



Psychology, Law, and the Jury: Jurors' Characteristics and Jury Decision Making

**Professor Valerie Hans, Cornell Law School and
Paul Klebnikov Rule of Law Fellow 2011**

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Legal Debates, Law Practice, and Psychological Research on the Jury

- Traditionally, in the United States, judges, legislators, and lawyers relied on their own intuitions about juries – whether it was in deciding a legal issue in a jury trial, fashioning laws related to juries, or developing litigation strategy.
- Systematic research on juries began in the 1950s, picking up speed in the 1970s and 1980s and beyond.
 - Both the psychology-law field and the jury consulting field expanded dramatically. Both focused on the study of jury decision making.

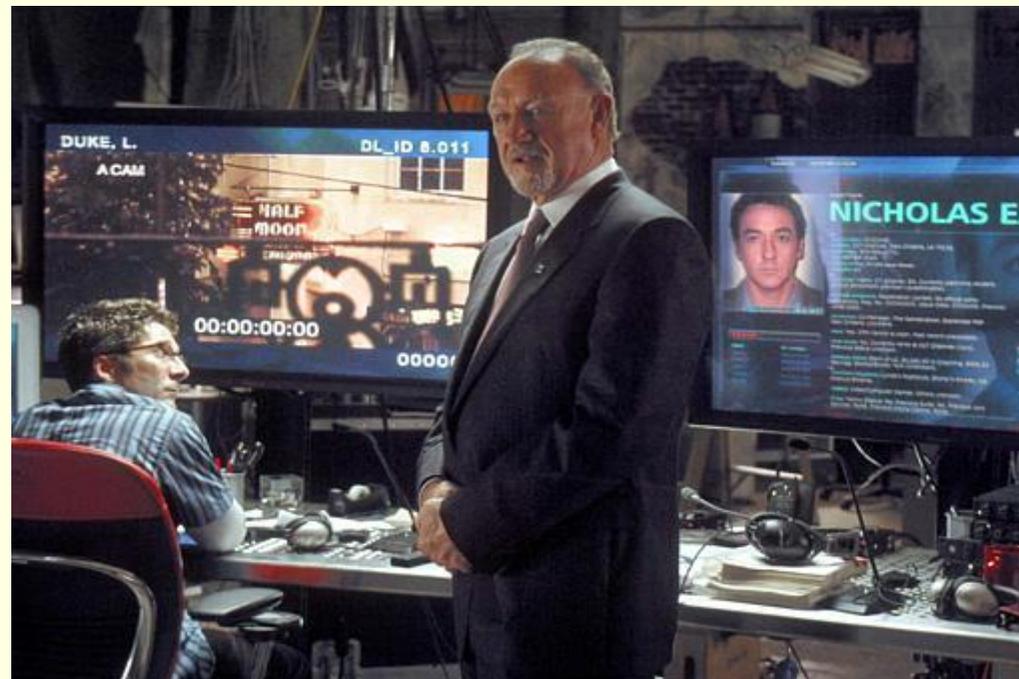
The Field of Psychology and Law in the USA

- Stimulated by the social movements of the 1960s and 1970s
 - Civil rights, racial justice, women's movement
 - Focus on law and legal remedies as methods for improving equality of treatment of women and minorities
 - Students and professors of psychology were increasingly attracted to using the theories and methods of psychology to achieve social justice
 - It was an optimistic time!

The Jury Was an Early Focus of Psychology and Law Researchers

- Political trials of the 1960s and 1970s (particularly from anti-Vietnam war protesters who were arrested) gave rise to the use of systematic methods of jury selection
 - Jay Schulman was the first to use survey research results to try to help the defense in the anti-war protest trial of the Berrigan brothers
 - He founded the Jury Project, which did pretrial research to help in criminal defense and civil plaintiffs' work

Jury Consulting Field Has Been Transformed



"Trials are too important to be left to juries."
Jury consultant Rankin Fitch (played by Gene Hackman), in *The Runaway Jury*

Other psychology and law researchers were interested in justice motives.

- Melvin Lerner studied psychological responses to victims of crime.
- The social psychologists David Landy and Elliott Aronson conducted one of the first mock juror experiments in 1969: “The influence of the character of the criminal and his victim on the decisions of simulated jurors”
 - Designed to test basic psychological theory of attraction
 - But they claimed some relevance to actual jury decisions – and excited others to do the same!

