice-Hall.

American Society of Trial Consultants. (1998, Spring). Proposed minimum standards for survey research in connection with motions to change venue. *Court Call*, 1–6.

Arbuthnot, J. (1986). Jurors' views on due process and the death penalty: A sociomoral framework for voir dire and jury selection. *Social Action and the Law, 12*, 20–30.

Bennett, C., & Hirschorn, R. (1993). *Bennett's guide to jury selection and trial dynamics in civil and criminal litigation.* St. Paul, MN: West.

Berman, J., & Sales, B. D. (1977). A critical evaluation of the systematic approach to jury selection. *Criminal Justice and Behavior, 4*, 219–240.

Bernard, J. L. (1979). Interaction between the race of the defendant and that of jurors in determining verdicts. *Law and Psychology Review, 5*, 103–111.

Brigham, J. C., & Wasserman, A. W. (1999). The impact of race, racial attitude, and gender on reactions to the criminal trial of O. J. Simpson. *Journal of Applied Social Psychology, 29*, 1333–1370.

Chaiken, S. (1980). Heuristic versus systematic information processing and the use of source versus message cues in persuasion. *Journal of Personality and Social Psychology, 39*, 752–766.

Dane, F. C., & Wrightsman, L. S. (1982). Effects of defendants' and victims' characteristics on jurors' verdicts. In N. L. Kerr & R. Bray (Eds.), *Psychology of the courtroom* (pp. 83–115). Orlando, FL: Academic Press.

DePaulo, B. M. (1992). Nonverbal behavior and self-presentation. *Psychological Bulletin, 111*, 203–243.

Ekman, P. (1985). *Telling lies.* New York: Norton.

Ekman, P., & O'Sullivan, M. (1991). Who can catch a liar? *American Psychologist, 46*, 913–920.

English, P. W., & Sales, B. D. (1997). A ceiling or consistency effect for the comprehension of jury instructions. *Psychology, Public Policy, and Law, 2/3*, 381–401.

Erickson, B., Lind, E. A., Johnson, B. C., & O'Barr, W. M. (1978). Speech style and impression formation in a court setting: The effects of "powerful" and "powerless" speech. *Journal of Experimental Social Psychology, 14*, 266–279.

Fazio, R. H. (1986). How do attitudes guide behavior? In R. M. Sorrentino & E. T. Higgins (Eds.), *The handbook of motivation and cognition: Foundations of social behavior* (pp. 204–243). New York: Guilford Press.

Fiske, S. T., & Taylor, S. E. (1991). *Social cognition* (2nd ed.). New York: McGraw-Hill.

Fulero, S. M., & Penrod, S. D. (1990). Attorney jury selection folklore: What do they think and how can psychologists help? *Forensic Reports, 3*, 233–259.

Gordon, R. (1995, February 6). Setting parameters for trial science. *Legal Times*, p. A34.

Hans, V. P., & Lofquist, W. S. (1992). Jurors' judgments of business liability in tort cases: Implications for the litigation explosion debate. *Law and Society Review, 26*, 85–115.

Hans, V. P., & Vidmar, N. (1982). Jury selection. In R. M. Bray & N. L. Kerr (Eds.), *The psychology of the courtroom* (pp. 39–82). New York: Academic Press.

Hastie, R., Penrod, S. D., & Pennington, N. (1983). *Inside the jury.* Cambridge, MA: Harvard University Press.

Hepburn, J. R. (1980). The objective reality of evidence and the utility of systematic jury selection. *Law and Human Behavior, 4*, 89–101.

Horowitz, I. A. (1980). Juror selection: A comparison of two methods in several criminal cases. *Journal of Applied Social Psychology, 10*, 86–99.

Hovland, C. I., Janis, I. L., & Kelley, H. H. (1953). *Communication and persuasion.* New Haven, CT: Yale University Press.

