

2020

Wrongful Conviction: Using Lived Experience to Explore Errors in Juror Cognition

Danielle Nicole Schulte Lewis
Walden University

Follow this and additional works at: <https://scholarworks.waldenu.edu/dissertations>



Part of the [Law Commons](#), [Quantitative, Qualitative, Comparative, and Historical Methodologies Commons](#), and the [Social Psychology Commons](#)

This Dissertation is brought to you for free and open access by the Walden Dissertations and Doctoral Studies Collection at ScholarWorks. It has been accepted for inclusion in Walden Dissertations and Doctoral Studies by an authorized administrator of ScholarWorks. For more information, please contact ScholarWorks@waldenu.edu.

Walden University

College of Social and Behavioral Sciences

This is to certify that the doctoral dissertation by

Danielle Nicole Schulte Lewis

has been found to be complete and satisfactory in all respects,
and that any and all revisions required by
the review committee have been made.

Review Committee

Dr. Wayne Wallace, Committee Chairperson, Psychology Faculty

Dr. Aaron Pierce, Committee Member, Psychology Faculty

Dr. Christopher Bass, University Reviewer, Psychology Faculty

Chief Academic Officer and Provost
Sue Subocz, Ph.D.

Walden University
2020

Abstract

Wrongful Conviction: Using Lived Experience to Explore Errors in Juror Cognition

by

Danielle Nicole Schulte Lewis

MA, University of New Haven, 2005

BS, BA, University of Great Falls, 2004

Dissertation Submitted in Partial Fulfillment

of the Requirements for the Degree of

Doctor of Philosophy

Forensic Psychology

Walden University

November 2020

Abstract

Wrongful conviction is a pressing legal and social justice issue that requires scholarly attention in the United States. The role of jurors in the criminal justice system has been empirically investigated and debated for many decades as researchers attempt to understand the juror decision-making process and how jurors contribute to wrongful conviction. The purpose of this study was to qualitatively explore how errors in juror cognition during decision-making led to juror reliance on narrative construction and commonsense reasoning rather than legal and judicial instruction in wrongful conviction cases. In-depth interviews were conducted with 12 jurors who served on a criminal case in which the defendant was wrongfully convicted. Thematic analysis identified several commonalities in the lived experience of jurors who served on a wrongful conviction case. Overall, jurors described the experience as negative, revealed patterns of systemic racism and oppression, expressed skepticism about the criminal justice system, frequently disassociated and deflected the responsibility and implications of the wrongful conviction, and communicated adverse impacts of group decision-making. In addition, analysis detected repeated patterns of juror reliance on narrative construction and commonsense reasoning during the decision-making processes. Results may inform future research, juror system reform, and nationwide efforts to prevent wrongful conviction. The finding of this study can be used to develop practices and policies that mandate a higher standard of education for jurors and criminal justice professionals, correct errors in juror cognition, and improve the criminal justice system in the United States, resulting in positive social change.

Wrongful Conviction: Using Lived Experience to Explore Errors in Juror Cognition

by

Danielle Nicole Schulte Lewis

MA, University of New Haven, 2005

BS, BA, University of Great Falls, 2004

Dissertation Submitted in Partial Fulfillment

of the Requirements for the Degree of

Doctor of Philosophy

Forensic Psychology

Walden University

November 2020

Dedication

This research project is dedicated to those who have suffered as a result of being wrongfully convicted and the countless others who have been impacted by wrongful conviction and systemic social injustice. Also, to the attorneys, law enforcement officers, and other criminal justice professionals who are fierce advocates for and protectors of vulnerable populations. Finally, I dedicate this project to the Innocence Project, the National Registry of Exonerations, and all other criminal justice reform agencies as they work tirelessly to illuminate and put a stop to wrongful conviction.

Acknowledgments

I would like to thank my husband and my son for their patience and support while I tackled this academic endeavor. Without them, this accomplishment would not have been possible. I would also like to express my deepest gratitude towards my chair, Dr. Wallace, and my committee member, Dr. Pierce, for their direction, support, and invaluable input along the way. Finally, thank you very much to my peer reviewer, Dr. Jozan, I could not have done this without her input, support, and guidance.

Table of Contents

List of Tables	v
Chapter 1: Introduction to the Study.....	1
Introduction.....	1
Background.....	3
Extralegal Influences on Juror Narratives.....	8
Problem Statement	14
Purpose of the Study	15
Research Questions.....	16
Framework	16
Nature of Study	17
Defined Terms	18
Assumptions.....	19
Scope and Delimitations	20
Limitations	21
Significance.....	21
Summary	22
Chapter 2: Literature Review	24
Introduction.....	24
Literature Search Strategy.....	25
Conceptual Framework.....	26
Role and Responsibility of Jurors in the Criminal Justice System	26

Phenomenon of Wrongful Conviction in the United States.....	29
Juror Contribution to Wrongful Conviction	31
Juror Reliance on Narrative Construction.....	35
The Story Model of Juror Decision Making	36
Phases of the Story Model of Juror Decision Making	38
Current Literature on the Story Model of Juror Decision-Making	39
Juror Reliance on Commonsense Reasoning.....	41
Current Literature on Commonsense Reasoning	43
Role of Narrative Construction in Wrongful Convictions.....	44
Role of Commonsense Reasoning in Wrongful Conviction.....	47
Summary and Conclusions	49
Chapter 3: Research Method.....	51
Introduction.....	51
Research Design and Rationale	51
Steps of the Phenomenological Method	54
Role of the Researcher	55
Methodology	57
Participant Selection Logic	59
Instrumentation	61
Researcher Developed Instrument	63
Procedure for Recruitment, Participation, and Data Collection	64
Data Analysis Strategy.....	66

Current Literature: Phenomenology and Thematic Analysis.....	67
Issues of Trustworthiness.....	68
Ethical Procedures	71
Summary.....	73
Chapter 4: Results.....	74
Introduction.....	74
Setting.....	74
Demographics	75
Data Collection	78
Data Analysis.....	80
Evidence of Trustworthiness.....	82
Credibility	82
Transferability.....	83
Dependability.....	83
Confirmability.....	84
Results.....	84
Themes for Research Question 1	85
Themes for Research Question 2	94
Themes for Research Question 3	102
Summary.....	112
Chapter 5: Discussion, Conclusions, and Recommendations.....	114
Introduction.....	114

Interpretation of the Findings.....	115
Analytical Framework: Narrative Construction and Commonsense	
Reasoning.....	116
Lived Experience of Participants	123
Limitations of the Study.....	125
Recommendations.....	127
Implications.....	129
Social Change	133
Conclusion	134
References.....	138
Appendix A: Interview Guide.....	154
Appendix B: Letter of Introduction	157
Appendix C: Participant Email Consent Form	158

List of Tables

Table 1. Participant Demographics	76
Table 2. Case Demographics	77
Table 3. Themes for Research Question 1: Lived Experience of Participants	86
Table 4. Participant Identifiers for Lived Experience with Wrongful Conviction.....	87
Table 5. Themes for Research Question 2: Juror Reliance on Narrative Construction.....	95
Table 6. Participant Identifiers for Juror Reliance on Narrative Construction	96
Table 7. Themes for Research Question 3: Juror Reliance Commonsense Reasoning...103	
Table 8. Participant Identifiers for Juror Reliance on Commonsense Reasoning.....	104

Chapter 1: Introduction to the Study

Introduction

Research on jurors and the juror system in the United States revealed a need to explore the lived experience of jury service and wrongful conviction to better understand how the story model of juror decision making (Pennington & Hastie, 1986) and commonsense reasoning (Garfinkel, 1967) contribute to wrongful conviction. Devine, Clayton, Dunford, Seying, and Pryce (2001) observed jurors lacked the capacity to defer judgement until all case facts were provided and an inability to honor judicial instruction during deliberations. Scholarly examination of juror reliance on creating stories and commonsense reasoning based on personal experience to explain case facts is necessary considering the devastating impact and extent of wrongful conviction in the United States (Finkel, 1995; Norris, Bonventre, Redlich, Acker, & Lowe, 2019).

Examining how it felt to be a juror on a criminal case, after a guilty verdict had been overturned, offered rich insight into how juror bias, misperception, attitude, opinions, and feelings shaped deliberations. Research has shown that differences in juror verdicts boiled down to differences in the stories constructed by jurors about how a crime occurred (Pennington & Hastie, 1986). Additionally, exploring if jurors created narratives and/or relied on commonsense reasoning when making decisions during criminal trials was necessary to learn how these processes may contribute to faulty verdicts.

Wrongful conviction is a pressing legal and social justice issue that requires attention in the United States. The phenomenon of imprisoning defendants who are blameless is not novel, it has existed at least since the early 1800's in the United States

with the wrongful homicide convictions of Jesse and Stephen Boorn (Warden, n.d.). Unjust incarceration of innocent individuals was poignantly described as “an unreal dream,” by the renowned law expert Learned Hand (United States v. Garrson, 1932). Error in juror decision-making plays a substantial role in wrongful conviction cases.

Jurors have a large responsibility to fill within the United States criminal justice system (CJS) (Mueller-Johnson, Dhami, & Lundrigan, 2018). The potential consequences of juror impartiality during decision-making are far reaching (Rodriguez, Agtarap, Boales, Kearns, & Bedford, 2018). Causal pathways between cognitive errors in juror thinking and wrongful convictions have been studied and different forms of cognitive errors have been linked to wrongful conviction (Capestany & Harris, 2014; Devine & Caughlin, 2014; Goodman-Delahunty, Martschuk, & Cossins, 2016). Juror reliance on their own narrative construction of case information, known as the story model of juror decision-making (Pennington & Hastie, 1986), and juror inclination to build stories based on commonsense reasoning rather than reliance on legal facts (Garfinkel, 1967) called for further attention considering the implications of these cognitive processes on wrongful conviction. In addition, pretrial publicity bias and deliberating with biased others has been linked with faulty juror decision-making, (Ruva & Guenther, 2017) as both inevitably shape the narratives jurors create. Exploring how it felt to be a juror, after the case has been overturned, using in-depth interviews with jurors, provided rich insight into how wrongful conviction occurs, can be used to inform policy and social change, and can contribute to the prevention of wrongful conviction.

In this section, a background on jurors, wrongful conviction, and extralegal factors pertaining to jury decision-making are addressed. All pertinent factors of this study are articulated, including the research problem, purpose of the study, research questions, conceptual framework, and nature of the study. Defined terms are presented as well as the assumptions of the study and the limitations of the study. Finally, I discuss the scope and delimitations and the overall significance of the study.

Background

The way in which jurors hear, process, and make decisions about evidence and case facts is dependent upon the intimate life experience and world knowledge of each juror. Bennett (1978) and Pennington and Hastie (1986) found that life experience and world knowledge combined to create a filter in which jurors received evidence presented during criminal trials. In numerous studies on juror decision-making, Pennington and Hastie (1986, 1988, 1992) observed that case information was sifted through mental representations created by jurors into trial narratives that were easier for jurors to organize and understand. Bennett (1979) maintained that juror inclination to organize confusing, disjointed case information into a story context was inevitable. Additionally, Levine (1996) pointed out the implications of misjudging the defendant and circumstances during deliberations, referred to as the “story model” by Bennett and Feldman (1981), in contributing to the phenomenon of wrongful conviction. The story model of juror-decision making has been widely accepted and used as a psychosocial framework to understand juror reasoning and determinations of guilt.

Commonsense reasoning is a critical aspect of juror tendency to construct narratives of case events during trial. Garfinkel (1967) studied juror decision-making and identified a common theme of jurors relying on commonsense reasoning to assign culpability and understand defendant or witness actions. Garfinkel (1988) postulated that members of society, specifically jurors, rely on an unspoken, subjective “phenomenon of order” to make sense of the world. Using Garfinkel’s (1988) “phenomenon of order,” Maynard and Manzo (1993), discovered that that jurors rely on commonsense reasoning despite legal and official instructions not to do so. Maynard and Manzo (1993) developed the concept of commonsense reasoning further in their qualitative analysis of an actual juror deliberation. Maynard and Manzo (1993) found that jurors leaned heavily on commonsense reasoning when having to choose between commonsense reasoning and legal instruction to provide “justice,” (pp. 171). Additionally, the notion of justice for each juror differed, depending on the narrative jurors created and default sense-making mechanisms. Commonsense reasoning goes hand in hand with juror construction of narratives to make sense of case facts.

Several scholars have used the story model of juror decision-making and commonsense reasoning as conceptual frameworks to research juror judgement. Each of these empirical studies found juror inclination to rely on life encounters and personal beliefs to form commonsense expectations about how a crime occurred. Devine and Caughlin (2014) and then Devine, Kruse, Cavanaugh, and Basora (2016) conducted meta-analyses of the interplay between trial participant characteristics and juror narratives and found that defendant and juror characteristics shaped narratives and

determinations of guilt. Gambetti, Nori, and Giusberti (2016) found that jurors formed mental representations of defendant intent and morality based on their own understanding and life experience. In essence, jurors assigned story plot and character choices in accordance with their own life encounters and judgement. In addition, juror inclination towards commonsense reasoning and narrative construction caused jurors to disregard legally relevant facts in pursuit of inaccurate information that they personally viewed as pivotal to the story that they developed (Ellison & Munro, 2015). A prominent theme of reliance on supposition and speculation during deliberations rather than legal tests and evidence emerged.

In order to construct complete and compelling narratives, jurors often introduced information that was not presented during trial. Importantly, Ellison and Munro (2015) determined that mock juror participants went beyond the evidence presented in court to prove defendant culpability. Participants in this study created “mini-narratives” (pp.221) to supply explanations for missing pieces in their individual stories about what happened or, alarmingly, what could have happened. The introduction of extraneous, and often false, factors in juror narratives caused jurors to misconstrue actual events and case facts.

Assumptions about defendant or witness behavior also plays a large role in misinterpretation and faulty decision-making. Rossner (2019) determined that mock jurors relied on normative assumptions and personal experience when developing narratives from case information and making conclusions about defendant culpability. Normative assumptions were defined as the phenomenon in which jurors weighed what their idea of an innocent person’s actions would have been compared to the defendant’s

actions. Ellison and Munro (2015) found that jurors weighed the plausibility of witness statements and defendant behavior according to their experience and belief about what constituted normal behavior. In addition, projections of juror experience on defendant or victim behaviors led to unsubstantiated narratives that also impacted other jurors during the group deliberation process.

Stereotypical beliefs, preexisting notions about court proceedings, and exposure to case information prior to serving as a juror impacted juror ability to be objective. Willmont, Boduszek, Debowska, and Woodfield (2018) relied on the story model framework and determined that pre-trial bias manifests during decision-making and dictates the stories that jurors create, causing jurors to weigh evidence and accounts against their personal narrative. Furthermore, Ellison and Munro (2015) showed pre-trial bias and narrative interpretations outweighed legal instruction pertaining to requirements for guilt and reasonable doubt. Pre-existing lay knowledge about complex legal tests to determine guilt created misinformed and unfounded juror assumptions about guilt. Additionally, Ruva and Gunther (2017) studied the impact of pre-trial publicity information on individual jurors and jury groups. Ruva and Gunther found that pre-trial publicity information caused jurors to construct narratives, prior to receiving actual case information. Jurors maintained their belief in these pre-formed narratives, even in the face of contradictory trial evidence. Finally, Goodman-Delahunty et al. (2016) identified patterns of mock juror misperception of child sexual assault victims in the narratives jurors created. Juror misperceptions manifested in lower findings of guilt and higher disbelief about victim testimony. Despite a legal obligation to disregard pretrial publicity

or pretrial bias, jurors were unable to do so and held onto their preexisting ideas about how a crime occurred.

Ellison and Munro (2015) argued that juror dependence on narrative constructions is inevitable. Using stories to organize and comprehend complex information was described as an, “engrained, everyday cognitive and discursive process,” (Ellison & Munro, 2015, pp. 203). Even in light of empirically disproven assertions, some jurors refused to alter their faulty narratives. In Ellison and Munro’s study, a juror’s assumption that any woman would fight back if being sexually assaulted was refuted by other jurors but remained a pivotal belief during the deliberation process. Devine and Caughlin (2014), Hunt (2015), and Pica, Pettalia, and Pozzulo (2016) substantiated the notion that juror reliance on narratives is automatic and often unconscious when looking at the ways in which trial participant characteristics, such as race, culture, age, or socioeconomic status (SES), colored the narratives jurors created. The ease and clarity offered by narrative accounts took precedence over juror obligation to adhere to case facts and legal instruction.

Juror decision-making was frequently based on commonsense assumptions and beliefs based on how the juror would react in a similar situation. Ellison and Munro (2015) noted a persistent theme of juror reliance on commonsense reasoning during deliberations when piecing together versions of events. Jurors used commonsense reasoning to build persuasive narratives for themselves and fellow jurors. Rossner (2019) also found a pattern of jurors relying on commonsense reasoning to build a comprehensive version of events prior to making a decision. In other words, jurors used

commonsense assumptions to fill in gaps in the narratives presented by attorneys and the narratives they constructed to explain the case.

Extralegal Influences on Juror Narratives

Numerous studies have established that both legal factors, such as type and seriousness of the crime, and extralegal factors, such as juror emotion and inherent bias, continuously influence the trial narratives that jurors create and, ultimately, juror determinations of guilt. The CJS assumes juror neutrality and objectivity, but substantial empirical evidence has demonstrated this notion to be faulty (Ellison & Munro, 2015). Devine and Caughlin (2014) reviewed the literature on juror decision-making, focusing on 11 different trial participant characteristics. The extralegal factors studied included gender, defendant SES, defendant race, juror trust of the legal system, etc., on legal judgements. Results substantiated the notion that trial participant characteristics, juror feelings, and preexisting juror bias have significant influence on juror decision-making.

Juror emotionality and preconceived notions affected decision-making and shape the narratives jurors develop. Capestany and Harris (2014) studied feelings of disgust and how biological descriptions of defendant traits impacted juror cognition during decision-making and found that juror decision-making was biased by juror emotionality and social cognition. Capestany and Harris defined social cognition as the way in which humans make sense of other human's thinking and emotions as people move through the world. Specifically, social cognition and emotionality bias impacted how jurors made sense of case facts and their ability to engage in logical reasoning. Lynch and Haney (2015) qualitatively investigated the role of juror emotionality and revealed a substantial link

between juror emotions and justification of their own positions and/or explaining away opposing viewpoints of others. Additionally, results indicated that white male jurors used strong emotion-based tactics to change the viewpoints of others. Fortune (2009) described the responsibility of being a juror and the decision-making process she experienced in a phenomenological self-study. Fortune experienced significant confusion and high emotions as a juror and questioned how the average juror should make decisions to avoid bias, decide the credibility of participants, and determine guilt. Fortune described using gaps to fill in the story during deliberations. Feigenson (2016) reviewed existing literature on juror emotions, both essential and secondary emotional reactions, and substantiated the notion that juror emotions impact designations of criminal culpability. Juror sentiment about the defendant and the crime in question unequivocally influenced findings of guilt.