50 years of research on the American jury

- Research has examined individual juror psychology and the group behavior and verdicts of juries using multiple approaches.
 - Observations of jury trials
 - Post-trial interviews with jurors
 - Analysis of jury verdicts
 - Mock jury experiments
 - Questionnaires given to judges, attorneys, jurors, and the public

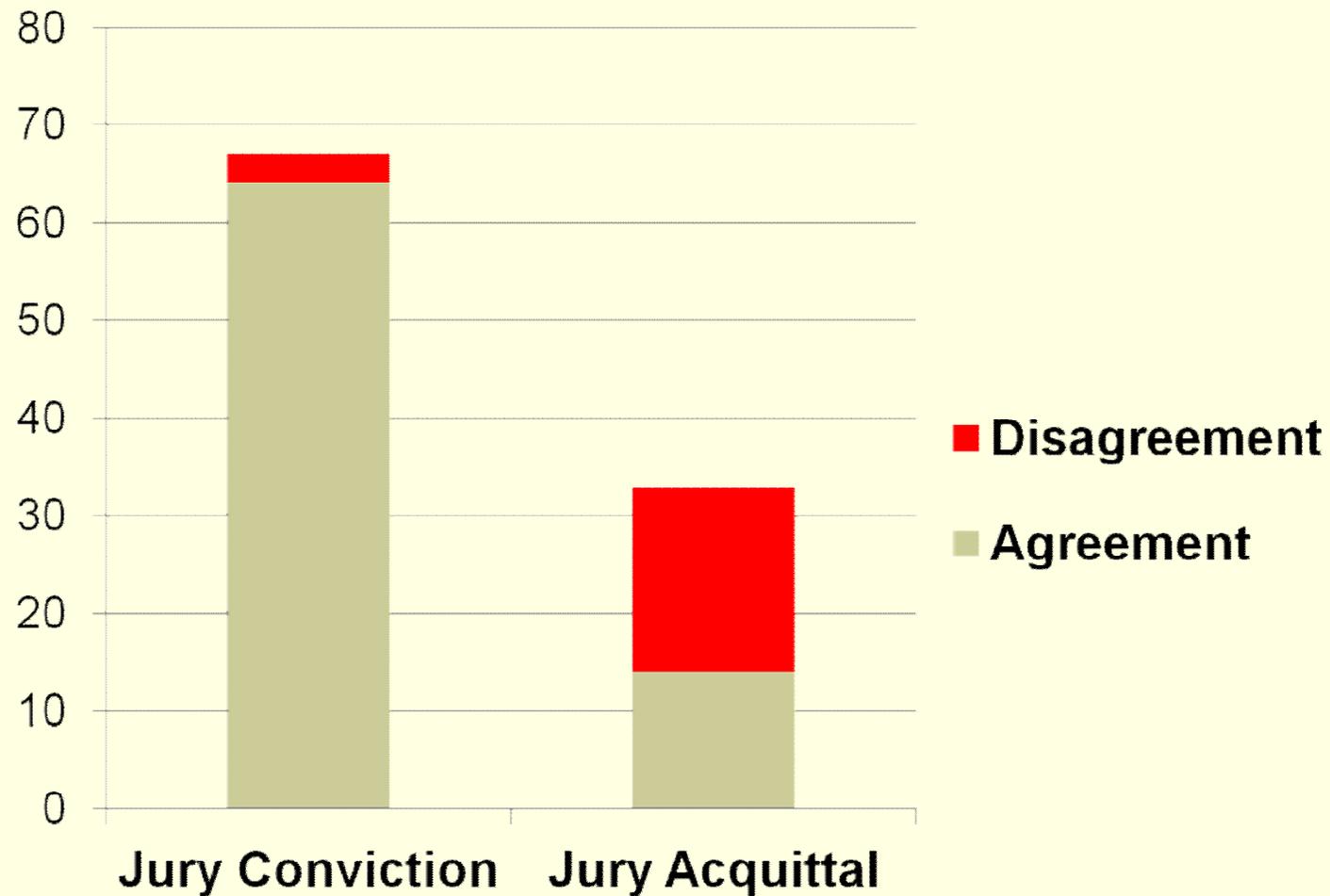
What Jury Research Has Discovered about the American Jury

- In the USA, judges agree with most jury verdicts.
- When they disagree, it is for understandable reasons.
- The jury experience has positive effects on the jurors.