Hulbert, L. G., Parks, C. D., Chen, X., Nam, K., & Davis, J. H. (1999). The plaintiff bias in civil jury decision making: Consensus requirements, information format, and amount of consensus. *Group Processes & Intergroup Relations, 2,* 59–77.

Johnson, J., & Kamlani, R. (1991, August 26). Do we have too many lawyers? *Time, 138,* 54–55.

Kaplan, M. F. (1982). Cognitive processes in the individual juror. In N. L. Kerr & R. M. Bray (Eds.), *The psychology of the courtroom* (pp. 197–217). New York: Academic Press.

Kaplan, M. F., & Miller, L. E. (1978). Reducing the effects of juror bias. *Journal of Personality and Social Psychology, 36,* 1443–1445.

Kassin, S. M., Reddy, M. E., & Tulloch, W. F. (1990). Juror interpretations of ambiguous evidence: The need for cognition, presentation order, and persuasion. *Law and Human Behavior, 14,* 43–55.

Kassin, S. M., & Wrightsman, L. S. (1983). The construction and validation of a juror bias scale. *Journal of Research in Personality, 17,* 423–442.

Krauss, D., & Bonora, B. (1979). *Jurywork: Systematic techniques.* St. Paul, MN: West.

Kravitz, D. A., Cutler, B. L., & Brock, P. (1993). Reliability and validity of the original and revised legal attitudes questionnaire. *Law and Human Behavior, 17,* 661–667.

Lambert, W. (1994, February 4). Trial consultants lose mystique as firms tighten their belts. *Wall Street Journal,* p. B7.

Leach, J., Arbuthnot, J., & Myers, B. (1998, May). *Pretrial publicity and pretrial biases: Assessing exposure using continuous measures of retention.* Poster session presented at the annual convention of the American Psychological Society, Washington, DC.

Lennox, R. D. (1990). Applications of structural equation methodologies to jury selection research. *Forensic Reports, 3,* 347–360.

Lind, E. A., Erickson, B. E., Conley, J., & O'Barr, W. M. (1978). Social attributions and conversation style in trial testimony. *Journal of Personality and Social Psychology, 36,* 1558–1567.

Loh, W. D. (1984). *Social research in the judicial process.* New York: Russell Sage Foundation.

Mauet, T. A. (1992). *Fundamentals of trial techniques* (3rd ed.). Boston: Little Brown.

McGuire, W. J. (1964). Inducing resistance to persuasion: Some contemporary approaches. In L. Berkowitz (Ed.), *Advances in experimental social psychology* (Vol. 1, pp. 191–229). New York: Academic Press.

Mills, L. J., & Bohannon, W. E. (1980). Character structure and jury behavior: Conceptual and applied implications. *Journal of Personality and Social Psychology, 38,* 662–667.

Moore, A. J. (1989). Trial by schema: Cognitive filters in the courtroom. *UCLA Law Review, 37,* 273–341.

Moran, G. (1990). Jury selection in major controlled substance trials: The need for extended voir dire. *Forensic Reports, 3,* 331–346.

Moran, G., & Comfort, J. (1982). Scientific juror selection: Sex as a moderator of demographic and personality predictors of impaneled felony jury behavior. *Journal of Personality and Social Psychology, 41,* 1052–1063.

Moran, G., & Cutler, B. (1991). The prejudicial impact of pretrial publicity. *Journal of Applied Social Psychology, 21,* 345–367.

Myers, B., & Lecci, L. (1998). Revising the factor structure of the juror bias scale: A method for the empirical validation of theoretical constructs. *Law and Human Behavior, 22,* 239–256.

Nietzel, M. T., & Dillehay, R. C. (1986). *Psychological consultation in the courtroom.* New York: Pergamon Press.

Olczak, P. V., Kaplan, M. F., & Penrod, S. D. (1991). Attorney's lay psychology and its effectiveness in selecting jurors: Three empirical studies. *Journal of Social Behavior and Personality, 6,* 431–452.