Demographic factors, including race, gender, age, SES, and in-group leniency shaped juror perceptions of criminal defendants and witnesses. Maeder and Yamamoto (2018) looked at the interplay between mock juror, victim, and defendant race on guilty verdicts; results indicated when race was emphasized as a salient issue during trial, mock jurors were more cognizant of potential racial bias towards the defendant, as demonstrated by findings of guilt. Differences in race and ethnicity between jurors and defendants played a role in biased decision-making. Espinoza, Willis-Esqueda, Toscano, and Coons (2015) found that defendants of Mexican ethnicity were found guilty more frequently and thought to be more culpable, substantiating the theory that aversive racism perpetuates in the narratives jurors create about defendants. Race and ethnicity of jurors,

defendants, and witnesses impacted the way in which jurors viewed case facts and defendant culpability.

The impact of gender roles, gender stereotypes, and age on juror deliberations has also been well established. Male defendants are more likely to be found guilty than females when accused of the same crime (Strub & McKimmie, 2016). Jurors adhere to long-standing gender roles of women being more defenseless and less capable of committing violent crimes. Meaux, Cox, and Kopkin (2018) examined the interplay of defendant and juror gender on determinations of guilt and sentencing in criminal trials involving intimate partner violence or sexual crimes. Results established an overall pattern of juror leniency towards female perpetrators with both responsibility and sentence recommendations. Results also demonstrated a difference in verdicts depending on mock juror gender; male participants were harsher when the defendant was female and female participants were more lenient towards female defendants. In addition, Rodriguez et al. (2018) analyzed gender variables of mock jurors and found a positive correlation between female, younger aged participants and higher findings of guilt in the Steven Avery murder case. These findings substantiate the presence of juror interpretation of guilt depending on societal roles of men and women and differing ages of mock jurors and defendants.

SES (SES) shaped juror opinion and interpretation of criminal defendants. Espinoza et al. (2015) identified a link between low SES and guilty verdicts among Mexican defendants. Higher SES jurors viewed lower SES defendants as more culpable and more capable of committing criminal acts (Espinoza et al., 2015). Differences in SES

between juror and defendant contributes to negative stereotypes colored the story jurors create about criminal defendants. Additionally, Rodriguez et al. (2018) found that similarity in the SES of participants and defendants led to more findings of innocence and lower SES participants were more likely to find the defendant not guilty. Preexisting ideas about lower SES defendants or witnesses created biased thinking during juror deliberation.

Juror identification with in-group members and automatic assignment of negativity towards out-group members has been a concern in juror decision-making. Yamamoto and Maeder (2017) demonstrated the strength of jurors' affiliation with groups in making determinations of guilt and assigning defendant responsibility and control. In-group and out-group bias directly impacted juror decision-making and jurors tended to be positively biased towards the group they identified with. Devine and Caughlin (2014) identified a trend in racial bias manifesting in court as in-group/out-group bias instead of differences in racial groups. Skorinko, Laurent, Bountress, Nyein, and Kuckuck (2014) found that jurors who identified more with the victim or with the defendant tended to take on the perspective of the victim or the defendant and had elevated levels of empathy towards that person, altering determinations of guilt. Empathy and leniency were associated with participants who identified with the defendant as an in-group member. In-group association also occurs amongst jurors during group deliberations, manifesting in jurors influencing one another with biased ideas or pretrial publicity exposure (Ruva & Guenther, 2017). Jurors who were easily influenced by others tended to take the viewpoint of jurors who they most closely identified with.

Juror difficulty in understanding legal and judicial instruction is a well-established issue throughout the literature, causing jurors to rely on commonsense and self-created narratives to process case material. Unofficial, misinterpreted definitions and rules often prevailed over official legal rules during deliberations (Ellison & Munro, 2015). Additionally, Barner (2014) found that jurors expressed substantial confusion about juror instruction and legal definitions during trial. Juror confusion forced jurors to make sense of the instruction by using their own personal interpretation. Ellison and Munro (2015) found jurors were more likely to disregard instruction and case facts in favor of their own narrative construction to fill in gaps and make sense of the information presented during trial. In other words, jurors developed a story, based on their own experiences and interpretations of how the world works, to make determinations of guilt and punishment. Additionally, Ellison and Munro discovered a pattern of jurors incorrectly paraphrasing important legal requirements and instructions, often losing sight of key elements and misunderstanding the law. Juror confusion also led to fellow jurors incorrectly summarizing the law and instructions in attempt to clarify the information for others.

Some studies focused on measuring the impact of supplemental instruction on juror comprehension. Goodman-Delahunty et al. (2016) revealed a clear difference in verdicts when jurors were given additional education about the law and case facts prior to deliberation. However, Ellison and Munro (2015) did not find a significant difference in juror reliance on legal instruction even when special measures were taken to provide clarity and completeness to the instructions. These findings demonstrate a need for

significant reform in the United States jury system to identify prevent juror misunderstanding of legal jargon and instruction.

Additionally, juror understanding of scientific evidence, expert testimony, eyewitness identification, and false confessions was limited, leading to juror reliance on making sense of case facts through stories based on personal experience and preconceived ideas. Ritchie (2015) examined juror perception of DNA evidence and determined that juror perception was dependent upon the way this evidence was presented in court rather than the scientific nature of the evidence. Ribeiro, Tangen, and McKimmie (2019) found that study participant notions about and understanding of forensic science techniques differed dramatically. The results of these studies suggest that juror perception and comprehension of forensic science evidence presented during trial would also differ based on individual juror opinion.

Evidence of false confessions and weak eyewitness testimony proved to confound jurors and complicate juror deliberations. Confession evidence, even when shown to be factually incorrect, continued to shape juror perception of the defendant and determinations of guilt (Jones, Bandy, & Palmer Jr., 2018). False confessions that were recognized as such by juries still negatively impacted juror feelings of defendant guilt. Woody et al. (2018) found that the expert testimony caused jurors to believe the false evidence ploys were less coercive and less influential on the defendant's confession. Furthermore, eyewitness testimony against a defendant, even when shown to be factually incorrect, continued to influence juror deliberations and led to more guilty verdicts (Jones & Penrod, 2018). In addition, juror's biased perceptions of the complaining witness or

victim in the case impacted findings of guilt. Ellison and Munro (2015) revealed mock juror fallacy about what an authentic sexual assault victim would act like when assessing defendant guilt. Overall, jurors misinterpreted and misconstrued evidence pertaining to false confessions and eyewitness testimony.

Expert witnesses and juror assessment of expert witness credibility was often dependent upon how jurors perceived the witness. McCarthy Wilcox, and NicDaeid (2018) found that jurors assigned more credibility to expert witnesses who presented as confident and were former governmental employees or prosecution witnesses. In addition, McCarthy Wilcox and NicDaeid (2018) found that experience rather than education or training was more important for jurors in finding expert witnesses credible. Importantly, jurors overlooked critical credentials in favor of their opinion about the witness. Ellison and Munro (2015) found that some jurors completely disregarded expert testimony on sexual assault evidence (or lack thereof), relying on their own sexual experience instead. Expert testimony, forensic science evidence, and confession evidence have all been found to be subjective rather than scientific with regard to the impression they make on jurors.

Problem Statement

Despite judicial system expectations that jurors suspend judgement until all case facts have been presented, research has demonstrated that jurors are unable to approach decision-making with a blank slate. Research on wrongful conviction and the jury system in the United States reveals a pattern of juror reliance on their own narrative construction of events and commonsense reasoning during deliberations, despite legal and judicial

instruction not to do so (Ellison & Munro, 2015). Commonsense reasoning and narrative construction of events refers to jurors falling back on personal experiences and beliefs about how the world works to make sense of case facts during deliberations (Garfinkel, 1967; Maynard & Manzo, 1993; Pennington & Hastie, 1986). Prior research on errors in juror cognition has been mostly limited to quantitative data collected from mock juries, videotaped deliberations, or data from previous studies (Devine & Caughlin, 2014; Lieberman, Krauss, Heen, & Sakiyama, 2016). In addition, previous studies failed to directly address the gap between “lay and legal imaginaries” (Ellison & Munro, 2015). Further research using qualitative interviews with actual jurors who served on wrongful conviction cases is necessary to better understand and eliminate errors in juror cognition during individual and group decision-making (Maeder & Yamamoto, 2018).

Purpose of the Study

The purpose of this study was to explore how errors in juror cognition during decision-making lead to juror reliance on narrative construction and commonsense reasoning rather than legal and judicial instruction in wrongful conviction cases. The participants in this study consisted of jurors who served on a criminal case in which the defendant was wrongfully convicted. Participants were recruited from across the United States. I sent a letter of introduction (see appendix B) to potential participants that were identified as having served on a wrongful conviction case. In attempt to shed light on the cognitive processes that may have caused jurors to fall back on use of their own commonsense version or narrative construction of events, I conducted in-depth interviews with the participants to gather rich, descriptive data on the juror’s lived

experience with serving on a jury, the deliberation process, and wrongfully convicted the defendant. Thematic analysis was used to identify common themes and patterns in the lived experience of wrongful conviction for jurors as well as search for potential themes of juror reliance on narrative construction and commonsense reasoning during the decision-making processes.

Research Questions

1. What is the lived experience of jurors who have rendered verdicts in wrongful conviction cases?
2. How does juror reliance on narrative construction of case facts manifest during deliberations?
3. How does juror reliance on commonsense reasoning manifest during decision making?

Framework

Much of the previous research on juror cognition has been anchored in the psychosocial characteristic models that shape jury-decision making. Additional research on social identity theory revealed a common theme of researchers using the story model of juror decision-making, developed by Bennett (1978) and expanded upon by Pennington and Hastie (1986, 1988, 1992) as a lens in which to view errors in juror cognition. Essentially, Bennett and then Pennington and Hastie found that jurors construct narratives to explain how the crime occurred based on their own life experience and perspectives, regardless of case facts or legal instruction disproving their version of events. Furthermore, significant research has framed studies on juror cognition with the

commonsense reasoning model established by Garfinkel (1967). Garfinkel described commonsense reasoning pertaining to juror decision-making as reliance on predetermined case factors and effect pathways about how a crime occurred based on what makes sense rather than on case facts as laid out during trial. This study used both the story model and commonsense reasoning as lenses to analyze juror decision-making and the implications of these findings in wrongful conviction.

Nature of Study

This study was a qualitative exploration, via descriptive phenomenology and thematic analysis, of participants' lived experience with serving as a juror on a criminal case in which the defendant was wrongfully convicted. Wrongful conviction for this study was narrowed to cases in which the defendant was found to be factually innocent, resulting in the defendant being acquitted. In-depth interviews were conducted with 12 jurors from across the United States, as recommended by Guest, Bunce, and Johnson (2006), and substantiated by Weller, et al. (2018) to reach data saturation when using a qualitative approach. The purpose of the study was to capture juror lived experience with wrongfully convicting the defendant in attempt to illuminate patterns of juror reliance on commonsense reasoning (Garfinkel, 1967; Maynard & Manzo, 1993) and the story model (Pennington & Hastie, 1986) to interpret case facts during juror decision-making. Thematic analysis of the interview data was used to investigate common themes and codes in participant experience (Braun & Clarke, 2017; Fawcett & Clark, 2015). Thematic analysis of the data consisted of manually transcribing the data, organizing and

becoming familiar with the data, repeated data review, and identifying codes and themes based on participant experience (Braun & Clarke, 2017).

Defined Terms

Accessibility bias: the propensity of humans to rely on recollections that most easily come to mind to make sense of an event (Finkel, 1995).

Beyond a reasonable doubt: standard of proof used in criminal trials that serves as a threshold to specify the amount of confidence in guilt necessary in order to convict a defendant; a generally accepted level of certainty is 90% (Mueller et al., 2018).

Commonsense reasoning: “socially-sanctioned-facts-of-life-in-society-that-any-bona-fide-member-of-society-knows,” (Garfinkel, 1967, pp. 76).

Exoneration: a defendant’s actual innocence has been established after conviction or the existence of new evidence that, if presented during a new trial, would likely secure a different verdict (Olney & Brown, 2015).

Exoneree: individuals who were convicted of crime that they were not guilty of and then exonerated by a court of law (Olney & Brown, 2015).

Extralegal factors: Variables in individual criminal cases such as race, age, and gender of jurors, defendants, and victims, emotions and bias of jurors, or criminal history of a defendant (Brown & Sorensen, 2014).

Factually innocent or convicted innocents: an individual is legally innocent of any criminal act (California Penal Code, § 851. 8, 2018).

False confession: a person admits guilt for a crime he or she did not commit (Kassin, 2017).

Normative Assumptions: the phenomenon in which jurors weighed their idea of an innocent or person's actions against the defendant's actions (Rossner, 2019).

Simulation heuristic: occurs when humans construct representations, not necessarily accurate, of crimes and criminals based on their own commonsense thinking (Finkel, 1995).

Social cognition: the way in which humans make sense of other human's thinking and emotions as people move through the world (Capestany & Harris, 2014).

Stereotyping: juror belief that certain ethnic groups are more inclined to commit crimes, such as African Americans, causing jurors to unconsciously make judgements about a defendant's guilt (Curtis, 2013).

Story: elaborate frame built from individual life experience and world knowledge used during trials to categorize, store, evaluate, examine, and understand complex information and make determinations of guilt (Bennett, 1979).

Wrongful conviction: refers to the conviction of defendants who are in fact not guilty of any aspect of the crime in which they were found to be guilty of. (Acker & Redlich, 2011).

Assumptions

This research made assumptions. First, it assumed that the juror participants did their absolute best to deliberate with integrity and determine the most appropriate verdict possible for the criminal case they served on. Second, this research assumed that jurors took their responsibility as a juror and a citizen seriously. Finally, this study assumed that

participants were honest and forthcoming in their account of wrongfully convicting a defendant.

Scope and Delimitations

This study entailed in-depth interviews with jurors who rendered a guilty verdict on a criminal case, and the defendant was wrongfully convicted. Originally, this study intended to concentrate recruitment on one large metropolitan region in the United States, but participants were unable to be located from this region due to state laws prohibiting the release of juror names. Because recruitment in this specified area was unsuccessful, nationwide recruitment of jurors from the United States was employed to get the necessary number of participants. Exclusions for participants included those who served on a criminal case that was overturned as a result of a technicality rather than the defendant being determined to be factually innocent. Serving as a juror in the United States limits those who can serve as jurors, and thus the participant sample for this study was also limited, to individuals who were at least 18 years of age, are citizens of the United States, understood and spoke enough English to meaningfully participate, had resided in the jurisdiction for at least one year, did not have any physical or mental condition that would disqualify them from service, were not subject to any felony charges that were punishable by imprisonment for more than one year, and had never been convicted of a felony (United States Courts, 2020). In addition, this research mainly focused on juror decision making in determinations of guilt and but did consider sentencing decisions or factors for cases in which jurors sentenced the defendant.

Limitations

There were limitations to this study. The length of time it takes the CJS to overturn a conviction and exonerate wrongfully convicted individuals is substantial, about 14 years according to the Innocence Project for those exonerated through DNA evidence in California (2019). Juror recall bias and memory issues may have impacted the accuracy of recollection of their experience serving as a juror. Attempts were made to limit the time passed between juror experience and the exoneration of the defendant, only selecting participants who served within the past 10 years. Additionally, the subject of inquiry was, in some cases, uncomfortable and jurors may have experienced trauma discussing their experience; protocol to assist jurors in processing feelings and experience was provided.

Significance

In this study, I explored the lived experience of jury service for jurors who served on juries in wrongful conviction cases. This study offered unique insight into the interplay between juror reliance on commonsense reasoning to make sense of case facts, juror tendency to construct narratives about defendant actions, and wrongful convictions. Pennington and Hastie's (1986) story model of jury decision-making and Garfinkel's (1967) exploration of commonsense reasoning indicated that jurors create a story to explain a criminal defendant's actions and to fill in gaps in events not explained by prosecutors or defense attorneys. Results of this study are potentially far-reaching in promoting social change.

Data illuminating error in how jurors make decisions can be used to inform practices and policies that mandate a higher standard in the education of jurors on legal and criminal matters as well as the ways in which juror bias can manifest. Furthering the understanding of error in juror cognition can be used to assist in the prevention of wrongful conviction, the prevention of social injustice, and the prevention of the suffering of the defendant, the victim's family, and all parties impacted by wrongful conviction. Findings can also be used to educate attorneys and judges on how narrative construction and commonsense reasoning occurs in juror decision-making so that trial narratives and juror instructions are more complete, less gaps are left for jurors to fill, and jurors are better prepared to make determinations of guilt.

Summary

Wrongful conviction in the United States requires scholarly attention due to the devastating impact of wrongful conviction on exonerees, victims, CJS, and society as whole. The role of jurors and the juror decision-making process in the CJS has been empirically investigated and debated for many decades as researchers attempt to understand how jurors contribute to wrongful conviction. Research has revealed a pattern of juror reliance on forming inaccurate and misleading narratives, based on commonsense reasoning, to organize case facts and determine guilt (Ellison & Munro, 2015) but these patterns have not been explored in relation to wrongful conviction. Several legal and extralegal factors related to juror decision making have been identified as factors contributing to wrongful conviction, including false confession evidence, faulty forensic science evidence, prosecutorial misconduct, investigating officer misconduct, defense

counsel misconduct, false identification, perjury, false accusations, mistaken identification, and juror misperception during decision making (Barner, 2014; National Registry of Exonerations, 2019). However, juror lived experience with wrongful conviction to illuminate how errors in juror cognition manifest in wrongful conviction cases has not been explored.

Furthering the understanding of how errors in juror decision-making contribute to wrongful conviction in the United States will benefit criminal defendants, victims of crime, all parties involved with or affected by the CJS, and society as a whole. Wrongful conviction is a pervasive, costly phenomenon and an unfortunate reality for some criminal defendants. Exploring the role of juror decision-making and the impact of juror tendency to create stories or rely on commonsense reasoning during decision-making was necessary to better prevent wrongful conviction in the future. Interviewing jurors who have lived with this experience was necessary to better understand their individual thought patterns during trial and the deliberation process. The following section provides scholarly details and thorough discussion on relevant literature pertaining to jurors, wrongful conviction, the story model of juror decision-making, and commonsense reasoning.