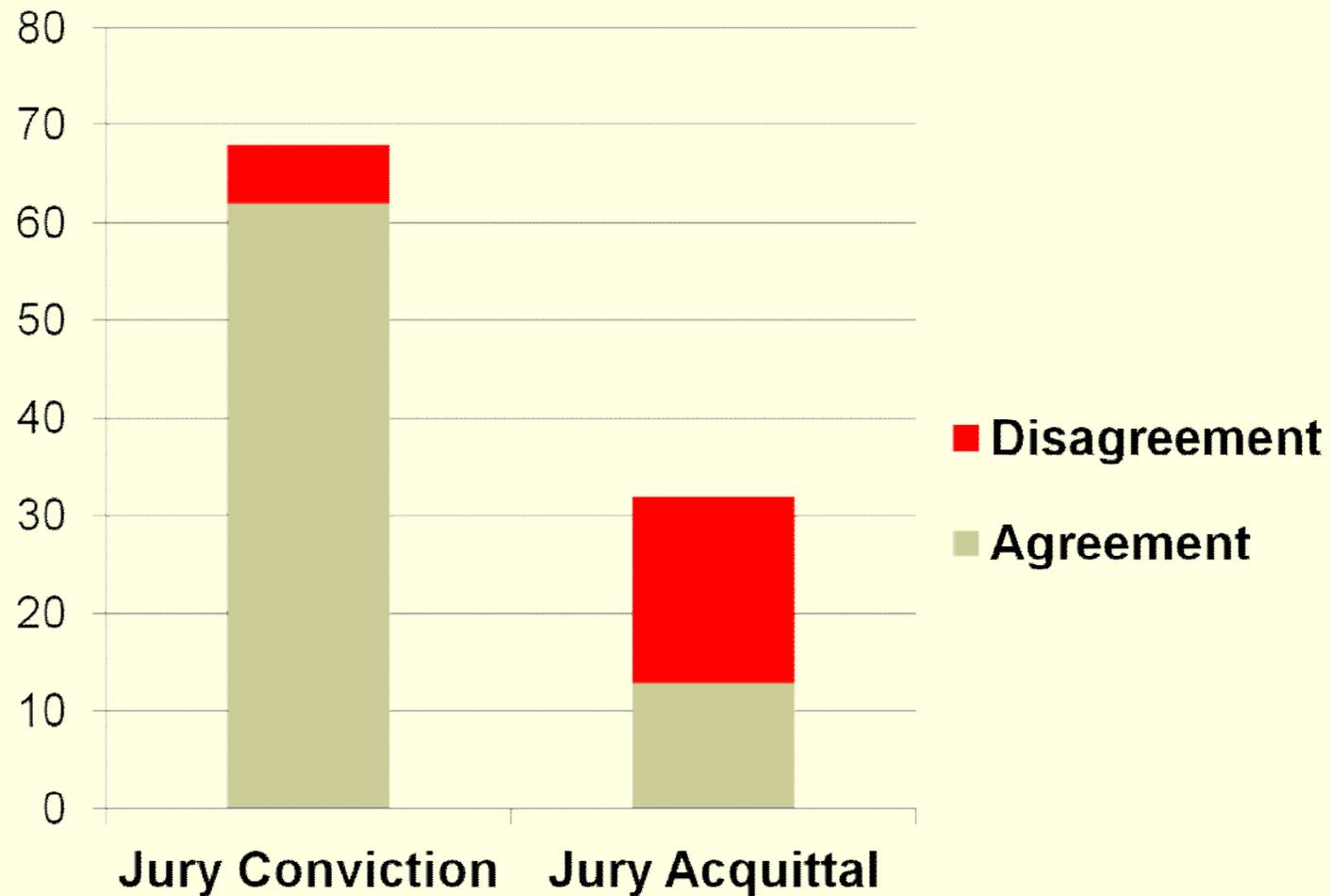
What We Know from Judge-Jury Agreement Studies

- One of the earliest forms of empirical jury research in the US
- Researchers ask judges who preside over actual jury trials to provide their views of the evidence and the verdict they would have reached had they been deciding the case on the bench
- Researchers then compare the two decisions
- Comparisons of jury verdicts and judge decisions show distinctive contribution of jury

Judge-Jury Agreement, Chicago Jury Project Study (USA, 1950s)



Judge-Jury Agreement, National Center for State Courts Project (USA, 2000-01)