Pennington, N. & Hastie, R. (1986). Evidence evaluation in complex decision making. *Journal of Personality and Social Psychology, 51,* 242–258.

Penrod, S. D. (1990). Predictors of jury decision making in criminal and civil cases: A field experiment. *Forensic Reports, 3,* 261–278.

Petty, R. E., & Cacioppo, J. T. (1986). The elaboration likelihood model of persuasion. In L. Berkowitz (Ed.), *Advances in experimental social psychology* (Vol. 19, pp. 123–205). New York: Academic Press.

Pfeiffer, J. E. (1990). Reviewing the empirical evidence on jury racism: Findings of discrimination or discriminatory findings? *Nebraska Law Review, 69,* 230–250.

Phelps, R., Eisman, E. J., & Kohout, J. (1998). Psychological practice and managed care: Results of the CAPP practitioner survey. *Professional Psychology: Research and Practice, 29,* 31–36.

Pollock, A. J. (1977). The use of public opinion polls to obtain changes of venue and continuances in criminal trials. *Criminal Justice Journal, 1,* 269–288.

Roberts, M. C. (1987). *Trial psychology: Communication and persuasion in the courtroom.* Austin, TX: Butterworth Legal.

Robiner, W. N., & Crew, D. P. (2000). Rightsizing the workforce of psychologists in health care: Trends from licensing boards, training programs, and managed care. *Professional Psychology: Research and Practice, 31,* 245–263.

Ruben, D. (1995, March). Women of the jury. *Self Magazine,* 186–189.

Saks, M. J. (1976). The limits of scientific jury selection. *Jurimetrics Journal, 17,* 3–22.

Schneider, D. J. (1973). Implicit personality theory: A review. *Psychological Bulletin, 79,* 294–309.

Scott, J. (1993, October 25). Trial consultants use tricks of the trade to keep clients happy—and out of jail. *Memphis Business Journal, 15,* p. 1.

Sherif, C. W., Kelly, M., Rodgers, H. L., Sarup, G., & Tittler, B. I. (1973). Personal involvement, social judgment, and action. *Journal of Personality and Social Psychology, 27,* 311–328.

Steblay, N. M., Besirevic, J., Fulero, S. M., & Jimenez-Lorente, B. (1999). The effects of pretrial publicity on juror verdicts: A meta-analytic review. *Law and Human Behavior, 23,* 219–235.

Stolle, D. P., Robbennolt, J. K., & Wiener, R. L. (1996). The perceived fairness of the psychologist trial consultant: An empirical investigation. *Law and Psychology Review, 20,* 139–173.

Strier, F. (1999). Whither trial consulting? Issues and projections. *Law and Human Behavior, 23,* 93–115.

Studebaker, C. A., & Penrod, S. D. (1997). Pretrial publicity: The media, law, and common sense. *Psychology, Public Policy, and Law, 3,* 428–460.

Suggs, D., & Sales, B. D. (1978). The art and science of conducting the voir dire. *Professional Psychology: Research and Practice,* 368–388.

Torry, S. (1994, November 14). Their job is ensuring jury isn't twelve people. *Washington Business,* p. 34.

Vidmar, N. (1993). Empirical evidence on the 'deep pockets' hypothesis: Jury awards for pain and suffering in medical malpractice cases. *Duke Law Journal, 43,* 217–266.

Visher, C. A. (1987). Juror decision-making: The importance of evidence. *Law and Human Behavior, 11,* 1–17.

Wrightsman, L. S. (2001). *Forensic psychology.* Pacific Grove, CA: Wadsworth.

Wrightsman, L. S., Nietzel, M. T., & Fortune, W. H. (1998). *Psychology and the legal system* (3rd. ed.). CA: Brooks-Cole.

Zimbardo, P. G., & Leippe, M. R. (1991). *The psychology of attitude change and social influence.* New York: McGraw-Hill.

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