Chapter 2: Literature Review

Introduction

Jurors, like all human beings, are subject to bias and error in making decisions. Jurors serving on criminal cases in the United States face the complex task of making determinations about a defendant's guilt based on complicated and incomplete information presented during criminal trials. An alarming lack of training exists in the juror system. Jurors are expected to make just, unbiased decisions about a defendant's actions despite lack of training on or familiarity with the trial system, human behaviors, or personal bias. As a result of lack of training and experience, jurors have been found to rely on creating stories about the information presented during trial, based on life experience and knowledge of the world (Pennington & Hastie, 1986). Ellison and Munro (2015) determined that jurors do not receive information and make decisions during criminal trials as empty vessels, open and objective. Rather, jurors hear, process, discuss, and deliberate trial information based on pre-existing, and often invalid, ideas and beliefs. Numerous studies have established legal factors, such as type and seriousness of the crime, and extralegal factors, such as juror emotion and inherent bias, that continuously influence the stories jurors create and, ultimately, juror determinations of guilt.

The fallibility of jurors as biased humans contributes to wrongful conviction. Rodriguez et al. (2018) highlighted the implications of juror impartiality for wrongful conviction cases and discussed the diverse ways juror bias manifests during deliberations. Previous research has explored juror experience with having served on a jury, but I am unaware of any existing studies that explore juror experience with wrongfully convicting

a defendant. An analysis of the decision-making process and impact of wrongful conviction on the jurors who rendered an inaccurate guilty verdict could provide significant insight into this experience, as well as identify factors leading up to the inaccurate judgement.

In this section, literature search techniques and the conceptual framework for the study are reviewed. I discuss juror roles and responsibilities and specifics about wrongful conviction in the United States. A historical and current review of the story model of juror decision-making and commonsense reasoning is provided. An overview of both conceptual lenses pertaining to wrongful conviction is discussed.

Literature Search Strategy

I conducted a systematic, comprehensive, scholarly article search using numerous key words and key phrases. I also linked different combinations of key words and phrases together and used Boolean phrases, as appropriate, to conduct an exhaustive review of the literature. I searched Proquest, Sage Journals, PsychArticles, PsychINFO, SocINDEX, Academic Search Complete, EBSCO, Thoreau Multi-database, and Google Scholar. The following key words and phrases were used to locate scholarly research articles for my study: juror decision-making, juror, juries, jury, qualitative, exploratory, juror bias, juror lived experience, wrongful conviction, actual innocence, faulty verdicts, story model, juror narratives, commonsense reasoning, juror deliberation, extralegal bias, criminal trials, extralegal influence, legal decision-making, juror perspective, law, juror comprehension, social cognition, responsibility judgement, exoneration, exonerees, lived experience, phenomenology, life experience, perspective, interview, thematic analysis,

coding, perception, and factual innocence. Each scholarly article used for this study was peer reviewed and verified by Ulrichsweb. In addition, the articles selected were limited to seminal works or current studies published within the last 6 years.

Conceptual Framework

Much of the previous research on juror cognition has been anchored in the psychosocial characteristic models that shape jury-decision making. Additional research on social identity theory revealed a common theme of researchers using the story model of juror decision-making (Bennett, 1978; Pennington & Hastie, 1986) as a lens in which to view errors in juror cognition. These authors found that jurors construct narratives to explain how the crime occurred based on their own life experience and perspectives, regardless of case facts that disprove their version of events. Furthermore, significant research has framed studies on juror cognition with the commonsense reasoning model established by Garfinkel (1967). Maynard and Manzo (1993) described commonsense reasoning as juror reliance on predetermined case factors and effect pathways about how a crime occurred based on what makes sense rather than on case facts as laid out during trial. This study used both the story model and commonsense reasoning as lenses to analyze juror decision-making and the implications of these findings in wrongful conviction.

Role and Responsibility of Jurors in the Criminal Justice System

All criminal defendants in the United States have a constitutional right to a fair trial. According to the Sixth Amendment and 28 U.S. Code § 1861, all courts in the United States are legally mandated to provide criminal defendants with a public trial by a

jury of their impartial peers. The same section provides all citizens with the right to serve as jurors and obligates citizens to serve as a juror if summoned by the court (Cornell Law School, n.d.) As articulated by Kalven, and Zeisel (1966), a jury consists of 12 individuals selected to make a decision about guilt pertaining to a specific court case, while deliberating in secret and not being required to justify their verdict. The legal system assumes that jurors represent a cross-section of the general population of the United States (Mueller-Johnson et al., 2018). In light of the critical role jurors play in the trial process, substantial scholarly research has been conducted on jurors and the juror decision-making process.

Jurors are assigned an interpretive role and asked to assess contrasting accounts of criminal acts. Ellison and Munro (2015) pointed out judicial encouragement of jurors to rely on “combined good sense, experience and knowledge of human behavior and modern life,” (pp. 218). However, the interpretive role of a juror is inherently subjective and based on pre-existing ideas. The gap between “lay and legal imaginaries” (Ellison & Munro, pp. 222) is vast and all but overlooked by the current judicial system. Juror understanding and experience with the world often does not translate well in evaluating complex legal jargon and case facts. Ellison and Munro discovered a disregard for formal, well-defined legal boundaries during the deliberative process. Misunderstanding of and disinterest in legal instructions are concerning phenomenon in juror decision-making.

Scholarly examination of juror attitudes showed that jurors took the responsibility of being a juror seriously. Research on the experience of mock jurors also suggested that

these participants were engaged and sincere in acting as a juror (Ellison & Munro, 2015). Jurors strived to be informed and diligent decision makers, but studies have shown jurors rely on schematic interpretations to determine “what really happened,” as they are faced with making decisions based on disjointed and equivocal case facts (Holstein, 1985, pp. 97). Jurors (and mock jurors) struggled to make objective decisions and often assigned meaning to defendant actions with no consideration of individual mental states of the defendant (Capestany & Harris, 2014). Despite best intentions to remain fair and impartial, the specific role of jurors and all that the role entails is often misunderstood.

Jurors are tasked with deliberating and making decisions within a group context and are faced with pressure to conform to societal norms. Individual jurors gather with their peers to form an interactive, dynamic group tasked with delivering a unanimous verdict in criminal cases (Spackman, Belcher, Cramer, & Delton, 2006). Bennett (1978) addressed the pressure placed upon jurors to adhere to complicated situational, informational, and social demands while working with a group of peers to reach a verdict. During the voir dire process, jurors are expected to openly admit their existing biases and impartiality. This public setting may cause potential jurors to omit their known biases to appear more favorable, meaning they may be placed on the jury despite severe limitations in their ability to be neutral (Schuller, Erentzen, Vo, & Li, 2015). Social pressure often outweighs a juror's ability to be forthcoming about subjectivity.

Furthermore, operating to make a unanimous decision amongst differently biased and opinioned others is a challenge all jurors must face. Ellison and Munro (2015) discussed the implications of biased juror narratives being presented during the

deliberation process. Jurors in this study defended and modified their faulty version of events as needed during the deliberation process to reach a collective verdict.

Importantly, unfounded assertions made by jurors during deliberations were frequently left unchallenged or, if disputed and disproven, continued to be considered as facts (Ellison & Munro, 2015). Basically, jurors relied on subjective viewpoints and life encounters to create and argue compelling narratives during deliberations.

In addition to the pressure faced by jurors serving on criminal trials, jurors are often psychologically affected as a result of the material they are exposed to during criminal trials. Lonergan, Leclerc, Descamps, Pigeon, & Brunet (2016) conducted a literature review pertaining to the psychological impact of juror duty on those who serve as jurors. Lonergan et al. (2016) concluded that serving as a juror was often stressful and traumatic and caused psychological issues consistent with PTSD, including nightmares, depression, invasive recollections, hyperarousal, and evasion. Criminal justice professionals are slowly addressing the negative mental health impact of juror service, including efforts to prevent stress and provide jurors with debriefing sessions (Lonergan et al., 2016). Efforts to avoid psychological trauma have become a focus point for jury reform.

Phenomenon of Wrongful Conviction in the United States

Wrongful conviction is a persistent social injustice issue that has generated significant attention in the United States. The far-reaching and destructive impact of wrongful conviction in the United States cannot be overemphasized (Leo, 2017). Leo discussed the progression of awareness in our society pertaining to wrongful conviction

in light of numerous exonerations since the 1990's. Doyle (2010) described the phenomenon of exonerations as “delivering a shock to the system in the world of criminal justice,” (pp. 145). Olney and Bonn (2015) referred to the CJS in the United States as “the criminal processing system” due to perpetual system processing errors and repeated injustices (Belknap & Potter, 2006, pp. 168). Due to significant criminal processing system errors and perpetuating patterns of injustice, wrongful conviction is a risk that many criminal defendants face, especially defendants of a minority race.

Numerous organizations have been created in the United States to document, track, and combat cases of wrongful conviction. Among the most prominent organizations are the Innocence Project, founded 1992 in New York, New York by Scheck and Neufield as an extension of the Cardozo School of Law of Yeshiva University (Innocence Project, 2019), and the National Registry of Exonerations, founded in 2012 in conjunction with the Center of Wrongful Conviction at Northwestern University Law School (The National Registry of Exonerations, n.d.). Other organizations created to identify and prevent wrongful conviction are the Innocence Network, the National Center for Reason and Justice, and various Innocence Projects in several states. The National Registry of Exonerations (n.d.) identified 2,667 exonerees since 1989. Severe discrepancies exist in the demographics of individuals who have been wrongfully convicted. According to the National Registry of Exonerations (n.d.), 49% of exonerees were identified as Black, 37% were identified as White, 12% were identified as Hispanic, and 2% were identified as Other.

Research on the contributing factors, and discrepancies, that lead to wrongful conviction in the United States revealed several recurring themes. Common causes of wrongful conviction were eyewitness misidentification, false confession evidence and coercive tactics used during interrogations, governmental misconduct, ineffective defense counsel, unreliable informants, and forensic evidence errors (Acker, Redlich, Bonventre, & Norris, 2016). According to The National Registry of Exonerations (n.d), mistaken identification, false confessions, bad forensic evidence, perjury or false accusations, and official misconduct were the leading causes of wrongful convictions. Each of these causes are linked to how jurors perceive case facts and how each of these CJS errors shape the juror decision-making process. However, as pointed out by Leo (2005, 2017), significant gaps in connecting these causes of wrongful conviction exist and future research must connect the contributing factors. Juror experience has assisted in connecting these gaps.

Juror Contribution to Wrongful Conviction

Numerous legal and extralegal factors have been researched pertaining to biased juror decision-making. The impact of juror impartiality in criminal trials cannot be overstated (Rodriguez et al., 2018). Research on juror impartiality indicated that juror bias directly influenced juror ability to comprehend and process information presented in court, leading to wrongful judgements of criminal defendants. Capestany and Harris (2014) found a tendency in jurors to use their personal experience to project what they would have done in the circumstance onto the defendant. Although scholarly research has focused on the influence of preconceived notions on juror decision making, the extent

and circumstances of the impact on wrongful conviction remain uninvestigated (Meaux, Cox, & Kopkin, 2018). Further research on how jurors contribute to wrongful conviction, captured through the experience of serving as a juror, is needed.

Bias, subjectivity, misinterpretation, and emotionality have been identified as factors that influence juror decision-making. Potential jurors are given the opportunity to admit any biases or impartiality in open court during the voir dire process, but research has shown that the social pressure to appear neutral and favorable in the eyes of their peers caused jurors not to admit their biases (Schuller et al., 2015). Preconceived notions and stereotypes that manifest during deliberations have been shown to influence juror decision-making, leading to partial beliefs about case facts (Barner, 2014; Maeder & Yamamoto, 2018). Jurors make assumptions about defendants or case facts based on their preexisting ideas and plug these assumptions into the narrative they create about a defendant's guilt. Ruva and Guenther (2017) found that pretrial publicity exposure shaped mock juror's determinations of guilt. Ruva and Guenther's finding substantiated previous research establishing pretrial publicity's impact on how jurors filter evidence during trial and the impressions jurors form about defendants. Pretrial publicity exposure negatively affected juror ability to remain objective.

Defendant, juror, and witness demographics have been proven to shape the way in which jurors perceive defendants and case facts. Espinoza et al. (2015) discovered that low SES Mexican defendants were found guilty more often and viewed as more culpable than other defendants. Juror and defendant gender have been linked with determinations of and confidence in guilt. Meaux et al. (2018) discovered that female participants overall

were more confident in findings of guilt, regardless of defendant gender. Additionally, gender stereotypes effected juror perspective of male versus female defendants and men are more likely overall to be convicted of crimes than women (Strub & McKimmie, 2016). Demographic variables play a role in how jurors view case facts, develop crime narratives, and make determinations of guilt.

Another variable that has been extensively researched with regard to juror decision-making is juror emotionality. Capestany and Harris (2014) found that both emotion and social cognition during decision making impacted jurors' logical reasoning mechanisms. Common emotions experienced by jurors while serving on criminal juries included frustration, confusion, and ambivalence (Barner, 2014). Feigenson (2016) determined that juror emotionality influenced how jurors assigned blame and culpability. Faulty attributions of guilt based on juror emotions create substantial risk of jurors wrongfully convicting defendants.

Jurors' ability to interpret eyewitness testimony, expert testimony, false confession evidence, and forensic evidence presented during trial was influenced by personal beliefs. According to the Innocence Project (2019), 25% of wrongful convictions involved false confession evidence. Furthermore, Woody et al. (2018) determined that although mock juror participants were aware that false evidence ploys were used to induce false confessions in defendants, jurors focused more on the choice of the defendant to make a false confession. Woody et al. also found that jurors believed false evidence ploys to be less coercive on a defendant's confession when expert testimony was given about false confessions. Expert testimony credibility was assigned

based on level of experience rather than education and previous employment as a government agent in a study conducted by McCarthy Wilcox and NicDaeid (2018). Jones and Penrod (2018) studied mock juror participant understanding of the *Henderson* instruction and discovered that more than half of the participants convicted the defendant even when eyewitness evidence was weak.

Juror comprehension of and preexisting beliefs about forensic science evidence also influence decision-making. Ribeiro et al. (2019) found that personal beliefs about and understanding of forensic evidence directly impacted juror perception of the evidence in court, despite legal and judicial instruction about the evidence. Jurors believe what they wanted to believe about the evidence for the duration of the trial, even after additional instruction or information was provided about the specific evidence is introduced. Appleby and Kassin (2016) established that the power of confession evidence outweighed exculpatory DNA evidence during deliberations. In a similar study, Ritchie (2015) found that DNA evidence was interpreted differently by jurors depending on the way the DNA evidence was presented in court.

Research has shown that jurors struggle to understand and apply complex legal and judicial instruction during deliberation. Ellison and Munro (2015) found that jurors often disregarded legal instruction in favor of stories that made more sense to the juror. Even when jurors generally understood legal standards, they preferred to use commonsense and narratives to determine guilt. Barner (2014) used data collected by the Capital Jury Project from interviews conducted with death penalty jurors in the United States and determined that jurors were confused about instructions and their specific roles

during the deliberation and the sentencing phases of trial. Confusion and misconception are rampant in juror experience. Juror misunderstanding of specific legal standards commonly used during criminal trial, such as reasonable doubt, directly impacted the narratives jurors create to explain defendant behavior (Mueller-Johnson et al., 2018). Legal jargon is complex and little extra instruction is provided to assist jurors in truly understanding intricate laws. Importantly, jurors assumed evidential limitations rather than acknowledging that the narratives they created could be inaccurate (Ellison & Munro, 2015). Jurors bend trial information to fit the story line developed when determining guilt. Given that the CJS places such a large responsibility on jurors to determine guilt and that a criminal defendant's freedom is on the line, understanding juror experience with this responsibility is crucial in preventing wrongful conviction (Mueller-Johnson et al., 2018).

Juror Reliance on Narrative Construction

As described above, complex, and often ambiguous, case information is filtered through the preconceived ideas and subjective beliefs of individual jurors. In addition, prosecutors and defense attorneys often fail to present complete narratives or provide jurors with a logical sequence of events (Ellison & Munroe, 2015). As a result, jurors must develop their own compelling version of events to explain case facts. According to Finkel (1995), jurors do not find the truth, they construct the truth via story creation to make sense of the information presented during trial. Bennett (1979) observed an automatic inclination in jurors to consolidate confusing and disjointed case facts into a narrative framework. Jurors develop stories that often disregard legal and judicial

instruction as jurors decide “what really happened” when identifying information pivotal to them in determining guilt. (Holstein, 1985, pp. 97). Juror narratives are ripe with biased perceptions and skewed interpretations of defendant behavior, legal instruction, and case facts.

The Story Model of Juror Decision Making

Due to the complexity of information presented during trial, the general lack of experience with or education on serving as a juror, and the gaps left in case scenarios presented during trial, jurors developed stories about a defendant’s actions to make determinations of guilt. Bennet (1978) proposed that jurors reduced the complexity in processing case information and making legal decisions by creating stories. The organizational characteristics of a story offers jurors a familiar way to keep track of and make sense of case information. Holstein (1985) posited that jurors formed “schematic interpretations” to determine the events leading up to the crime in question and the behaviors of defendants or witnesses (pp. 97). Developing narratives aids jurors in processing and sequencing complicated case material.

The above described research led to a conceptual model of juror decision-making based on storytelling. The story model of juror decision making (Pennington & Hastie, 1986) posited that jurors make judgements about case facts, rearrange case facts into a commonsense narrative format, and then select the strongest narrative version of events to render a verdict. According to the story model, decision-making involves developing an all-encompassing story that provided jurors with a complete account of what happened (Pennington & Hastie, 1986). The story had to be consistent, plausible, and

comprehensive to satisfy crucial gaps in information presented at trial. Reaching a verdict was based on building an overarching story that supplied a complete account of criminal events (Pennington & Hastie, 1986).

Juror developed narratives are most often subjective. Pennington and Hastie (1986) found juror stories were formed to match case events based on inferences drawn from a juror's world knowledge and personal experience rather than from testimony or evidence presented during trial. Jurors compared their own behavior or reaction to case facts and made assumptions about defendant behaviors accordingly. The story model (Pennington & Hastie (1986) assumed narratives are molded from juror interpretations of witness statements, defendant behavior, and case material. Further, stories are derived from the juror's estimation of how they would act, how believable and consistent the story is, and how to account for contradictions (Pennington & Hastie, 1986). Finkel (1995) posited that jurors "construe" and "interpret" trial information to assign blame and understand the behaviors of trial participants. Essentially, jurors projected their life experience and understanding of the world onto criminal defendants and made decisions accordingly.

The story model manifests during group deliberations as each juror presents their narrative version of what happened. Jurors argued their own subjective narrative version of events to the group (Holstein, 1985). They relied on commonsense reasoning and personal experience to argue viewpoint and plausibility during discussion. The jury then collectively choose the story that was most consistent, plausible, and complete

(Pennington & Hastie, 1986). Biased, faulty, and unfounded narratives contaminate the decision-making process.