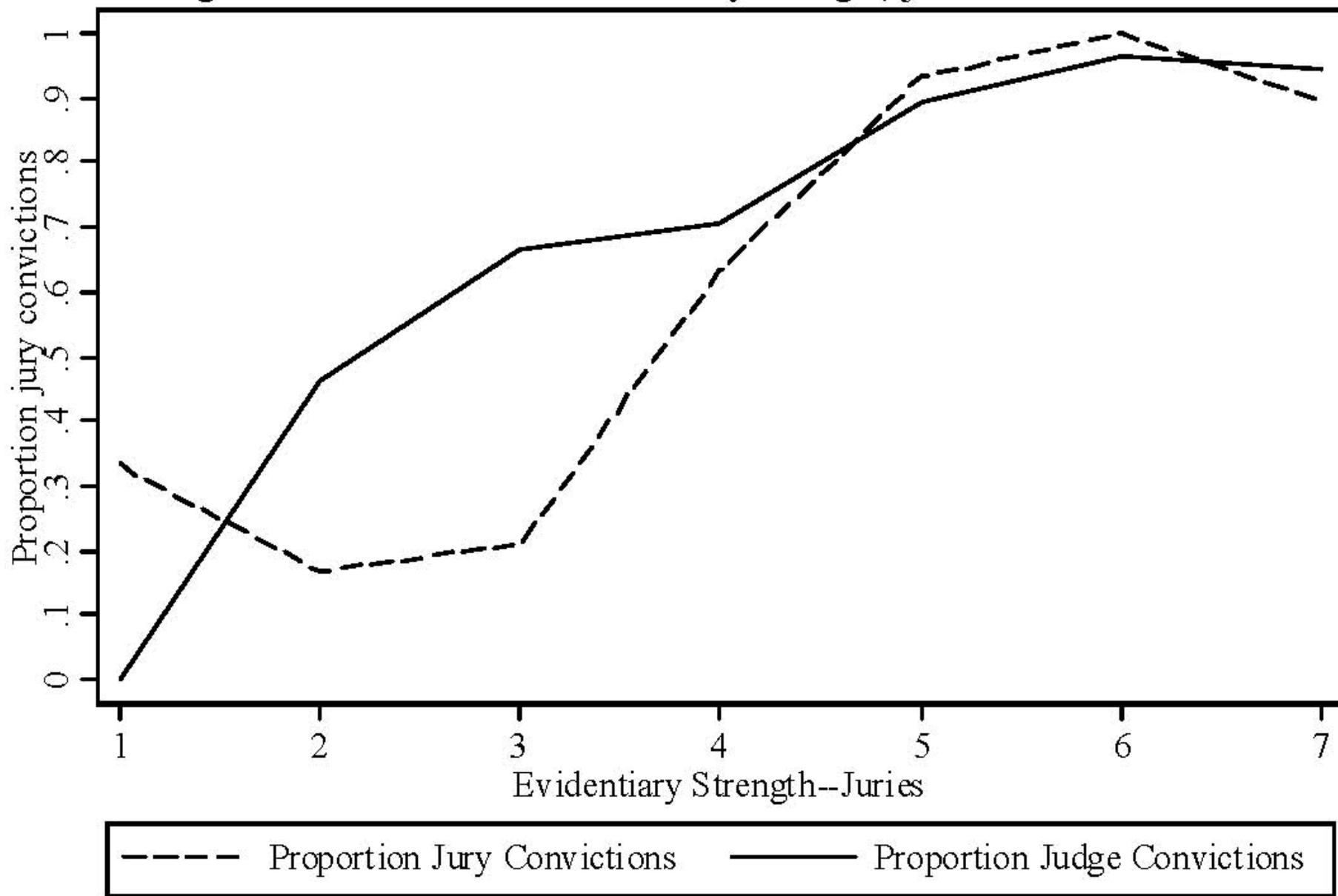
Chicago Jury Project Study (USA, 1950s)

	Jury: Not Guilty	Jury: Guilty
Judge: Not Guilty	14%	3%
Judge: Guilty	19%	64%

National Center for State Courts (USA, 2000-2001)

	Jury: Not Guilty	Jury: Guilty
Judge: Not Guilty	13%	6%
Judge: Guilty	19%	62%

Figure 2. Convictions and evidentiary strength, juries' view of evidence.



Source: NCSC data covering trials at four sites in 2000-2001.

What Jury Research Has Discovered about Disagreement between Judge and Jury

- Judges are more likely to convict on evidence juries see as weak.
- Jurors have a broader view of “beyond a reasonable doubt.”
- Jurors reflect community judgments of fairness and justice.
- Disagreement is not due to case complexity.

