

Introduction

The purpose of this study was to examine the impact of a third verdict and gruesome photographs on jury verdicts. Several legal scholars have proposed the adoption of alternative acquittals, each reasoning that such acquittals will reduce the number of guilty verdicts and clarify the American criminal justice system by explaining the jury's decision (e.g., Bray, 2005; Leipold, 2000; Myers, 2009; Robinson & Cahill, 2005).

However, the rare empirical research examining alternative acquittals is mixed. Hope and colleagues (2008) found that when the evidence strength against the defendant was moderate the "not proven" verdict option was successful in reducing the conviction rate but the same effect was not present with strong or weak evidence. In contrast, Smithson and colleagues (2007) studied the impact of a "not proven" verdict on Australian juries. They found that the third option resulted in fewer full acquittals rather than fewer guilty verdicts.

None of the current research, however, has examined the impact of an alternative acquittal on juror decision making when emotionally disturbing evidence is present.

Methods

Participants and Procedure. 548 jury-eligible adults were randomly assigned to (a) view a trial stimulus that varied the presence versus absence of gruesome photographs, and (b) consider two or three verdict options. Approximately 35% were excluded for failing manipulation checks, attention checks, or for taking less than 15 minutes to complete the task. Participants were 56% female, and 84% White with a mean age of 39.

Trial Stimulus. The case involved a defendant accused of stabbing and killing the victim. The defendant claimed the victim's boyfriend killed her after finding out that the victim was cheating on her. During the testimony of the medical examiner, participants were either shown gruesome photographs of the crime scene and autopsy or were told that the photographs had been redacted. The information in the photographs was always described in verbal testimony.

Measures. After reading the trial stimulus, participants were given either two verdict options (i.e., guilty or not guilty) or three verdict options (i.e., guilty, not guilty, or not proven). Participants were then asked to give their verdict and rated the strength of the prosecution and defense evidence on 6-point scales ranging from *Extremely Weak* to *Extremely Strong*.

Hypotheses

We had three main hypotheses. First, we hypothesized that in the two verdict condition, gruesome photographs would influence guilty verdicts. Second, we also hypothesized that in the three verdict condition, gruesome photographs would not influence guilty verdicts. Finally, we hypothesized that the presence of three verdict options would reduce the percentage of guilty verdicts generally.

Guilty, not guilty, or something in between: An analysis of the impact of a third verdict option and gruesome photographs on jury decision-making

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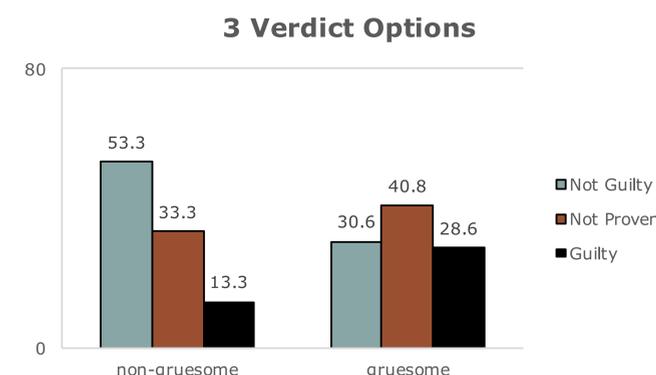
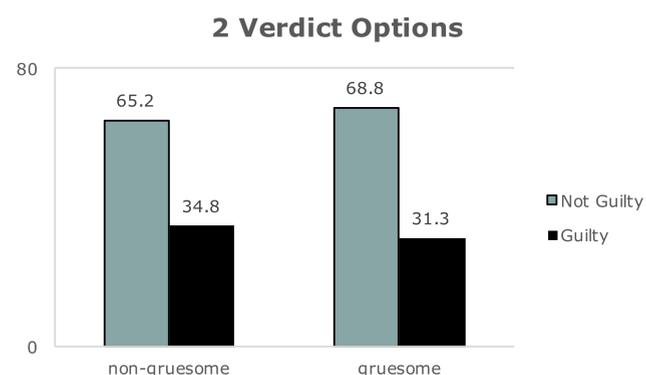
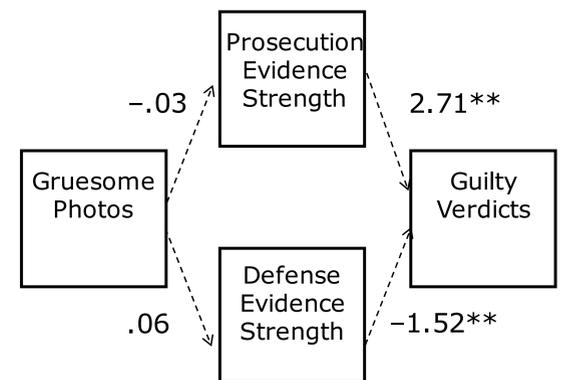


Figure 1. Percentage of guilty and not guilty verdicts by photograph type in the two and three verdict option conditions.