Phases of the Story Model of Juror Decision Making

The story model of juror decision making identified three distinct phases during the decision-making process. According to Pennington and Hastie (1993), the first stage of jury decision-making is story construction. This phase takes place during pre-deliberation phases of the trial and can continue into group deliberation (Pennington & Hastie, 1993). During this step, jurors process and evaluate the meaning and the relevance of information presented during trial. Pennington and Hastie (1986) discovered a failure in jurors to recognize evidence of case facts that did not coincide with their version of events. Pretrial publicity, case facts, and juror impartiality played into how jurors weighed and organized trial information (Ruva & Guenther, 2017). Jurors then engage in event sequencing and organization based on a story format. The stories jurors created consisted of beginning, middle, and an end, with jurors identifying an initiating event and main characters in their story (Pennington & Hastie, 1986). The story is created in this phase, heavily based on juror interpretation as opposed to objective reasoning.

The second phase involves jurors learning, understanding, and applying legal instructions about verdict options. Jurors receive instruction on verdicts and must decipher different options for verdicts (Pennington & Hastie, 1993). Juror comprehension of legal instructions and information relating to different verdict options directly impacts the story jurors create about a defendant's guilt. However, jurors struggle to understand and apply legal instruction (Barner, 2014). Juror inability to absorb and use instruction

appropriately leads to juror reliance on biased understanding of the material. Jurors may have preconceived ideas about components of verdict options that ultimately impact the ability to hear or comprehend important legal factors pertaining to the verdict options (Smith, 1991). Juror decisions about verdict options are influenced by the need to complete the narrative jurors create about trial events.

The final stage of the story model is the story mapping phase. During this stage, judgement occurred based on best match between the juror's version of events and the verdict options that were available (Pennington & Hastie, 1986). Finkel (1995) described this stage of the decision-making process as jurors using the available evidence to build a story that resonated with them, based on the juror's preexisting ideas. Interestingly, juror stories varied dramatically despite having been given the same set of case facts. Research has established that different jurors create completely different versions of crime events when presented with the exact same trial information (Pennington & Hastie, 1986; Finkel, 1995). Again, evidence demonstrates substantial juror reliance on subjective perspectives, skewed understanding, and commonsense reasoning to construct narratives and make decisions.

Current Literature on the Story Model of Juror Decision-Making

Several recent empirical studies used the story model of decision making as the conceptual framework in analyzing juror decision making, confirming the utility and accuracy of the story model. Ruva and Guenther (2017) found that pretrial publicity exposure directly shaped juror memory of evidence and case facts, how the evidence and case facts were interpreted, how the mock juror viewed the defendant, and created

confusion for jurors because their recollection did not match case facts. Misinformation created by mock jurors in response to pretrial publicity became intertwined in the inaccurate narratives jurors created about the case, leading to faulty determinations of guilt. Ruva and Guenther also found that the inaccurate narratives developed by individual mock jurors influenced other juror narratives during deliberations.

In addition to narratives created by jurors, the narratives offered by opposing counsel during trial confound juror decision-making. Devine and Kelly (2015) found that stories offered by defense attorneys during the sentencing phase impacted juror narratives. Holstein (1985) discussed the implications of contrasting narratives offered by attorneys during trial. Jurors are faced with choosing the best version, based on their own preconceived ideas, to determine guilt.

Narratives created by jurors are a reflection of their own lives, motives, and belief systems and were used to enhance certainty in determinations of guilt. Gambetti et al. (2016) discovered that jurors relied on their mentality and moral disposition to assign defendant intent and culpability. Jurors viewed defendants as story characters and fell back on commonsense and intuition to guide determinations of guilt rather than rational and evidence-based facts (Gambetti et al., 2016). Alternatively, Goodman-Delahunty et al. (2016) found that pre-existing ideas about child sexual abuse significantly impacted the story character jurors developed for sexual assault complainants. Identifying defendants and victims as story characters and assigning moral judgement to their actions allowed jurors to be more confident in their verdicts.

Juror reliance on forming stories to explain case evidence rather than relying on scientific facts and legal instruction has been empirically demonstrated. Ellison and Munro (2015) determined that jurors disregarded legal instruction and scientific facts that did not fit into the narrative they created. Furthermore, specific measures taken by Ellison and Munro to provide supplemental, clear instruction had little impact on juror narratives. Even when legal tests or instruction were mentioned during deliberations, jurors tended to ignore evidence contrary to their pre-existing notions. Ultimately, Ellison and Munro determined that many jurors did not fail to understand or appropriately apply legal instruction. Rather, jurors were inclined to rely on the more comfortable, familiar method of forming a story to explain case facts (Ellison & Munro, 2015). Whether it be misinterpretation or intentional disregard, the failure of such instruction to supply a map for jurors is alarming and has many implications in faulty decision-making.

Various extralegal factors and trial participant characteristics influence juror determinations of guilt. Devine and Caughlin (2014) used the story model to frame their meta-analysis on extralegal factors impacting juror decision-making. Devine and Caughlin found evidence bias in decision-making based on different trial participant characteristics, such as gender, race, SES, juror personality, etc. Systemic differences in the life experiences of jurors created variation in the narrative's jurors created about case facts.

Juror Reliance on Commonsense Reasoning

Closely related to the story model of juror decision-making is juror propensity to develop stories based on commonsense reasoning. A juror's outlook, life experience, and

personality sway the commonsense reasoning schemata a juror uses to form narratives and make decisions in criminal cases. Commonsense reasoning was defined by Garfinkel (1967) as “socially-sanctioned-facts-of-life-in-society-that-any-bona-fide-member-of-society-knows,” (pp. 76). Garfinkel’s groundbreaking study found juror reliance on commonsense reasoning during determinations of guilt rarely changed despite being provided judicial instructions on legal and official criteria for guilt. Garfinkel described juror adherence to generalities or formulas to weigh the rationality of the stories told by attorneys during trial as well as the defendant’s actions. Individual jurors have individual proclivities about what is rational. These proclivities are based both on societal norms and the everyday life experience of the juror.

Holstein’s (1985) quantitative analysis of juror deliberations found that jurors adopted a version of events presented during trial based on which version was more appealing or made more sense. Commonsense reasoning used during deliberations referred to jurors selecting the version of events that resonated most with their own thinking and behaviors. In addition, varying accounts presented by prosecutors and defense attorneys during trial served to complicate the deliberation process. Jurors are forced to weigh these accounts against the narratives they developed to explain the crime in question (Holstein, 1985).

Maynard and Manzo (1993) used commonsense reasoning as a framework to analyze how the notion of justice manifested, based on juror commonsense understanding of justice. Jurors relied more on their commonsense understanding of justice than on legal instructions when determining guilt. Maynard and Manzo identified juror tendency to

present opening statements during deliberations to argue their position and articulate their commonsense version of events. Jurors then debated rival accounts before choosing the most comprehensive, commonsense based verdict.

Finkel (1995) discussed juror tendency to construct stories, based on commonsense reasoning, to reach a realistic scenario about how and why a crime occurred, created from preexisting ideas in a juror's mind. Finkel also discussed the notion of "accessibility bias" and "simulation heuristics" when discussing how commonsense reasoning manifested in juror thinking (pp. 14). Accessibility bias was defined as "the tendency to bring to mind what is most easily recalled," highlighting the critical aspect that the accuracy of juror recall is not precise (Finkel, 1995, pp. 14). Simulation heuristics was defined as human tendency to construct representations of crime and criminal defendants, again often relying on information that is not accurate but based on commonsense reasoning of the individual (Finkel, 1995). Commonsense reasoning provides coherence and comfortability to the crime narratives jurors create.

Current Literature on Commonsense Reasoning

Recent scholars have conducted empirical research on commonsense reasoning during deliberations, validating Garfinkel's (1967) study results. Ellison and Munro (2015) determined the mock jurors actively sought commonsense versions of events that mirrored their pre-existing beliefs and expectancies. These versions were then used to fill in gaps and presented as persuasive narratives to other jurors during deliberation. In a study conducted by Carline and Gunby (2011), pertaining to how jurors understood the legal definition of sexual assault, these authors discovered jurors most often drew upon

their own understanding and definitions to make decisions and used their own “common sense version” of events to make decisions regarding guilt (p. 241). Despite expert testimony or evidence to the contrary, jurors stuck to the commonsense account they created and continued to influence other jurors (Ellison & Munro, 2015). Rossner (2019) found that juror narratives were co-produced based on commonsense reasoning during the deliberation process. Essentially, jurors built a comprehensive narrative out of pieces of individual narratives that made the most sense to the group as a whole.

Role of Narrative Construction in Wrongful Convictions

Scholarly links between the story model of juror decision making and wrongful conviction are limited. However, researchers have established solid evidence that jurors create narratives, often faulty, out of case facts in order to better organize and process large volumes of information (Bennett, 1979; Pennington & Hastie, 1992). The narratives created by jurors are based on their individual life experiences, preconceived notions about trial evidence, and interpretations of defendant and witness behaviors (Ribeiro et al., 2019). Juror narratives often differ dramatically despite all jurors having been exposed to the same trial information. Olsen-Fulero and Fulero (1997) posited that the ability and willingness of jurors to create and consider different narratives during criminal trials was based on an individual juror “cognitive complexity,” (pp. 419). In other words, a juror’s educational background and life experience influence juror ability to create and contemplate different versions of how a crime occurred.

Jurors use narratives to bolster confidence when arguing their position for themselves and other jurors during deliberations. Ellison and Munro (2015) discovered

that mock jurors created “mini-narratives” about what could have taken place to fill in gaps in their narrative version of events. Furthermore, these mini-narratives were unfounded, speculative, and went beyond the evidence that was actually presented during trial. The implications of these faulty mini-narratives on wrongful judgements of guilt cannot be overstated. Factually incorrect assertions and the use of personal experience as evidence of expertise were frequently used to substantiate positions during the decision-making process, leading to incorrect and unfounded conclusions (Ellison & Munro, 2015). Even when individual jurors were confronted with legal instruction or evidence debunking a faulty claim during deliberations, jurors often continued to rely on the faulty notion. Ellison and Munro (2015) took additional steps to enhance juror comprehension and application of legal instruction but these measures did not have a significant impact on preventing misinterpretation. Narratives built on incorrect assertions and misunderstandings inevitably lead to wrongful judgements of guilt.

Juror subjectivity shapes the stories that jurors create, leading to the possibility of wrongful judgements. Juror bias has been linked to exposure to pretrial publicity as well as being exposed to other biased jurors during the deliberation process (Ruva & Guenther, 2017). Importantly, the deliberation process allowed mock jurors to influence other mock jurors with biased narratives and pretrial publicity impressions (Ruva & Guenther, 2017). The influence of both types of subjectivity on mock juror narratives was monumental. Onley and Bonn (2015) posited that a link exists between race and wrongful conviction and discussed the impact of racial stereotypes on legal narratives and faulty verdicts. Preexisting beliefs about race shaped juror stories and misconstrued case facts.

Lynch and Haney (2015) revealed a significant relationship between emotion and legal decisions and discussed the interplay between juror narratives, emotions, and determinations of guilt. Emotional response to case facts, whether positive or negative, colored juror narratives and ultimate determinations of guilt. In addition, as pointed out by Bell Holleran, Vaughan, and Vandiver (2016), prosecution and defense attorneys present refuting accounts during trial and jurors are left to choose the most comprehensive narrative to determine guilt.

Critical trial information and evidence can be misinterpreted by jurors due to preexisting beliefs or misleading testimony, leading to faulty juror narratives and decisions. Seemingly straightforward legal instruction, such as beyond a reasonable doubt, may confuse jurors and result in juror reliance on commonsense to determine the standard of proof needed to convict a defendant (Mueller-Johnson et al., 2018).

Unreliable eyewitness testimony, even when exposed as faulty during trial, led to higher rates of conviction despite specific juror instruction on eyewitness testimony (Jones & Penrod, 2018) The impact of questionable eyewitness testimony on juror narratives outweighed special instructions given to participants to explain the fallibility of eyewitness testimony.

Juror understanding of forensic science evidence and beliefs about the accuracy of forensic testing results shapes the narrative jurors create the evidence presented during trial (Ribeiro, et al., 2019). Specifically, juror comprehension of DNA evidence is limited and differs dramatically, based on the pre-established stories jurors possessed about DNA evidence and how it was presented in court. Ritchie found despite the scientific nature of

DNA evidence, the way jurors understood and fit DNA evidence into the narratives they created depended on how the DNA evidence was exhibited during trial. Furthermore, Ruva and Guenther (2017) determined that juror exposure to pretrial publicity directly influenced the narratives jurors created about defendant veracity and trial evidence. Finally, important expert testimony presented during trial is frequently shaped by juror's personal impression of the expert witness rather than the scientific evidence being presented (McCarthy Wilcox & NicDaeid, 2018). Juror tendency to mesh complicated trial information into narrative accounts contributes to wrongful conviction.

Role of Commonsense Reasoning in Wrongful Conviction

Research reflecting the impact of commonsense reasoning on jurors convicting an innocent person is also scarce. However, juror reliance on commonsense reasoning in the face of complex, unclear, and substantial trial information has been well established (Finkel, 1995; Maynard & Manzo, 1992). Rossner (2019) posited that jurors take piecemeal facts presented during trial and turn them into stories, based on the juror's commonsense reasoning, to make determinations of guilt. Additionally, empirical research has demonstrated emotional influence causes jurors to use commonsense, based on feelings, to attribute blame and criminal responsibility (Feigenson, 2016). Commonsense reasoning contributes to wrongful conviction because jurors rely on their own experience and understanding to fill in gaps in case facts and make determinations of guilt.

Legal and judicial juror instructions are complex, and the average juror may struggle to comprehend instruction given during trial. As jurors create commonsense

scenarios to organize and explain case events, legal and relevant facts are often disregarded (Olsen-Fulero & Fulero, 1997). Barner (2014) studied juror comprehension of instruction during the sentencing phase of a death penalty trial and found that most jurors expressed confusion and frustration about the instructions given during trial. Lack of clarity and misunderstanding of critical legal and judicial instruction during the guilt phase of trial leads to jurors falling back on commonsense reasoning to determine guilt, leading to a misinterpretation of facts (Barner, 2014). If jurors do not understand what they have been instructed to do, they cannot appropriately apply and weigh instruction during deliberation. Jones and Penrod (2018) determined that more than half of the mock juror participants convicted the defendant based on questionable eyewitness testimony. Commonsense reasoning causes jurors to believe eyewitnesses in the face of more solid evidence.

In addition, legal evidence presented during trial is often misunderstood by jurors. Because jurors often do not understand scientific evidence or have preexisting ideas about forensic evidence, jurors rely on commonsense to make decisions about guilt rather than the evidence itself (Ribeiro et al., 2019). Jurors rely on commonsense reasoning to assign credibility to experts. McCarthy Wilcox and NicDaeid (2018) interviewed actual jurors who served on homicide trials and found that jurors assigned credibility based on their commonsense assessment as to whether the witness appeared confident while testifying. Furthermore, false confessions given by a defendant often cause jurors to fall back on commonsense reasoning, believing that innocent people do not confess to crimes they did not commit (Kassin, 2017). Devenport, Penrod, & Cutler (1997) highlighted the

role commonsense reasoning played in juror assessment of faulty eyewitness testimony, stressing the lack of scientific evidence or knowledge jurors have. Again, when jurors do not understand the complex psychology behind a defendant's mental state, commonsense reasoning is used to make determinations of guilt.

Summary and Conclusions

The impact of juror bias and impartiality on wrongful conviction decisions has been extensively researched. However, the lived experience of jurors who have rendered wrongful conviction verdicts has not been explored to further illuminate how juror subjectivity and faulty thinking manifests in cases of wrongful conviction. The social pressure jurors face during the voir dire process, when all potential biases and impartiality are supposed to be revealed, often leads to jurors being afraid to admit their bias in front of their peers (Schuller et al., 2015). As a result, jurors possessing known and unknown stereotypical thinking are often selected to be on the jury.

An important phenomenon that recurrently appears throughout the research on juror decision-making is juror tendency to create stories to explain defendant and witness behavior. Bennett (1979) argued that although the CJS stresses juror reliance on facts and procedures to make decisions, these facts and procedures are lost to jurors without being placed in the context of a narrative. Bennett (1978) and Pennington and Hastie (1986) developed a model for juror decision-making, known as the story model, which posited that jurors depend on constructing narratives and commonsense reasoning during trials to make sense of complex case facts. Stories are developed and take precedence over legal and judicial instruction as jurors struggle to piece together information presented during

trial and determine a verdict (Holstein, 1985). Juror distortion of trial information based on biased narrative construction and biased commonsense reasoning also influence group deliberations as those biased jurors shape other jurors' decision-making and opinion (Ruva & Guenther, 2017). All in all, analysis of juror lived experience with having wrongfully convicted a defendant can assist in illuminating perpetuating patterns of juror reliance on commonsense narratives when determining guilt. In the next chapter, details about the research methodology are presented and discussed.

Chapter 3: Research Method

Introduction

The purpose of this qualitative study was to investigate the lived experience of jurors who wrongfully convicted a criminal defendant. A descriptive phenomenological research design was used to explore the essence of juror experience with wrongful conviction through in-depth, semi-structured interviews. Patterns in juror thinking and decision-making were carefully fleshed out via thematic analysis in attempt to illuminate errors in juror cognition that contribute to wrongful conviction. Scholarly research identified reoccurring patterns in juror cognition that were further developed into the story model of juror decision-making and commonsense reasoning (Garfinkel, 1967; Pennington & Hastie, 1993). These theoretical concepts were used as lenses to focus the data collection and data analysis processes of this study. This chapter provides details on research design, rationale, and methodology, data analysis tools, strategies, and processes, recruitment procedures, and issues with trustworthiness.

Research Design and Rationale

A qualitative, descriptive phenomenological approach was the most appropriate research design to explore the lived experience of jurors in serving on a wrongful conviction case. The research questions for this study were:

1. What is the lived experience of jurors who have rendered verdicts in wrongful conviction cases?
2. How does juror reliance on narrative construction of case facts manifest during deliberations?

3. How does juror reliance on commonsense reasoning manifest during decision making?

Phenomenological research involving interviews with actual jurors is limited. Prior research on juror decision-making has been predominately quantitative (Barner, 2014). Quantitative data is problematic in that jurors are unable to elaborate when providing answers to survey questions or to provide insight about their experience (Ellison & Munro, 2015). Qualitative studies that were conducted to capture juror experience relied mostly on mock juror participants. Ellison and Munro (2015) discussed the potential limitations of using mock jurors, namely the role-playing aspect, which does not simulate the gravity of having the defendant's future in the juror's hands. Therefore, a qualitative probe into actual juror experience with wrongful conviction was necessary to get a better understanding of factors contributing to juror decision-making and wrongful conviction.