Psychological Effects of Jury Service



Photo from News-Herald, showing US jury selection

Effects of jury service on attitudes toward the jury system & the courts

- American jurors are more positive about the courts and the jury system after their jury service.
 - National survey of more than 8,000 US jurors found 63% were **more favorable about the jury system** after serving.
 - US citizens who serve as jurors are **more likely to see the courts as fair and just.**
 - Similar positive reactions in Japan, Korea following the introduction of lay judge/jury systems in those countries

Jury Service and Democratic Participation

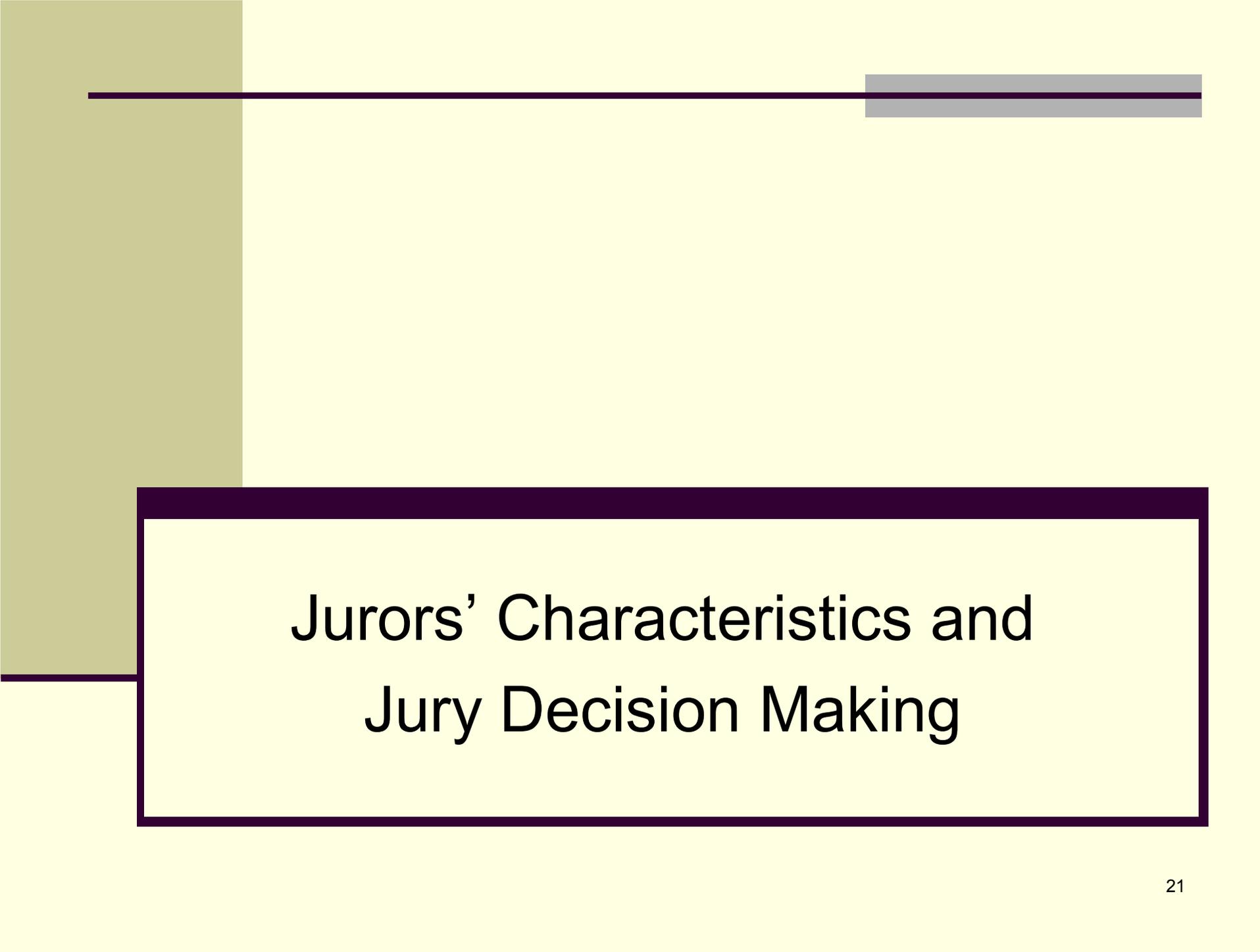
- The Jury and Democracy Project:
 - Studied jury service and voting records of more than 13,000 American jurors in different cities.
 - Found that people who were infrequent voters and deliberated on a criminal jury were **more likely to vote in the next election.**



The Jury and Democracy Project ¹⁹

Conclusion of Overview of Psychology and Law Research on the US Jury

- Psychology and law research and theory have contributed to understanding the American jury system.
- In general, despite some limitations, the research shows the strength of the jury as decision makers.
- Psychology and law research on other jury systems like Russia's could contribute a lot to the understanding of the promises and limits of the jury system.