2-Verdict Options

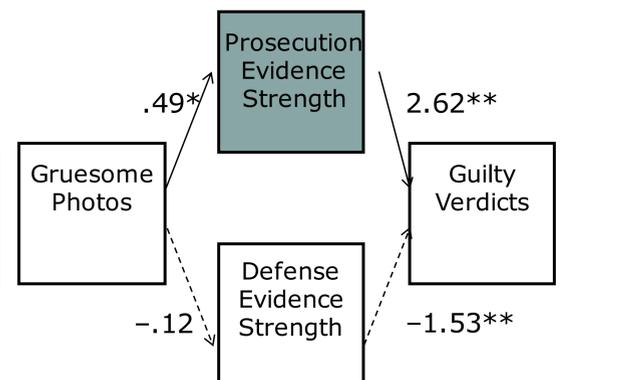


Prosecution indirect effect = $-.07$, $SE = .96$, 95% CI $[-2.08, 1.70]$
 Defense indirect effect = $-.09$, $SE = .52$, 95% CI $[-1.15, .91]$

* $p < .05$, ** $p < .001$

Figure 2. Mediation path coefficients for the 2 verdict option.

3-Verdict Options



Prosecution indirect effect = 1.66 , $SE = 1.01$, 95% CI $[.14, 3.56]$
 Defense indirect effect = $.32$, $SE = .44$, 95% CI $[-.38, 1.34]$

* $p < .05$, ** $p < .001$

Figure 3. Mediation path coefficients for the 3 verdict options.

Results

Not Guilty vs. Guilty Verdicts. The interaction was marginally significant interaction, $B = 1.15$, $SE = .70$, $Wald = 2.56$, $p = .109$. In the two-verdict condition, the gruesome photographs did not significantly affect the conviction rate, $B = -.16$, $SE = .44$, $Wald = .13$, $p = .716$. In contrast, when participants had a third "not proven" verdict option, mock jurors who saw gruesome photographs were marginally more likely to convict than those who did not, $B = .96$, $SE = .54$, $Wald = 3.12$, $p = .077$.

Not Guilty vs. Not Proven vs. Guilty Verdicts. The interaction was also significant with three verdict outcomes, $B = -.93$, $SE = .57$, $Wald = 2.65$, $p = .104$ (Figure 1). In the two-verdict condition, the gruesome photographs did not affect their likelihood of choosing a harsher verdict, $B = -.19$, $SE = .41$, $Wald = .22$, $p = .638$. In contrast, when participants had a third "not proven" verdict option, mock jurors who saw gruesome photographs were marginally more likely to chose a harsher verdict option than those who did not, $B = .74$, $SE = .40$, $Wald = 3.45$, $p = .062$.

Moderated Mediation. Only in the three-verdict condition, there was a significant indirect effect of gruesome photographs on guilty verdicts through prosecution (but not defense) evidence strength. Viewing gruesome photographs (versus no gruesome photographs) motivated them to rate the prosecution evidence as stronger, which in turn increased their likelihood of voting guilty.

Discussion

The combination of gruesome photographs and an alternative acquittal option make jurors more conviction prone. Specifically, if jurors are presented with an alternative acquittal option alone, they are more likely to acquit the defendant. However, when jurors are presented with both gruesome photographs and an alternative acquittal, they seek to justify their preferred guilty verdict by evaluating the prosecution's evidence as stronger.

These findings can be extrapolated to other types of alternative verdicts. Given the finding that highly emotional jurors seek to justify a highly punitive guilty verdict when offered the less punitive "not proven" verdict, it is highly likely that the same, emotional jurors would seek to justify the same guilty verdict when offered other less punitive verdicts, such as a lesser-included charge or an acquittal by reason of insanity. Therefore, trial consultants might want to consider this when advising criminal defendant clients to not request lesser-included charges in cases involving highly emotional evidence as the jury is likely to become more punitive and conviction prone. Additionally, trial consultants might want to consider advising criminal defendant clients to avoid the insanity defense in cases involving highly emotional evidence for the same reason.

References

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