A lived experience approach, specifically descriptive phenomenology, was necessary to thoroughly examine and uncover juror thoughts, feelings, impressions, and cognitive processes about time spent on the jury and their experience with having wrongfully convicted a defendant. Giorgi (1997, 2009) described the search for the "essence" of the phenomenon in question when using phenomenological inquiry; essentially, essence captures multiple realities of the same phenomenon and then identifies commonalities in participant experience. In-depth interviews with participants allowed participants to fully elaborate and explain their experience in a deeply subjective and rich manner (Englander, 2012). Conducting in-depth, semi-structured interviews with

jurors, after a conviction has been overturned, and focusing on the lived experience of each juror revealed deep insight into errors juror cognition.

A descriptive phenomenological research design, grounded in realism, was used to capture the meaning, reality, and experience of serving as a juror and with wrongful conviction. Epistemologically, phenomenological inquiry assumes that reality is constructed by the individual experiencing it, through that individual's personal experiences and perceptions (Ravitch & Carl, 2016). Ontologically, a phenomenological approach posits that humans get knowledge about themselves and the world from their individual and shared experiences (Ravitch & Carl, 2016). According to Sloan & Bowe (2014), phenomenology is a theoretical viewpoint in which the lived experience of individual jurors should be investigated. These authors posited that juror thinking is dictated by the experience of being a juror and not by an external reality that is separate from the individual juror. Phenomenological exploration was used to reveal the thoughts, feelings, attitudes, opinions, and overall lived experience of the jurors dealing with wrongfully convicting a defendant because the purpose of a phenomenological study is to isolate the crux of the experience and provide rich, descriptive data about the experience (Sloan & Bowe, 2014).

Realism assumes that there is a world that exists independent of the human mind and human interpretation (Bonino, Jesson, & Cumpa, 2014). Realism also posits that we, as humans, are aware of the unbiased, autonomous world that exists (Bonino et al., 2014). Phenomenological approaches grounded epistemologically in realism seek to illicit rich, descriptive information about an event by collecting data on participant thoughts,

feelings, and interpretations about the experience (van Manen, 2014). One of the assets of phenomenological research for this study was that it captured the essence of the shared experience of jurors by examining each individual's unique perceptions (Giorgi, 1997). The story model of juror decision-making and juror reliance on common sense reasoning informed both the research design and data collection process for this study.

The use of descriptive phenomenological inquiry to elicit rich stories that revealed the thoughts, perceptions, feelings, and opinions of juror experience, contributed significantly to understanding what it is like to have wrongfully convicted someone. In addition, the overwhelming nature of serving as a juror on criminal trial was captured and articulated through the viewpoint of the individual juror. Phenomenological research allows the researcher to explore and identify specific emotions that are evoked and how these emotions impact decision making as a juror (Barnes, 2014). Scholars, CJS advocates, and policy makers alike can benefit from gaining insight into how the juror system can be improved, how juror perception contributes to wrongful conviction, and how to educate jurors to assist in the prevention of wrongful conviction.

Steps of the Phenomenological Method

According to Giorgi (1997) the phenomenological method consists of six different steps. The first step described by Giorgi involves collecting verbal data. Next, the researcher reviews the data in its entirety, without analyzing or forming opinions about the data. The data are divided into codes and then themes based on "meaning discriminations," (p. 246). The fifth step, according to Giorgi, is the organization and articulation of the participant experience into verbiage consistent with the scholarly

literature. Finally, the lived experience of the participant is elaborated from the perspective of the participant. Each of these steps detailed by Giorgi were taken in this study to capture the lived experience of wrongful conviction jurors. Through this process, I hoped to shed light on the cognitive errors that contribute to wrongful conviction and investigate the accuracy and utility of the story model of decision-making and commonsense reasoning regarding wrongful conviction.

Role of the Researcher

In all qualitative studies, the researcher is the most essential and influential data collection tool. Phenomenology and thematic analysis require a very active role for the researcher (Braun & Clark, 2017). All phases of qualitative research are influenced by the researcher. Study design, researcher/participant interactions, data collection and analysis, and research findings are all shaped by the subjective lens of the researcher (Karagozis, 2018). Phenomenological research and the topic under investigation was inevitably affected by the worldview of the researcher (Giorgi, 1997) and researcher subjectivity was continuously acknowledged in all phases of the study. The interest in my topic and perspective on wrongful conviction as a social justice issue was filtered through the subjective lens of my own experience.

Study design, framework, and data collection are heavily shaped by my own curiosity and view of the world. Considering Grant & Osanloo's (2014) suggestions in choosing a theoretical or conceptual framework to align and structure a research study, phenomenological inquiry was chosen as it closely aligns with my epistemological and ontological viewpoints as well as the overall purpose of this study. Aligning the study in

phenomenological realism serves the topic of interest in that my study sought the lived experience, as felt and described, by participants, separate from the independent, impartial world. The subjectivity of the researcher, or myself, was a potential weakness of the study and was carefully acknowledged and avoided during interactions with participants and data analysis. As emphasized by Park, Caine, McConnell, and Minaker (2016), adhering to reflexivity during participant interactions and data interpretation is critical to the role of the researcher. I recognized the intricate research relationship between researcher, participants, and data

Researcher reflexivity is essential in striving for validity and ethical soundness in qualitative research. According to Karagozis (2018), “by engaging in the process of reflexivity on personal narratives, the qualitative researcher has the opportunity to engage with emerging personal commitments, unravel theoretical issues, and scrutinize ethical, epistemological, and problematic assumptions,” (p. 25). Karagozis (2018) described the importance of researcher awareness of their own lived experience and histories and the danger of personal experiences informing data collection and analysis. Cultural and political backgrounds infiltrate the research process and findings and must be acknowledged readily by the researcher (Karagozis, 2018). Careful self-reflection and analysis during each step of the research process was necessary to curb researcher bias and researcher influence on results.

Careful consideration of my personal experience, career paths, culture, and epistemological orientation for the duration of the study was documented and articulated. Analytical memos, first impressions and reactions to participant interviews, and

conscious bias memos were maintained for each researcher/participant interaction and during data analysis, as needed. Painstaking self-reflection, journaling, memo writing, peer review and discussion, and bias checking as additional tools are of the upmost importance during all phases of the study (Ortlipp, 2008). Interest in juror experience and wrongful conviction was developed by my own experience as a public defender investigator and social justice advocate. Pre-existing ideas and experience pertaining to the topic of interest that must not color my study design, data collection, or data analysis include but not limited to: opinions about wrongful conviction as a social injustice; familiarity with and compassion for criminal defendants due to my role as a public defender investigator, and; familiarity with errors in police investigation and court proceedings that lead to wrongful conviction. As emphasized by Ortlipp (2008), keeping journals, memos, and notes on first impressions, thoughts and judgements, insight into subjectivity, and changes in the research process for the duration of the study were crucial for reliability and validity but also for keeping the bias and perspective of the researcher in the open and accounted for. Peer review and input served to prevent lingering bias from tainting data analysis.

Methodology

In-depth, semi-structured interviews were conducted to collect rich, descriptive data from jurors who performed jury service on a wrongful conviction case. The unit of analysis for this study was the lived experience of each juror, gathered post-conviction. An in-depth, open ended interview approach was used because it allowed jurors to answer openly, from the perspective of the juror, revealing how the juror made sense of

the experience (Reynolds & Hicks, 2015). Several of the empirical articles reviewed in preparation for this study that relied on a phenomenological or narrative framework (Barner, 2014; Murphy, Banyard, and Fennessy, 2013; Carline and Gunby, 2011; Howard & Hirani, 2013; and Sloan & Bowe, 2014) used in-depth interviews as the main data collection method. van Manen (1997) preferred using in-depth interviews due to the effectiveness of this approach in gathering rich, descriptive data on participant lived experience. The story model of juror decision-making and juror reliance on common sense reasoning informed the design of the interview guide and the data collection process for this study.

In-depth interviews are the most used method of data collection in phenomenological research (Englander, 2012; Wimpenny & Gass, 2000). This method aligned with my research questions, the purpose of this study, and the research design of the study. Wimpenny & Gass (2000) described the purpose of the interview in phenomenological inquiry as uncovering the essence of how it felt to have experienced the event in question. Englander (2012) stated the main intent in researchers using the interview was to thoroughly explore the meaning of the event in question for each participant. The interviews for this study were between 30 minutes and one hour in length and consisted of general questioning, follow-up questioning, and probing into deeper descriptions of participant experience (Rubin & Rubin, 2012). In this study, in-depth interviews were used to capture juror experience with serving on the jury, rendering a guilty verdict, and the exoneration of the defendant.

Participant interviews were conducted via phone and electronic interviews to accommodate participants from all over the United States. All participants were sent a letter of introduction (See Appendix B) and a consent form (See Appendix C) via email prior to the interview process. Before beginning the interview, participants were reminded that the interview was recorded. All interviews were recorded via NoNote and handwritten or typed notes were taken during the interviews. Upon completion of the interview, participants were asked if they had any questions or concerns and then instructed on how the data produced by the interviews would be used for my publication in my results section. Participants were given my contact information to follow-up with me with any questions or concerns and thanked again for their participation. Participants were also given contact numbers for support or de-briefing if they experienced trauma as a result of the interview experience.

Participant Selection Logic

The target group of interest for this study was jurors who served on a serious criminal case and wrongfully convicted the defendant. Empirical, phenomenological research on juror experience is scarce. Previous studies on juror experience were mostly limited to mock juror participants (Ellison & Munro, 2015). Mock juror experience, although insightful and beneficial in understanding wrongful conviction, does not reflect the authentic thoughts, feelings, and decision-making processes of actual jurors who wrongfully convicted a defendant. In order to better understand how jurors contribute to wrongful conviction, in-depth interviews with actual jurors who had experienced this phenomenon was necessary.

Varying opinions exist regarding the necessary number of participant interviews for qualitative approaches, depending on different components of the study. On the smaller end of the participant number spectrum, Howard and Hirani (2013) investigated the lives of two individuals for their heuristic study. On the larger end, Creswell (1998) recommended that 5-25 interviews are needed to reach theoretical and data saturation in phenomenological studies. Morse (1994) specified that at least six participants are needed in phenomenological studies. Guest, Bunce, and Johnson (2006) presented solid evidence that data saturation and theoretical saturation was reached within the first 12 interviews from their homogeneous sample. For the present study, 12 interviews were conducted.

Non-random, purposive sampling was used to target participants who had participated in jury service and wrongfully convicted a defendant. Participants in phenomenological studies are selected intentionally because they have experienced the phenomenon under investigation (Englander, 2012). Sampling for this study was also homogeneous sampling, in which participants were chosen because they fit the abovementioned criteria for inclusion (Guest et al., 2006). Therefore, the purposeful selection of jurors who served on a criminal case and convicted an innocent defendant was congruent with the purpose of the study and the research questions being asked.

Method of Contacting and Inviting Participants

All potential participants for this study were sent, via mail or email, a letter of introduction and invitation to participate (See Appendix B). Individuals who were interested in participating were directed to contact me via phone, email, or mail. Upon contact with interested individuals, I reiterated the purpose of the study and answered any

questions of the potential participant. The next step was obtaining an email address from each participant to send an informed consent agreement (See Appendix C). Each potential participant confirmed consent to participate via email, except for P8, who gave verbal consent as P8 did not have an email account.

Instrumentation

For this qualitative study, a semi-structured, open-ended interview guide was developed based on the interest in juror decision-making and the findings of previous research pertaining to juror tendency to rely on storytelling and commonsense reasoning. Using an open-ended, semi-structured interview guide to research lived experience of wrongful conviction for jurors was the best way to find out how it felt to have experienced being a juror and convicting an innocent individual. As described in detail by Englander (2012), the purpose of an interview conducted for descriptive phenomenology is to get a sense of the interviewee's experience with the essential phenomenon in question. There is an element of subject to subject interest and interaction, but the primary focus is on the description of the event in which the researcher is interested in.

Gathering an in-depth account of the exact feelings, thoughts, and beliefs about juror experience was the purpose of the interview guide for this study (Englander, 2012). My interview guide (See Appendix A) was designed to capture rich, descriptive data detailing the essence of the juror experience (Meyers, 2014). The interview guide followed steps described by Jochelovitch and Bauer (2000). Participants were asked to describe the process of serving on the jury and how it felt to have convicted an innocent person. In effort to capture the essence of the juror experience, the interview was initiated

with asking the participants to describe said experience (Englander, 2012). The interview guide drew on concepts based on the story model of juror decision-making and commonsense reasoning and was designed to illicit feelings, opinions, impressions, and beliefs about juror experience. Giorgi (2009) highlighted the importance of a researcher keeping the descriptive criteria, in this case the story model and commonsense reasoning, in mind for the duration of the interview. Participants were encouraged to fully elaborate their experience and I, as the interviewer, maintained the purpose of the study, as well as the theoretical concepts framing the study, at the forefront of the interview process. The interview guide was designed to encourage open conversation between interviewer and interviewee and allowed for dynamic exchange and participant direction, as needed, to best illicit information about the phenomenon in question.

The steps taken in preparation for and during the interview closely resembled the technique discussed by Jovchelovitch and Bauer (2000) to gather rich, descriptive data for narrative inquiry. These steps were also be applied to this phenomenological inquiry as I sought detailed, descriptive information about participant experience with the phenomenon in question. Jovchelovitch and Bauer described an “elicitation technique” in narrative interviewing in which five steps are followed to elicit rich, descriptive data from the participant (p. 4). The first step was preparation, which entailed sending out a letter of introduction to potential participants. Potential participants were then emailed an informed consent form and asked to respond accordingly. Upon receiving consent, participant interviews were arranged based on participant availability. The interview then proceeded to the main narrative portion in which I asked participants to tell me their

story, from beginning to end, as they experienced it. For this portion, I used the prompt, “Tell me the story of having served on the jury, from the beginning to the end, with as much detail as possible. Include anything you can remember, including negative experiences, positive experiences, thoughts, feelings, and opinions about the experience. Take me through your entire experience with serving on the jury.” I allowed each participant to tell me their story, uninterrupted as I took notes and used probes as needed. After the participant relayed the story of their experience, I asked relevant follow-up questions related to feelings, impressions, reliance on narratives, and commonsense reasoning and also clarified information as needed. The interview ended with asking participants if they had any questions or concerns and elaboration as to how the information they provided would be used for my study. Efforts to ensure content validity and credibility of my interview guide included peer debriefing, instructor feedback and direction, and incorporation of all the suggestions I received to improve the interview guide.

Researcher Developed Instrument

A semi-structured, open-ended interview guide was used for this study, founded on previous research on juror decision-making, researcher interest in how storytelling and commonsense reasoning manifest during deliberation, and researcher interest in how these manifestations impact wrongful conviction. With any responsive or narrative interviewing approach, the guide was flexible and adaptable as the study progressed and accommodated individual interaction with each participant (Rubin & Rubin, 2012). The guide consisted of an initial prompt for participants to tell me the

complete story of their experience with having served on a criminal jury and the decision-making process, followed by several open-ended questions or probes as needed to elicit additional data. My instruments, like all researcher-developed instruments used for descriptive phenomenological inquiry, were subjective and designed from my own interest as well as empirical literature on the phenomenon in question (Englander, 2012). As previously described, the guide followed the steps described by Jovchelovitch and Bauer (2000) but was designed based on my interpretation of previous interview guides and empirical findings.

Procedure for Recruitment, Participation, and Data Collection

This study entailed in-depth interviews with jurors who served on a criminal case in the United States in which the defendant was wrongfully convicted. Exclusions for participants included those who served on a criminal case that was overturned as a result of a technicality rather than the defendant being determined to be factually innocent. Serving as a juror in the United States limits those who can serve as jurors, and thus the participant sample for this study, to individuals who were at least 18 years of age, were citizens of the United States, understood and spoke enough English to meaningfully participate, resided primarily in the jurisdiction of service for at least one year, had not served on a jury in the last 12 months, did not have any physical or mental condition that would disqualify them from service, were not subject to any felony charges that were punishable by imprisonment for more than one year, and had never been convicted of a felony (United States Courts, 2020).

In addition, this research focused on juror decision making in determinations of guilt and considered sentencing decisions or factors, where applicable. Not all jurors experienced sentencing the defendant. To capture the lived experience of jurors, in-depth, open-ended interviews were necessary to explore how it felt to have served on a criminal jury and wrongfully convicted the defendant. van Manen (1997) favored interviewing as the most effective approach to phenomenological studies for identifying themes and being able to describe the phenomenon in question through the eyes of the participants. Observational data collection was not an option with this phenomenological inquiry because stories reflected juror thoughts and feelings after the phenomenon in question had occurred and asked participants to reflect on their experience (Englander, 2012.).

Participants recruitment entailed several steps. First, specific exoneration cases of interest were identified, namely serious felony cases, via online databases, including the National Registry of Exonerations and the Innocence Project. Next, contact was made with multiple criminal court jurisdictions across the United States via telephone, email, and written inquiries about the exoneration case of interest and the jury list for each case. Most jurisdictions maintained juror anonymity, but juror names were part of the public record for a few geographical regions. I requested and successfully obtained the list of the jurors who had served on the wrongful conviction case from each court jurisdiction that could release juror names. Several jurisdictions were able to provide either the juror seating panel or the voir dire transcript, both of which included the first and last names of the jurors who had served on the wrongful conviction case. I then utilized a public records database, Spokeo, to research the juror names and obtain addresses and emails

addresses to contact the jurors about participating in my study. For a three-month period, letters of introduction (See Appendix B) were sent via mail and email to 186 potential juror participants.

Data Analysis Strategy

Thematic analysis was used to analyze participant interviews. Thematic analysis is used by qualitative researchers to “identify, analyze, and report patterns evident within the data,” (Braun & Clark, 2006, p. 79). Theoretical, or deductive, thematic analysis focuses on pre-existing theories in the literature, in this case juror reliance on narratives and commonsense reasoning during decision-making, to tease out themes and patterns related to these theories from juror experience (Braun & Clark, 2017) This type of thematic analysis was used to expand upon previously established theories in the literature. The story model of juror decision-making and juror reliance on common sense reasoning were used to inform data analysis and elucidate patterns in juror cognition.