Jurors' Characteristics and Jury Decision Making

My Research Question: Who Participates in US Jury Deliberations?

Two elements of participation

- **Who is selected to serve on the jury?**

- Citizens drawn from a representative cross-section of the qualified community
- Must be fair and impartial (judge decides)
- Must survive attorney peremptory challenges

- **Who joins in the discussion?**

- Who expresses views, perspectives, arguments; who exerts influence?

Full Participation is Related to Hypothesized Benefits of Trial by Jury

- Decision making by a representative cross-section of the community will promote fact finding and legitimacy.
 - Because they are drawn from a wide range of people from the community, juries can incorporate **community notions of justice and fairness** into legal judgments.
 - Juries whose members hold diverse views and perspectives will engage in **robust and vigorous fact finding**.
 - Juries offer some **protection against biased** prosecutors and judges.
 - Jury decisions are more **acceptable** to the public.
 - Jury service is an exercise in deliberative democracy that promotes other forms of **civic engagement** such as voting.

My Project with Erin Cornwell (Law & Society Review 2011)

- Uses the **post-trial questionnaire** approach to explore the nature of participation on juries, and in particular, whether the ideal of a fully participatory jury is realized in practice.
- Empirical Questions
 - Does jury participation differ according to jurors' gender, race, or social class?
 - Do case and/or jury characteristics affect the relationship between jurors' social status and their participation?

The Ideal: Fully Participatory Juries Will Best Fulfill Purposes of Jury Trial

- **High average levels of participation**
 - Evidence-driven deliberation → more efficient and accurate fact-finding
 - Increases civic engagement (voting and other forms of community involvement)
 - Increases support for and confidence in the jury system
- **Equality across gender, race, and class**
 - Achieve goals of jury representativeness
 - Exchange greater amount and breadth of information
 - Counterbalance of biases
 - Equalize power/resources across jurors
- Unanimity requirement, juror orientation and judicial instructions all encourage full participation.

The Reality: Participation may differ across social groups

- Extensive body of psychological & sociological research on groups finds social status differences in participation.
- Early mock jury research also found social status differences.
 - 3 jurors = about 80% of total speaking acts
 - Men jurors spoke more than women jurors
 - Upper-class jurors spoke more than lower-class jurors.
- More recently, mock jury studies have found...
 - That men continue to talk more than women.
 - Race and ethnicity effects have been difficult to explore because many mock juries are not racially diverse.

US National Center for State Courts Jury Study

- Collected data from felony jury trials in 2000-2001 in four US locations
 - Bronx, New York; Los Angeles, California, Maricopa County (Phoenix), Arizona, and Washington, D.C.
- 80% response rate (jurors)
- Data include:
 - Post-verdict juror questionnaires
 - Judge and attorney questionnaires
 - Case data forms
- N = 2,306 jurors (on 311 criminal cases)

Juror Characteristics We Examined

- Individual characteristics
 - Age
 - Gender
 - Race/Ethnicity
 - Education
 - Foreperson
 - Appointed (Bronx)
 - Elected (DC, LA, Maricopa)
- Size of faction (number of total jurors supporting the individual juror's first ballot vote)