Thematic analysis consists of six steps, or phases, in analyzing the data. Braun and Clark (2006, 2017) provided a comprehensive overview of the thematic analysis process, as described below. First, the complete data set is transcribed, read and reread, and the researcher notes initial observations, patterns, and themes in the data. The researcher then teases out potential codes and combines these codes into potential themes from the data. Next, the codes and themes are painstakingly reviewed and sorted in a reiterative, reflexive manner to reveal underlying or additional themes. The data themes are clearly defined and named. The final step is a written report of researcher data

analysis results. Data analysis for this study followed the process described by Braun and Clark (2006).

There are many benefits to using thematic analysis pertaining to this study. As a new researcher, thematic analysis offered a simple, yet detailed, approach to data analysis (Braun & Clark, 2006, 2017). In addition, thematic analysis provided researcher flexibility, allowing an epistemologically realism based, deductive, phenomenological framework rather than a rigid, pre-determined research paradigm. Braun and Clark (2006) described thematic analysis as a straightforward and theoretically adaptable data analysis tool, citing the “theoretical freedom” provided to researchers by thematic analysis (p. 78). The process of data analysis focused on patterns and themes described by jurors in effort to uncover the authentic juror experience and factors in juror decision-making that contributed to wrongful conviction. Additionally, data interpretation focused on aspects of the story model of decision-making, namely the sequence of the experience, the emphasis placed on different aspects of the interview, and the wording used by the participant to uncover patterns and themes in juror decision-making.

Current Literature: Phenomenology and Thematic Analysis

Several recent, relevant studies have utilized phenomenology and thematic analysis to investigate the essence of participant experience. Reynolds and Hicks (2015) used phenomenological inquiry and thematic analysis to explore police officer perceptions of job fairness. Phenomenological exploration of participant experience and thematic analysis of the interview data offered perspective into how officers viewed their experience as police officers in their respective departments. Reynolds and Hicks

demonstrated the deeply subjective nature of lived experience approaches in qualitative inquiry by including direct quotes to substantiate coding and findings in the data. Barner (2014) analyzed open-ended interviews to interpret and develop themes from narrative data from 36 jurors in a study concerning jury instruction in capital cases. Barner also used direct quotes from participant narratives to demonstrate common themes in the data and effectively captured the lived experiences of jurors through the lens of the individual juror. Fawcett and Clark (2015) used thematic analysis on recorded juror deliberations and revealed deep insight into how errors in juror thinking and reasoning pertaining to lay knowledge manifested during decision-making. Phenomenology and thematic analysis best captured the essence of how jurors thought, felt, and made decisions when faced with serving on a criminal case and when learning that the defendant had been wrongly convicted.

Issues of Trustworthiness

As with all empirical research, issues of trustworthiness arise and must be addressed. Specifically, with qualitative research, “methodological rigor and paradigmatic consistency” must be maintained to ensure trustworthy and ethical results (Ortlipp, 2008, p. 704). Alignment of epistemological, ontological, and theological perspective is critical for the consistency of study design, data collection, and data analysis. Careful consideration of issues related to empirical reliability were maintained by the researcher for the duration of the study to enhance trustworthiness. Some of the major areas of considerations that were kept in mind throughout the study were, as emphasized by Karagoizis (2018), researcher cultural awareness, mindfulness of ethical

regulations and how they shaped the study and data analysis, mindfulness of the voice being used to report data findings, and clear identification of the role of the researcher throughout the process.

Careful alignment and articulation of the research design is imperative for credibility, transferability, and dependability of the data. Englander (2012) pointed out the necessity of unifying the data collection and data analysis processes so they are streamlined and appear to flow seamlessly into each other. In other words, the phenomenological research design, methods, and analysis for this study were congruent and based on the same approach and purpose. Establishing credibility in qualitative research means a researcher can be confident in the research findings and in the strength of the research design, instruments used, and data produced by the study (Anney, 2014). Achieving credibility in a study necessitates a critical research design that is recursive, reflexive, and cognizant of the complexity inherent in qualitative research (Ravitch & Carl, 2012).

Transferability refers to the ability to apply the results of a research study to similar contexts with similar participants. Transferability in qualitative research is similar to the need for generalizability in quantitative research, but is different in that obtaining rich, descriptive data is the objective rather than being able to generalize the findings (Shenton, 2004). For this study, phenomenological inquiry was the basis of the interview guide that was developed to gather data from the participants and obtain a description of the phenomenon in question (Englander, 2012). The rich descriptive data gathered from

participants was then subjected to thematic analysis, another phenomenological method used to illicit descriptive themes and patterns from participant experience.

Dependability in qualitative research necessitates member checking, peer evaluation, replication and debriefing, and coding and recoding the data to ensure that findings are stable over time (Anney, 2014). Accuracy of the data is of the utmost importance in qualitative research. To achieve data dependability in this study, interviews were recorded and transcribed and data collection was focused on gathering the richest, most detailed descriptions of participant experience possible (Rubin & Rubin, 2012). General findings were discussed with participants and participants were encouraged to provide feedback on my interpretation of their lived experience prior to publishing results. The subject-subject relationship between myself and the participant during the interview process has been noted in the findings and was kept in mind for the duration of the interview (Englander, 2012).

Confirmability pertains to the ability of other researchers to corroborate the findings of a qualitative study (Anney, 2014). Confirmability also established that findings were the result of the data and not from the ideas and opinions of the inherently biased researcher. Triangulation, reflexivity, peer debriefing, and researcher bias accountability were key and were incorporated in the study design, research approach, data collection and analysis methods, and final report (Patton, 2015). In summary, paradigmatic consistency, framework alignment, careful recording of the data, member checking and peer-review feedback were utilized to triangulate the data and ensure the dependability and confirmability of study results.

Ethical Procedures

Empirical research that used participants who served as actual jurors on criminal cases in which the defendant was wrongfully convicted was non-existent but can provide invaluable insight into many important aspects of the CJS, the jury system, and wrongful conviction. All aspects of this study were subject to review and approval from the Institutional Review Board of Walden University Online (approval number 01-23-20-0726453). As detailed by Walker (2007), justification for a research study is ethically mandatory and is dictated by the study's potential contribution to the scholarly literature. Due to the sensitive nature of the topic of wrongful conviction and the need to maintain confidentiality of the juror participants, strict adherence to ethical standards was maintained. Each participant was assigned a number (i.e. P1, P2...P12) to ensure anonymity. These numbers were used to identify each participant within the published results.

Several issues related to the ethical safety of participants could've arisen for the jurors in this study. Juror misconduct, emotional trauma, or fear of repercussion were examples of issues that necessitated caution in dealing with participants. Participants were fully apprised of the intent and nature of the study prior to signing consent to participate forms. Participants were briefed again prior to the beginning of the interview and advised that their participation was completely voluntary, that they can refuse, and that the interview can be terminated at any time at their request (Skinner-Osei & Stepteau-Watson, 2018) During the interview process and debriefing, as well as any subsequent interaction with participants, reflexivity, openness, commitment, and genuine

interest in the participant experience was maintained to ensure participant comfort and support (Park, Caine, McConnell, & Minaker, 2016).

Additionally, participant identity was confidential to everyone but the researcher and study results maintain participant confidentiality. Similar to the process taken by Skinner-Osei and Stepteau-Watson (2018) participants were assigned a number, non-related to the order in which they were interviewed. Murphy, Banyard, and Fennessy (2013) assured that participants did not feel pressured or uncomfortable by keeping the interviews completely confidential so individuals could participate without being identified. I employed a similar method and painstakingly ensured that my participants felt safe and began each interview a reiteration of confidentiality and an emphasis on the purpose of the study.

Commitment to protecting participants and ensuring the minimization of harm to participants was upheld during all interactions with participants. As dictated by the American Psychological Association (2010), beneficence and non-maleficence are among the most fundamental ethical principles to be maintained when conducting research. Painstaking efforts were taken during design of the interview guide, all interactions with participants, and in reporting findings to ensure that no direct or unintended harm was inflicted upon participants. Careful consideration of how probing into juror experience and the feelings associated with having wrongfully convicted someone was taken (Skinner-Osei & Stepteau-Watson, 2018). I remained present, committed to, and empathic towards participants and went to any length necessary to

guard the accuracy of their experience. In addition, peer debriefing and ethical research were utilized to address ethical concerns as they came up.

Summary

This study implemented a qualitative research design. Phenomenological inquiry, in-depth interviews, and thematic analysis were used to reveal the lived experience of jurors who served on a criminal case and wrongfully convicted the defendant. Phenomenology was the best qualitative approach as this approach sought to capture the essence of having served on a jury and how it felt to have convicted someone who was actually innocent. Interview data collected on both experiences was subjected to thematic analysis as this was the best data analysis method to illuminate patterns in juror thinking and decision-making that may contribute to wrongful conviction. Each aspect of the study design was framed with the story model of juror decision-making and commonsense reasoning to reveal how these frameworks manifested during deliberations. In the following chapter, the results of the study are presented and specifics about data collection and data analysis are discussed. Further consideration of trustworthiness are also articulated.

Chapter 4: Results

Introduction

The purpose of this qualitative study was to uncover and capture the lived experience of jurors who served on criminal cases in which the conviction was overturned. In addition, this study sought to illuminate error in juror decision making, specifically focusing on how and if jurors relied on narrative construction (Bennett, 1978; Pennington & Hastie, 1986) and commonsense reasoning (Garfinkel, 1967; Maynard & Manzo, 1993). The research questions for this study were:

1. What is the lived experience of jurors who have rendered guilty verdicts in wrongful conviction cases?
2. How does juror reliance on narrative construction of case facts manifest during deliberations?
3. How does juror reliance on commonsense reasoning manifest during decision making?

In this chapter, the study setting, participant demographics, and case demographics are presented. Details about data collection procedures, data analysis methods, and evidence of trustworthiness are articulated, and results of this study are discussed.

Setting

The original intent for this study was that all interviews were to be conducted in-person, in a setting at or near each participant's residence, depending on participant preference and comfortability. However, all interviews were conducted telephonically

due to geographical distance between participant and researcher, health and safety regulations, and travel restrictions related to Covid-19. The research setting for this study was the participant's residence or setting of choice. I conducted the interviews while in a private home office, with the door closed, to ensure participant and data confidentiality.

Demographics

Participants for this study consisted of individuals who had served as a juror on a felony criminal case in the United States and wrongfully convicted the defendant. All participants fit the mandated criteria for having served on a jury for a criminal trial in the United States. According to the United States Courts (2020), at the time of service, all jurors must have been at least 18 years of age, been a citizen of the United States, had primary residence in the judicial district where they served for at least one year, had spoken English well enough to participate meaningfully in jury service, must not have had any physical or mental condition that would disqualify them from service, were not subject to any felony charges that were punishable by imprisonment for more than one year, and had never been convicted of a felony.

All participants identified as White. Five participants identified as male and seven participants identified as female. Five jurors were retired at the time of jury service and the remaining participants were middle-aged and employed when they served on the jury (see Table 1 for further detail). Participants for this study provided general demographics regarding the jury that they served on. The majority of the jurors on each of the 12 different juries were White. Participants reported that the majority of the jurors on each

of the 12 juries were older, approximately 50-60 years of age. Participants indicated the ages of the jurors on the different juries ranged from roughly 18 to 60's and 70's.

Each participant for this study served on a serious felony case. The different types of criminal cases included homicide, child sexual assault, sexual assault, and burglary. Punishment for the various cases ranged from 20 years in prison to death. Six defendants were White and six defendants were Black. Defendant ages ranged from 21 to 52, with a mean age 34.6. All cases took place within the last 10 years to enhance participant recall and data accuracy. The mean length of time between wrongful conviction and exoneration for defendants was 3.875 year, with a range from 1 year to 9 years (see Table 2).

Table 1
Participant Demographics

Participant (P)	Ethnicity	Age	Employment Status	Date of Service	Sex	Jury Experience
P1	White	54	Employed	2018	Female	No
P2	White	37	Employed	2016	Male	No
P3	White	55	Employed	2010	Female	No
P4	White	65	Retired	2010	Male	No
P5	White	27	Employed	2013	Male	No
P6	White	69	Retired	2013	Female	Yes
P7	White	62	Retired	2017	Female	No
P8	White	72	Retired	2012	Male	Yes
P9	White	28	Employed	2013	Female	No
P10	White	43	Employed	2011	Female	Yes
P11	White	70	Retired	2013	Male	No
P12	White	63	Employed	2011	Female	No

Note. The word participant has been abbreviated to “P” in the above chart.

Table 2

Case Demographics

Case (C)	Type of Case	Sentence	Defendant (D) Race	Age of D	Date of Conviction	Date of Exoneration
C1	Burglary	20 years	Black	24	2018	2019
C2	Murder	Life	Black	25	2016	2019
C3	Child Sex Abuse	Life	Black	43	2010	2019
C4	Child Sex Abuse	Life	Black	43	2010	2019
C5	Murder	Death	Black	23	2013	2017
C6	Murder	Death	Black	23	2013	2017
C7	Child Sex Abuse	50 Years	White	41	2017	2018
C8	Sexual Assault	20 Years	White	48	2012	2018
C9	Murder	Life	White	21	2013	2019
C10	Murder	Life	White	52	2011	2012
C11	Murder	Life	White	21	2013	2019
C12	Murder	Life	White	52	2011	2012

Note: The word case has been abbreviated to “C” in the above chart.

Data Collection

Data collection procedures for this study entailed in-depth, qualitative interviews with 12 former jurors. The initial phases of data collection consisted of sending a letter of introduction (see Appendix B) via mail or email to 186 potential juror participants. Of the 186 invitations to participate, 16 individuals responded via telephone or email. An informed consent form (see Appendix C) was emailed or mailed to the 16 potential participants. Upon receiving consent to participate, I spoke with each potential participant, except one, via telephone to ensure they were appropriate for the study and arranged a telephonic interview at the convenience of the participant.

Ultimately, 12 of the 16 individuals who responded fit the study criteria and took part in the data collection process. Three individuals that contacted me were determined

to have served as alternates on the jury and were subsequently eliminated as participants as they did not participate in the decision-making process. One individual was eliminated after I began the interview process due to substantial memory issues of the potential participant. I arranged interviews with the 12 remaining individuals who responded to my invitation to participate. One participant declined to participate telephonically and requested to conduct an interview via email.

As previously stated above, my original intent was to conduct in person interviews with juror participants. In person interviews would have increased rapport between myself and the participant, captured subtle body language and facial expressions during the interview, and overall enhanced the data collection process (Ravitch & Carl, 2016). However, travel restriction, geographical distance, and health regulations prevented me from traveling to conduct interviews in person. Juror participants were subsequently interviewed via telephone and email for participant convenience and comfortability.

Participants were interviewed following an open-ended, semi-structured interview guide (see Appendix A) that was developed using Englander's (2012) phenomenological approach as well as the steps laid out by Jovchelovitch and Bauer (2000) for narrative inquiry. All interviews began with asking each participant to tell me the story of having served on the jury, providing as much detail as possible and including any feelings, opinions, or thoughts the participant had about their experience. Researcher prompts throughout the interview were used to illicit more detail, clarify information, and encourage participants to elaborate fully on what it was like to have served on the jury as

well as capture the reaction to the conviction being overturned. After participant experience was shared, I asked follow-up questions from my interview guide to flesh out more participant thoughts, feelings, and opinion on different aspects of the CJS and wrongful conviction.

Each participant interview lasted approximately 45 minutes in length. All interviews were recorded using NoNote and subsequently transcribed by me to ensure credibility and validity of the data. Detailed notes were taken during the interview to note any questions or areas that needed clarification prior to ending the interview. In addition, I wrote down my impressions and feelings about each interview and participant upon completion of the interview. After participant interviews, I sent a \$25 Amazon gift card via email to the majority of participants. One participant requested \$25 in cash and three participants declined to be paid for their participation.

The final step of the data collection process entailed member checking. I made contact again with each participant via phone to discuss general study findings and collect additional information on participant demographics. Participants were also encouraged to ask additional questions or provide additional information, if any, that they had recollected after the interview. The follow-up contact with participants lasted approximately 15 minutes.

Data Analysis

For this study, phenomenological exploration, specifically thematic analysis, was used to investigate participant interview data. The data examination process for this study consisted first of journaling after each participant interview to capture my initial reaction

to the interview. Next, I personally transcribed the interviews. Reflexive memos were created after each transcription to capture my thoughts, opinions, and initial impressions about the data, elucidate any bias, and triangulate the data. I then reviewed the transcriptions to identify common codes and themes in the data. Each data set was coded three times. I used thematic analysis, as described by Braun and Clark (2006, 2017) to thoroughly explore participant experience and identify significant patterns. Analysis was done in consideration of and framed by theoretical literature on juror reliance on narrative construction (Bennett, 1978; Pennington & Hastie, 1986) and commonsense reasoning (Garfinkel, 1967; Maynard & Manzo, 1993). Commonalities between data sets were condensed into themes, categories, and sub-themes to capture the essence of the overall experience with having served on a wrongful conviction case and to unearth patterns in juror decision-making affiliated with narrative construction and commonsense reasoning.

Each data set was subject to peer review and peer feedback to ensure triangulation, rigor, trustworthiness, and to prevent researcher bias. The peer reviewer selected was a current student at Walden University in the final stages of her dissertation process. Data analysis between myself and the peer reviewer reflected significant alignment in themes and sub-themes, providing confidence and reliability of analytical results. The peer reviewer found no evidence of researcher bias during data collection or in the examination and interpretation of participant data. In addition, the data collection and data analysis processes were closely monitored and directed by my dissertation chair and committee member, as well as approved by Walden University's URR (approval number 01-23-20-0726453).

Evidence of Trustworthiness

As described above, diligent steps were taken to ensure the trustworthiness of this study. Trustworthiness in qualitative research, as detailed by Ravitch and Carl (2016), informed the process used in establishing credibility, transferability, reliability, and confirmability for this study. The research design and theoretical framework of this study were carefully aligned to enhance trustworthiness. In addition, the data collection and data analysis processes were unified to merge effortlessly together, as emphasized by Englander (2012). My research questions and interview guide were developed from key findings in current literature on juror experience, wrongful conviction, narrative construction, and commonsense reasoning, which in turn informed the interview process and follow-up interview with each participant. Additional measures were taken, including member checking, peer review and debriefing, purposive sampling, incorporation of chair and committee member direction, and recording and verbatim transcription of participant interviews to increase the accuracy of study results.

Credibility

Credibility in qualitative research pertains to the internal validity of the study. Establishing credibility of the data was imperative for this study. The research design, data collection process, and data analysis process were developed to ensure confidence in the strength and accuracy of my findings, as described by Anney (2014). Credibility was achieved in this study through the use of a research design that was recursive, reflexive, and conscious of the inherent intricacies of phenomenological research (Ravitch & Carl, 2016). During data collection, all interviews were recorded using NoNote and then

transcribed verbatim by the researcher to ensure accuracy. Furthermore, member checking took place to verify participant experience, to foster transparency, and eliminate bias.