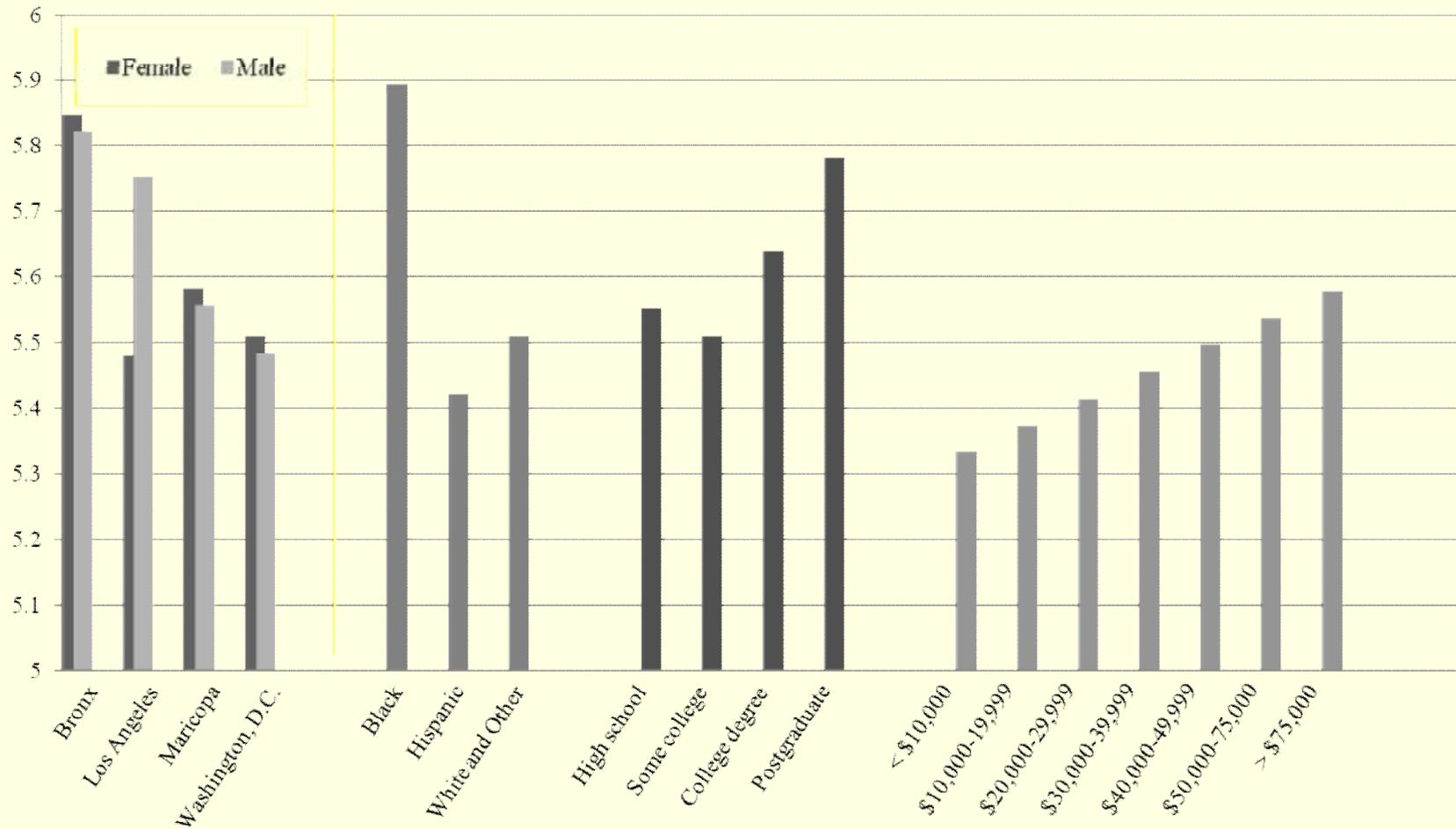
Jury Characteristics We Examined

- Location
- Case characteristics
 - Case type
 - Case complexity (judge's rating)
- Jury characteristics
 - Timing of first vote
 - Gender diversity
 - Racial diversity

Statistical Analysis (Multi-level Regression)

- Dependent measure: self-reported participation in the jury deliberation (1= not at all; 7 = a great deal)
- Multilevel regression analysis allowed us to observe variations in jury participation according to juror characteristics AND jury-level factors.
- We were able to take into account the nesting of jurors within juries.
- We could also test cross-level interactions.

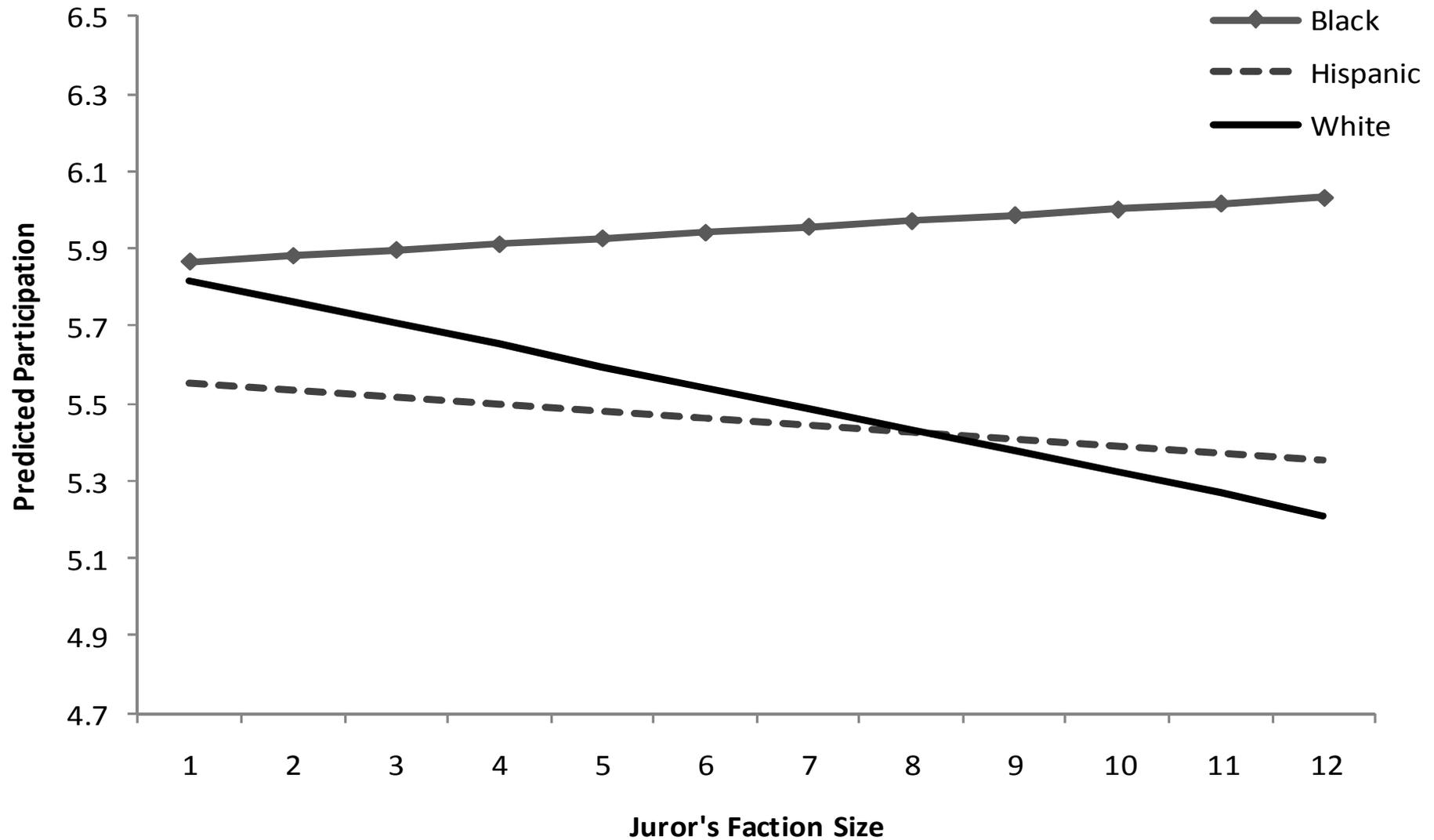
Impact of Individual Juror Characteristics on Juror Participation



Impact of Case and Jury Characteristics on Juror Participation

- **Jury composition/diversity – not significantly related** to overall participation
 - Proportion of female jurors
 - Proportion of minority jurors
 - Racial/ethnic range
- **Case complexity** a significant factor -- increases overall participation
- **Jury size** – a significant factor related to overall participation

Participation by Juror Race/Ethnicity and Faction Size



Have We Studied the Wrong Thing?



- Have we studied the wrong thing?
 - What is relationship between self-reported participation and actual participation? (decent, we think, from the few jury studies that have examined both)
 - What is self-reported participation also linked to? (self-reported influence; reports by other jurors of influence, friendliness of jury, and conflict on the jury)

Conclusion

- Limitations of our analysis
 - Employed self-reported participation
 - Unable to address other contextual factors (e.g., defendant race; jury unanimity and size)
 - Used racially and ethnically diverse urban jurisdictions
- Implications for jury research and jury trial practice
 - Importance of considering contextual factors in further research on jury deliberations
 - Unanimity requirement may minimize status differences – an issue I am now exploring with some other data sets of juries that are only required to reach majority decisions.