Transferability

Transferability in qualitative research relates to the degree in which study results can be achieved by other researchers in a similar context, using similar participants. In other words, transferability in qualitative research is comparable to the mandate for generalizability of results in quantitative research (Ravitch and Carl, 2016). To promote transferability in this study, details regarding participant criteria and selection, participant and case demographics, and the research setting were described. Also, direct quotes from participants were used to demonstrate trustworthiness and substantiate the results of the study.

Dependability

In qualitative research, dependability equates to the reliability of the data and the research design. In order to establish dependability for this study, I incorporated member checking, peer evaluation and debriefing, chair and committee member debriefing and direction, and multiple cycles of data coding. Dependability of the data was increased by recording participant interviews, personally transcribing the interviews verbatim, and focusing the interview guide that was developed to illicit the richest, most detailed descriptions of participant experience possible (Rubin & Rubin, 2012). After completing data analysis, I contacted each participant to provide general findings and encouraged participants to provide feedback. All participants agreed with general findings and no

discrepancies were noted. During participant interviews, I remained cognizant of the subject-subject relationship between myself and the participant, as highlighted by Englander (2012). Corroboration of research findings by other researchers is achievable and likely.

Confirmability

Confirmability pertains to the objective nature of qualitative research and necessitates the establishment of findings based on participant experience rather than researcher ideas. To enhance confirmability in this study, several methods were used. I triangulate the data for all aspects of the study, including member checking, reflexivity, peer debriefing, and transparency of any researcher bias accountability (see Patton, 2015). Paradigmatic consistency, framework alignment, careful recording of the data, member checking and peer-review feedback were utilized to ensure the dependability and confirmability of study results.

Results

The goal of this phenomenological inquiry was to capture the essence of the lived experience of participants who had wrongfully convicted an innocent defendant. I identified significant commonalities in the interview data. Overarching themes, categories, and subthemes are presented for each research question (see Table 3, Table 5, and Table 7). Additionally, themes are grouped by number of participants (see Table 4, Table 6, and Table 8). Interviewee quotes were utilized to substantiate findings. Participants were coded and labeled Participant 1 (P1) through Participant 12 (P12) to ensure anonymity.

Themes for Research Question 1

Multiple patterns emerged in participant experience regarding what it was like to have served on a jury in which the defendant's conviction was overturned (see Table 3). Overall, participants described a negative and difficult experience. Furthermore, participants encountered systemic racism and oppression and were left feeling skeptical about the CJS process. Frequently, participants described disassociation from the responsibility of the verdict and the implications of the wrongful conviction. Lastly, it was found that group decision-making was impacted by several factors, leading to faulty verdicts. Table 4 identifies themes by number of participants and provides additional clarity of the results for this inquiry.

Table 3
Themes for Research Question 1: Lived Experience of Participants

Overarching Themes	Categories	Subthemes
1. Negative Experience	1. Trauma	1. Heavy Emotional Impact
	2. Burden	
	3. Anger	2. Inconvenient
	4. Remorse/Regret	
	5. Shock/Disbelief	
	6. Fear	
	7. Self-doubt	
	8. Peer pressure	
	9. Empathy	
	10. Cheated/ Frustrated	
2. Systemic Racism and Oppression	1. Black Defendants	1. Implicit Racism
	2. SES	2. Public Defender Bias
	3. Cultural Bias and Inability to Relate	3. Disparity in the System
	4. Demeanor Attributes	
3. Skepticism in the CJS	1. Unfairness	1. Tunnel Vision
	2. Mistrust and Suspicion	2. Systemic Injustice
	3. Shift in Perspective	3. Inefficacy
	4. Performance of Attorneys	
	5. Critical Information Withheld	
	6. Responsibility and Implications of Service	
4. Disassociation	1. Reassign Decision Responsibility	1. Willful Detachment
	2. Rationalization and Justification	2. Deflection
	3. Decompartmentalizing Trauma	3. Self-Preservation
5. Group Decision-Making		4. Unaccountability
	1. Juror Personalities	1. Narratives
	2. Peer Pressure/ Coercion	2. Commonsense Reasoning
	3. Inability to Admit Bias During Voir Dire	3. Group Psychology
	4. Unable to Defer Judgement	
	5. In-Group Affiliation	
6. Rushed Decision-Making		

Table 4
Participant Identifiers for Lived Experience with Wrongful Conviction

Themes	Responses	Participant Identifier	Participant Excerpt
1. Negative Experience (P1, P2, P3, P4, P5, P6, P7, P9, P10, P11, P12)	11	P12	“It was very traumatic...”
		P10	“...concern...that he would recognize me...put me in jeopardy... if he saw me...easy for him to put a hit on me.”
2. Systemic Racism and Oppression (P1, P2, P3, P4, P5, P6, P9, P10, P11, P12)	10	P1	“I especially questioned the institutionalized racism ... it was like a slap in the face...”
		P6	“...my honest opinion is, is because he was black, that’s how they voted.”
3. Skepticism in the CJS (P1, P2, P3, P4, P5, P6, P7, P8, P9, P10, P11, P12)	12	P3	“...winning, or outplaying their opponent, was what was at stake, as opposed to a fair representation of events.”
		P8	“... he must have found a high-priced, better lawyer...I still believe he is guilty... it had to be on a technicality”
4. Disassociation (P2, P3, P4, P5, P6, P7, P8, P9, P10, P11)	10	P9	“...do I feel guilty that I made a wrong decision? No... based on what we had... that was the best we could do.”
5. Group Decision-Making (P1, P3, P5, P6, P9, P10, P12)	7	P12	“I was the last holdout, and they just wore me down, and I went along with it.”

Negative Experience

All study participants reported having a negative experience. It should be noted negative reactions fell into two different categories. Some participants supported the exoneration and some participants maintained belief that the defendant was guilty despite

being exonerated. Regardless of whether participants supported or refuted the conviction reversal, several adverse feelings surfaced in participant experience.

P4, P5, P7, P11, and P12 explicated difficulty in dealing with traumatic trial information and memories related to the experience. P12 described the heavy emotional toll being selected to serve as a juror on a murder case had on her, "...you've really got another person's life in your hands, and you could ruin your life forever if they were not guilty, which (defendant) wasn't." P7 was traumatized by the experience and described having nightmares and being haunted by the experience. Overall, participants found the experience to be emotionally taxing, unsatisfying, and inconvenient

P2, P5, P6, and P9 described the burden of serving on the jury. P2 was financially impacted, recalling, "... that's going to cost me money because I'm missing work..." P5 and P6 were sequestered. P6 recalled, "...I could not speak to my family...it's very, very, very tough on it on a person... missing work and missing your family." Many participants felt shock, disbelief, and anger about the conviction being overturned, whether they supported or refuted the exoneration. P7 said, "... I'm just, like, so angry at the system." P4 recalled, "I was like holy smokes, that's wild!" Several participants expressed fear of repercussion from the defendant during trial and/or after exoneration. P1 recalled being fearful of the defendant and his friends. P10, who worked in the prison where the defendant was being housed, described being afraid that he would recognize her and "put a hit out on her."

P1, P3, P6, P7, P11, and P12 felt regret and remorse for faulty decision-making, as well as empathy towards the defendant. P1 and P6 expressed significant regret in being

coerced into voting guilty and P1 described feeling “heartbroken,” when she found out that he had been wrongfully convicted. P7 stated, “I was so shocked and I felt so bad I didn't tell my husband at first, like I got to deal with this internally.” Furthermore, results indicated substantial self-doubt regarding decision-making and overall judgement. P6 had significant self-doubt and did not understand her own behavior during decision-making or when the jury was polled after the verdict, “...I could have said not guilty then.... But I didn't...I wasn't like I thought I would be, I cannot believe that I woulda not stuck to my conviction.”

Frustration with the process, confusion about what led to the exoneration, and feelings of being cheated, lied to, or tricked during the trial process were common. P1 stated, “I just really do not comprehend how, I mean, and I'm sure it happens every day, how something that crucial could be withheld from us...is mind-boggling.” P5 related a similar frustration and confusion about the process, “Why do we waste all this money on a trial and screwing 12 jurors lives up for a week... forcing us to come to those conclusions when all this could have been avoided?”

Systemic Racism and Oppression

Another theme that surfaced in participant experience was systemic racism, systemic oppression, and an overall sense of disparity in the CJS related to defendant race, resources, and/or socioeconomic status (SES). P1, P2, P3, P4, P5, and P6 explicated this in their experiences. P4 commented, “...statistically, ah, blacks are more likely to be the defendants, or being involved in a police system.” P1 stated, “Institutionalized

racism... I've always known it there...but it was like a slap in the face how much is there.”

P1, P2, P3, P4, P5, and P6, all who served on a case involving a Black defendant, described decision-making in the other jurors to be colored by implicit racism and bias towards the defendant. P1 felt strongly that “had the defendant not been a person of color” things would have been different. P6 felt that the defendant’s attorney did not do a good job because the defendant was Black. Many commented on limited resources of the defendant and felt the outcome of the trial would likely had been different if the defendant had more resources and community support. P2 stated, “he (the defense attorney) would not have been the guy I would’ve chosen. But I have resources, Mr. [defendant] did not... he just kinda had to take what he was assigned.” P3 noted the disparity in the system based on SES, “I believe the justice system is only as good as the socio-economic status of the accused, i.e., those with money will be able to afford a more thorough and possibly a more effective and fair defense.”

Skepticism Towards the CJS

Feelings of skepticism towards the criminal justice process were prevalent. Commonalities in experience that created a negative shift in participant perspective about the efficacy of the court system included system unfairness, feelings of mistrust and suspicion due to misconduct or critical information being withheld during trial, and disagreement with exoneration. P1 stated: “I really question at all to be honest with you. I really questioned it all.” Tunnel vision and misconduct in law enforcement and prosecutors also created skepticism in participants. P12 articulated tunnel vision and

misconduct that that took place in her case, “Well, to me, it just seemed like they wanted ... a quick conviction. (Defendant) was there, he smoked pot, his brother sold pot, so, you know, there we go.” Participant 4 commented on police misconduct in his case, saying one of the officers altered the evidence and created false charges. P1 indicated that she would think twice about serving on a jury in the future.

Another aspect of the skepticism expressed by participants was those who did not believe in or support the exoneration of the defendant. Four of the 12 participants felt that the defendant was wrongfully exonerated due to a technicality, hiring a better attorney, or gaming the system. P8 stated, “The only thing I can think of...it had to be on a technicality of some sort... however it got overturned... I still always believe guilty.” In sum, all participants expressed wariness about the effectiveness of the CJS and many experienced a significant shift in perspective towards the system and serving in the future.

Disassociation

The majority of participants disassociated or deflected the emotional impact of the experience as well as the implications of the faulty verdict. P9 distanced herself from the verdict, saying, “...some people would be like... super guilty, but...based on what we had, that's what we came up with,” and P4 commented, “I don't have any guilt complex or anything...” Analysis unveiled a tendency towards self-preservation and/or unaccountability amongst participants. Individual responsibility in making determinations of guilt during deliberations was frequently reassigned and minimized. P6 distanced herself from the guilty verdict by indicating that the other jurors made the decision, not

her. P4 and many others blamed the defense attorney, indicating that the defense attorney did not perform his or her job correctly. In addition, many jurors refused to accept that the defendant was not guilty in effort to justify their verdict. P2, P4, P8, and P10 believed that their defendants were wrongfully exonerated. P10 stated, “regardless of who pulled the trigger... he was complicit in the death.”

Frequently, participants decompartmentalized the trauma of the experience by willfully forgetting the case once it was over. P6 stated “I put it all out of my head afterwards,” and P7 said, “I tried to put it out of my mind afterwards.” P8 recalled, “after it was all over, I went had a beer.” P5 stated, “Well, I just say honestly, I'd forgotten about it... it was not something that I immensely enjoyed and I kind of moved on from.” Intentional detachment was prevalent in participant experience.

Impact of the Group Decision-Making Process

Finally, analysis revealed commonalities in P1, P3, P5, P6, P9, P10, and P12's experience with group decision-making. Several individuals expressed a desire to be accepted by the group. P6 changed her vote from not guilty to guilty because she, “didn't want to be the only one.” In-group affiliation manifested during voir dire as well, and a pattern of inability to openly acknowledge potential bias during voir dire was prominent. P3, P7, and P10 described surprise at being selected because they felt they were biased. P10 expressed a desire to have been able to state her obvious bias during voir dire, “... they don't give you a chance in the process, to say, hey, you don't want me because I'm really cold-hearted?” Moreover, participants indicated a general inability in themselves or others to defer judgement until case facts had been thoroughly discussed and deliberated.

P1 said, “we walked into the jury room, and they were like obviously guilty.” P8 stated, “I would say at least 2/3 of the way through the trial, I had him down as guilty.”

Many participants described peer pressured or coercion during deliberations. When describing the deliberation process, P6 described giving in to peer pressure, “...no I don't think he was guilty...but I let them... persuade me... instead of speaking up.” Other jurors described how the group talked holdouts into voting guilty. P10 said, “The rest of us dug our heels in... it was either going to be a hung jury or she was going to have to vote guilty.” P9 described how her group backed each other up when talking a holdout into voting guilty.

In addition, the personality of different individuals on the jury impacted participant decision-making. P3 commented:

Some jurors were more persuasive than others... personality traits, like assertiveness and passiveness, leaders vs. followers etc., should be an important consideration in jury selection criteria. It was clear that the composite of the personalities of those on the jury had as much to do with the verdict we reached as the evidence presented and not presented.

Participants who served as foreman of the jury felt it was their responsibility to convince other jurors of guilt. P5 said, “I just felt like...it was my job... that I should try to convince them...I eventually convinced all 12 jurors...to convict him of the death penalty.” P2 served as foreman and described a similar sentiment.

Some participants communicated feeling rushed during decision-making, whether other jurors were pressuring them to make a decision to get the trial over with, or the

court had set a time restriction due to a holiday, etc. P6 remembered the other jurors pressuring her to vote guilty because they wanted to go home. P5 described exhaustion and frustration with being sequestered and indicated the majority of jurors pressured the holdouts because they wanted to go home. P12 described a time limit imposed by the court, “It was close to Thanksgiving, and they wanted to get it done before Thanksgiving.”

Themes for Research Question 2

The results of this study overwhelmingly substantiated previous findings pertaining to juror reliance on narrative construction in determining guilt. Many participants used stories during deliberations to understand case evidence, convince other jurors of guilt, or justify disregarding evidence that did not fit into their narrative account of the crime. Narrative construction significantly colored juror perspective of case presentation and understanding, or misunderstanding, of complex case material. In addition, I detected a significant pattern of television and media heavily influencing juror narratives. Please see Table 5 and Table 6 for details about themes, categories, and subthemes, as well as participant identifiers.

Table 5

Themes for Research Question 2: Juror Reliance on Narrative Construction

Themes	Categories	Sub-themes
--------	------------	------------

1. Personal Narratives to Assign Guilt	<ol style="list-style-type: none"> 1. Life Experience Narratives 2. Geographical Narratives 3. Timeline Narratives 4. Preconceptions on how Defendant Should Act 5. Race Narratives 6. Unrelatable Lifestyle Narratives 7. Victim-Centered Narratives 	<ol style="list-style-type: none"> 1. Personal Bias 2. Character Construction 3. Situational Interpretation 4. Assigning Intentions to Involved Parties 5. Parental Roles
2. Case Presentation	<ol style="list-style-type: none"> 1. Incomplete/Inadequate Defense Case 2. Complete/Prepared Prosecution Case 3. Adversarial System 4. Dismissal of Reasonable Doubt 5. Gaps in Information Presented Led to Faulty Narratives 	<ol style="list-style-type: none"> 1. Job Performance 2. Volume of Case Materials 3. Adverse Impressions of Defense Attorney
3. Complex Case Material	<ol style="list-style-type: none"> 1. Construct Faulty Story to Understand Material 2. Creation of Mini-Narratives 3. Misunderstanding of Legal Terminology 4. Disregard of Case Facts if did not fit Narrative 	<ol style="list-style-type: none"> 1. Reduce or Disregard 2. Misinterpret 3. Irrelevant Material
4. Influence of Television/Media on Narratives	<ol style="list-style-type: none"> 1. Preconceived ideas of Courtroom Proceedings 2. Preconceived ideas/Expectations of Trial Participants 3. Preconceived Ideas about Physical Evidence and/or Expert Testimony 	<ol style="list-style-type: none"> 1. Media Influence on Perception

Table 6
Participant Identifiers for Reliance on Narrative Construction

Themes	Responses	Participant Identifier	Participant Excerpt
1. Personal Narratives to	12	P1	“People were saying those were tools that thieves use... I argued that those

Assign Guilt (P1, P2, P3, P4, P5, P6, P7, P8, P9, P10, P11, P12)		P5	are also tools that people that live in the country use.” “...going home to my child... it affected me personally...”
2. Case Presentation (P2, P3, P4, P5, P6, P9, P10, P11, P12)	11	P4	“It struck me that the defense wasn't doing a real whiz-bang job of defending the defendant.”
		P2	“And the prosecutors they seemed a lot more knowledgeable they seemed a lot more competent, you know”
3. Complex Case Material (P1, P2, P4, P5, P6, P7, P9, P11, P12)	9	P9	“that didn't make 100% sense to me... that all went over my head...”
4. Influence of Television (P1, P3, P4, P5, P6, P7, P8, P9, P10, P11)	8	P10	“There was no... law and order situation that proved that he pulled the trigger.”

Personal Narratives to Assign Guilt

Each participant in this study described the use of narratives based on individual life experience. Several different factors played into the stories participants created during trial and deliberations. P2 and P5 relied on narratives about their experience as fathers to judge the defendant and make determinations about guilt. P10 relied on her personal experience dealing with inmates in viewing the defendant and facts about the case, “I'm not... a bleeding heart when it comes to dealing with inmates...they had a sign made for my desk that said the meanest woman in (omitted), because I... didn't take anybody's BS.” Many participants relied on geographical familiarity when determining guilt. P1 described faulty narratives of other jurors regarding the defendant driving

around in her small town late at night, “They think the sidewalks roll up at 10:00 at night.” Moreover, timeline narratives were prevalent in juror decision-making, as described by P2, “... they laid out the timeline where he was confirmed to be... It put him in the right place.”

Participants often assigned guilt based on stories created about how they thought the defendant should have acted and/or were unable to relate to or consider defendant lifestyles that differed from their own. P5 said his impression of the defendant, based on his lifestyle, was, “I felt like he was a deadbeat and that he wasn't like a really stable person... I just I just felt like he just really wasn't deserving.” P12 commented on the belief system and decision-making of another juror about the defendant's use of drugs, “...this juror across from me... said, well he's guilty, and I said well, what if he isn't? And she said he smokes pot, his brother dealt pot, so what difference does it make?”

Participants that served on cases in which the defendant was Black described a tendency to fall back on faulty narratives about race. P1 recalled, “I hate that I'm saying this, but it happens all the time...had he not been a person of color, it would have been different...” P6 referred to her geographical location and indicated that bias towards Black people in her state was common. When asked about his first impression of the defendant, P4 said, “well, you know, it's a black guy... statistically, blacks are more likely to be the defendants... or involved in a police system...”

In addition, many jurors created victim centered narratives, basing their entire thought process on feeling empathy for and relating to the victim. P3 remembered “I felt an urgency to defend the victim.” P2 was “solidly affected” by a female witness's

testimony, due to his narrative about her father abandoning her and his own feelings about being a father. P7 also described unlikeable behaviors during trial by the child victim but said, “I cannot hold that against this child, because if you're an abused child, you end up with emotional issues that can make you act like that.”

Case Presentation

Overwhelmingly, narratives about case presentation colored and shaped participant decision-making. All participants communicated negative opinions about the defense attorney(s), indicating they were less than impressive, inadequate, and/or unprofessional. P4 commented: “It struck me that the defense wasn't doing a real whiz-bang job of defending the defendant.” In several instances, participants indicated that the defense did not present a complete or believable set of case facts, causing participants to default towards the more complete story that was given by the prosecution. P10 scoffed at evidence presented by the defense and P5 commented on the incomplete information provided by the defense expert, “the child was sick obviously...how do you explain the bruising on the face and ...on his buttocks?” An overall distrust of the defense attorney was also prevalent in a lot of participant experience. Several participants had preconceived ideas about the defense attorney’s intentions. P10 questioned the defense attorney’s aptitude because he did not dismiss her during voir dire, saying, “any defense attorney who knows anything about the prison system knows the school district serves inmates in the state of (omitted).”

In contrast, almost all participants expressed positivity towards the prosecution and prosecution witnesses. There was an overall sentiment that the prosecution’s case

was prepared and complete. P3 recalled, “the prosecution seemed purposeful. They convincingly connected the danger for minors with the accused predator-like behavior that was projected onto the defendant.” P5 stated, “...the way the prosecution laid it out, I mean it, it was very cut and dry as far as I was concerned.” Many participants compared the performance of the prosecutor and the public defender attorney, finding that the defense attorney was lacking. When asked about his impression of the prosecutor, P4 commented, “He seemed... very convincing, and he seemed to be much more aggressive in his pursuit of conviction than was the public defender” Additionally, many participants minimized mishandlings or misconduct of the case by prosecutors and law enforcement but were unforgiving of errors made by the defense attorneys.

Adversity during the trial process was described by participants and had an impact on narratives created by jurors. P3 stated, “it seemed personal between the two attorneys... that winning, or out-playing their opponent, was what was at stake, as opposed to a fair representation of events.” Several participants commented on trials being similar to presentations. P2 compared his own experience selling himself to customers with the attorneys selling themselves during criminal trials, “...do you like the guy? Does it make sense...is it presented well? That probably has a lot more to do with it then we'd like to admit.” P10 said, “a lawyer to me as a lawyer... they do what they can to win their case.”

Gaps in the overall case narrative presented during trial, whether in the prosecution case, the defense, case, or both, caused jurors to fill in the gaps with faulty narratives. In all cases, gaps in the prosecution cases were overlooked and participants

defaulted to finding the defendant guilty. Lack of motive was common in information that was missing in the prosecution cases, but jurors still found the defendant guilty. P11 said, "...the case here, no one ever established a motive." P12 described exculpatory evidence that was not thoroughly investigated in her case, but they rendered a guilty verdict despite the missing information, "...there were fingerprints on that paneling... we couldn't figure out who's fingerprints...they weren't the defendants." In contrast, missing information in the defense cases led to jurors defaulting to narratives that favored the prosecution rather than the defendant. P3 remembered thinking about the defense case, "I wondered why they didn't present more evidence to corroborate the witness's claims... but then assumed... there wasn't anything they could find or was admissible."

Importantly, gaps in the narratives created by jurors was often the result critical information being withheld during trial. This resulted in participants making uninformed, incorrect determinations of guilt. Participant 1 expressed anger and disbelief at information withheld during her trial, "...there was a video that proved he wasn't where the cops said he was... really made me mad...if we'd had that video, he'd have been found not guilty. Many participants explicated surprise and feeling misled as a result of not being provided the crucial information.

Additionally, jurors dismissed reasonable doubt and/or case facts that did not align with the narrative they created or were pressured to abandon their reasonable doubt by the group. P7 dismissed her reasonable doubt about the child victim in her case because it did not align with her preconceived notion that children are innocent. P12 recalled that evidence about the individuals who had actually committed the crime being

presented during trial, but during deliberations, the other jurors completely disregarded the evidence. P12 said, “Come to find out after all this, and (defendant) was exonerated, the fingerprints were one of the killers, but they never ran em.”

Furthermore, some participants described the tendency of other jurors to create mini-narratives, based on material that was not even presented during trial, to explain away discrepancies in the evidence. P12 experienced this during deliberations regarding fingerprints that were found on a piece of evidence that did not match the defendant’s. P12 recalled, “And I brought that up in the deliberation. I said those fingerprints, whose were those, they never ran them? And they said, oh, well, you know, those were probably done in the factory.” Information that was not presented during trial was inserted into participant narratives to make their judgement make sense.

Complex or Irrelevant Case Material

Complicated evidence and testimony, large volumes of material, and irrelevant information presented during trial led many participants to construct defective stories about how the crime in question occurred. Participant inability to comprehend complicated material caused those participants to rely on the interpretations of other, biased jurors and to disregard feelings of reasonable doubt. Several participants described struggling to understand and remember important information that was presented during trial. P9 stated, “Anyway, that all went over my head,” regarding critical firearm testimony that was presented during trial. Several participants described irrelevant material being presented, which confounded case facts, confused jurors in many

instances, and contributed to false narratives. P9 recalled, “there was a point where I was like this is kind of dragging on, because I felt like nobody was giving any kind of good information.

Influence of Television

Many participants based their expectations and ideas about the trial process and the CJS on what they had seen or heard on television or read in books. P11 stated, “the trial was strange to me. I expected more like the trials you see on television, with the defense supporting the defendant’s case, and that didn’t happen.” When asked about the voir dire process, P1 said, “when you see it in the on the TV shows... they always put 12 people in the jury box and they start asking a question. That’s not how it works for us.” The influence of the media on participant perception of court proceedings was apparent in expectations of how attorneys, defendants, and evidence should act or present.

Themes for Research Question 3

Juror reliance on commonsense reasoning was predominant in all participant experiences. Participants described a tendency to default to making sense out of defendant behaviors, crime details, and case facts based on their own life experience rather than objectively assessing the material. Commonalities in default sense making for participants included falling back on normative assumptions, accessibility biases, and social cognition to comprehend information presented during trial. Also, participants made sense out of trial participant sincerity, adequacy, and intentions based on their appearance, namely race, clothing, and demeanor. Furthermore, individual participant characteristics, including career history, trial experience, medical history, age, jury

experience, etc., played a large role in how jurors made sense out of case facts. Please see Table 7 and Table 8 for themes, categories, sub-themes and participant identifiers.

Table 7

Findings for Research Question 3: Juror Reliance on Commonsense Reasoning

Overarching Themes	Categories	Sub-Themes
Default Reliance on Commonsense	<ol style="list-style-type: none"> 1. Misunderstanding Complex Evidence 2. Misunderstanding of Legal Standards 3. Missing Case Information 4. Nonsensical Phenomenon 5. Disregard of Critical Evidence 	<ol style="list-style-type: none"> 1. Inability to Comprehend 2. Justification and Rationalization of Reasoning

Normative Assumptions	<ol style="list-style-type: none"> 1. Sense-Making Based “Normal” According to Juror Experience 2. Sense-Making Based on How Juror Would Act in a Situation 	<ol style="list-style-type: none"> 1. Bias Confirmation 2. Understanding of Relatable Behaviors/ Actions 3. Parental Roles
Accessibility Bias	<ol style="list-style-type: none"> 1. Reliance on What Most Easily Stood Out During Trial 	<ol style="list-style-type: none"> 1. Personal Experience 2. Selective Memory
Appearance	<ol style="list-style-type: none"> 1. Appearance Impacts Verdicts 2. Credibility Related to Professional Appearance 3. Good Versus Bad 4. Prior Convictions or Contact with Law Enforcement 5. Victim Sympathy 	<ol style="list-style-type: none"> 1. Racial Bias 2. Clothing 3. Demeanor
Social Cognition	<ol style="list-style-type: none"> 1. Juror Understanding of How the World Works 	<ol style="list-style-type: none"> 1. Personal Experience 2. Life History
Juror Characteristics	<ol style="list-style-type: none"> 1. Work History 2. Beliefs About Law Enforcement 3. Prior Trial Experience 4. Parental Roles 5. Personal Worldviews 6. Medical History 7. Religious Affiliation 8. Age at Time of Service 9. Race 	<ol style="list-style-type: none"> 1. Relationship of Familiarity with Trial Actors 2. Emotionality 3. Beliefs and Value Systems

Table 8

Participant Identifiers for Reliance on Commonsense Reasoning

Themes	Responses	Participant Identifier	Participant Excerpt
1. Commonsense Reasoning (P1, P2, P3, P4, P5, P6, P7, P8, P9, P10, P11, P12)	12	P1	“regardless who pulled the trigger... he was still complicit in his brother’s death.”
2. Normative Assumptions	11	P2	“...if I was in his seat...I’d have been climbing the walls with anxiety. He’s,

(P1, P2, P3, P4, P5, P6, P9, P10, P11, P12)			‘whatever,’ didn’t seem worried about it.”
3. Accessibility Bias (P1, P2, P3, P4, P5, P7, P8, P10, P11)	9	P2	“... and this guy had kids scattered all over town.”
4. Social Cognition (P1, P2, P3, P5, P7, P8, P9)	7	P6	“...back then, you didn’t really see a lot of Black people... we didn’t go to school with them...”
5. Appearance (P1, P2, P3, P4, P5, P7, P8, P9, P10, P11)	10	P11	“...the other fellow, he didn’t look the part. He was more, baggy old suit...”
6. Juror Characteristics (P1, P2, P3, P4, P5, P6, P7, P8, P9, P10, P11, P12)	12	P10	“... I have, over the years, developed a very strong sense of when I’m being lied to...and I’m good at reading body language... so those really play into everything I do, like I can’t turn it off.

Default Sense-Making

Several critical themes emerged in juror tendency to fall back on commonsense reasoning. Participants described misunderstanding case evidence, expert testimony, and/or important legal standards, which led them to make faulty, commonsense based decision-making. P9 recalled, “I know nothing about guns...and I kept hearing the words Glock... I don’t know what that is... And anyways, that kind of all went over my head.” Also, participants described how jurors made sense out of non-sensical phenomenon or simply disregarded the impossibility of the evidence presented. P12 reported other jurors accepting, without question, non-sensical evidence presented by the prosecution, “...there was no blood splatter on top of the bag, it was all on the floor underneath the bag... what they were saying didn’t make sense.” Geographical sense-making also took place.

Several participants made sense out of testimony or case facts based on their understanding of the area. P1 described how jurors determined the defendant was guilty based on their commonsense reasoning related to the area, “They think that the sidewalks completely roll up at 10:00 at night ...there were a lot of people on the jury that were like, there shouldn’t have even been a car driving down the street at that time of night.”

Multiple participants either misunderstood or willfully dismissed legal standards related to burden of proof and reasonable doubt in favor of what made more sense to them. In all cases, it made sense to vote guilty despite misunderstanding important legal concepts. P9 described her own reasonable doubt because the prosecution’s case did not make sense, saying, “You never had a motive, and so I kept going, I just don't understand. I don't understand, you know?” In some instances, complex legal standards were not adequately defined for the jurors. P4 recalled, “Some question came up as to interpretation... evidence beyond a reasonable doubt...and the judge said... I can't interpret the law for you.”

In addition, several participants described an outright disregard of critical evidence that did not make sense or fit in with the narrative they had created. Irrespective of other juror’s doubts and the evidence presented that another party had caused the victim’s death, P10 said, “regardless of who pulled the trigger... he (the defendant) was still complicit in his brother’s death.” Exculpatory evidence presented during trial in P7’s case did not make sense and was disregarded, “...evidence that was found had to do with the dog...the child said the father had shot in front of her... They found the dog living with somebody else.”

Normative Assumptions

Several participants expressed a tendency to make sense out of case facts or defendant behavior based on their sense of normal, according to their own experience. P2 made several assumptions about the defendant based on his perception of the defendant's courtroom behaviors, saying, "I think that if I was in his seat and it was shifting that way, I have been climbing the walls of anxiety. He's 'whatever,' didn't seem that worried about it." P4 assigned thoughts and motives to the defendant based on what P4 thought of as normal behavior, "And it struck me as a rather odd situation for him to be doing that... there was probably some ulterior motive, namely some sexual gratification for him, if he lingered around long enough." P1 described many assumptions about the defendant based on what the other jurors believed about individuals who were involved in the CJS. Participant 1 shared, "I feel like there are some people that...have the belief that if you're charged with a crime, you're guilty.... Like if you've gotten to the point that you're at a trial obviously they're guilty."

Accessibility Bias

Accessibility bias was demonstrated in participant experience. Participants described relying on evidence or testimony that they most easily remembered during deliberations. P3 had young children who skateboarded, similar to the victim in her case, and her sense-making about the defendant's intentions and guilt stemmed from her readily available affiliation with the skateparks in the neighborhood. Participant 3 stated, "That is most likely why I voted the way I did in this trial... the neighborhood near the skatepark is dangerous and fraught with trouble. Adults and minors engaging in illegal

activity and interacting with minors makes it worse.” Several participants described making decisions based on one statement from an expert or witness because it really stood out. P2 and P5 relied heavily on sense-making based on their experience with and expectations about fatherhood, and the assumed failure as a father of the defendants in each of their cases was easily and readily recalled during deliberations.

Social Cognition

Sense-making often stemmed from subjective participant understanding of how the world worked. P7 understood children to be innocent and this filter impacted her faulty decision-making because she felt the child victim in her case would not lie. P2’s worldviews and experiences at work colored his decision-making process and perception of the defendant. Similarly, P6’s personal experience as a child and growing up in a certain area of the United States shaped her perspective in being on a case with a Black defendant. P6 stated, “...well you really didn't see a lot of black people... when I grew up, we didn't go to school with them.”

Appearance

Trial participants’ race, demeanor, clothing, and prior convictions or contact with law enforcement significantly impacted participant reasoning. The attire of the defense and prosecution attorney(s) and various experts had considerable influence on juror sense-making and the credibility assigned to each. Regarding the defense attorney’s clothing, P2 remembered, “I think it was not a very good fitting, black suit... he had a Winnie the Pooh tie on and that really stood out to me. I’m like, this guy really has a Winnie the Pooh tie on?” P2 did not take the defense attorney or any of the case he

presented seriously. P11 had a good impression of the forensic expert and assessed him as very credible based on his appearance, saying he was, “the most professionally dressed” of anyone who participated in the trial. P11 based his guilty verdict on the testimony of the forensic expert. Participants described impressions of witnesses, good versus bad, based on appearance. P7 made positive assumptions about the victim in her case based on how the victim looked, “You like to think of children is totally innocent... she was distraught, you know, and... I just didn't think she'd be lying.”

P1, P2, P3, P4, P5, P6, and P10 explicated manifestations of cultural bias and an inability of jurors to relate to defendants who were of a different ethnicity, lifestyle, or SES. Several participants referred to the demeanor of the defendant and assigned thoughts, intentions, and culpability based on how the defendant acted in the courtroom. P2 relied heavily on his assumptions about the defendant based on the defendant's demeanor, “You see his facial expression and...there was this underlying arrogance... it seemed like he wasn't worried about any which way it would go.” When asked about her impression of the defendant, P3 said, “My first impression was that he appeared defensive and angry.... did not seem like he thought there was anything wrong with... ‘partying’ with minors.”

All participants who served on a case in which the defendant(s) were White had mild impressions of the defendant(s). Participant 11 described the female defendants in his case as, “they look like classic, all-American,” and Participant 7 described her impression of the defendant, “seemed like he was just, you know, your regular guy.” P9 described her White defendants as “really normal.” In contrast, P1 expressed being

fearful of the Black defendant and his friends based on appearance. P5 used the term “deadbeat” when talking about the defendant and P4 continually used the phrase “unsavory” to describe the defendant.

Regarding the impact of prior convictions on commonsense reasoning, Participant 1 said “... and it was largely due to his prior conviction that it was mostly like almost like, we’ve got to come up with something.” Defendants who had a history of drug use or if drug use was involved in the crime also negatively influenced juror sense-making. When asked about her impression of the defendant, P10 said, “it was obvious he was involved with drugs.” P5 referred to drugs found at the scene of death in his case and made assumptions about the defendant being guilty because of the presence of drugs. Overall, appearance and history of individuals involved in the trial impacted the ways in which participants made sense of defendants and case facts.

Juror Characteristics

Each participant related their personal life history and experience to case material and when determining guilt. Many facets of juror histories shaped how they made sense of case facts, including career histories, parental roles, beliefs about law enforcement, prior trial experience, age, worldviews, ties to trial participants, medical history, and emotionality. Participant 8’s medical history played a significant role in his negative perspective about the defendant, “But with him hobbling in with a cane, and then you see him at lunchtime, practically running up and down the stairs to get out of there to go to

lunch.” P3’s work experience with disadvantaged youth colored her entire juror experience, “My initial response was that anyone doing that at their age was exploiting minors and influencing them in a harmful way.” Similarly, P2, P7, P10, and P11’s work history influenced their entire perspective and emotionality about the defendant and case facts and all referred to work experiences when making decisions about guilt. Parental roles and expectations played heavily into how jurors made sense of and were emotionally impacted by case information. As mentioned above, P5 was significantly influenced by being a father, “Of course, at the time I had a two-year-old. It was my only child and, you know, everything that happened during that trial hit home for me really hard.” P5’s entire trial experience, involving the death of an infant, was filtered through the lens of fatherhood.

Religious affiliation was another aspect of sense-making that influenced participant thoughts and decisions about the case. P5 stated, “And I’m a religious person too but at the same time, you know, I believe the punishment should fit the crime.” P1 also commented that her religious background tied into convicting the defendant. P6 was heavily involved in the church and married to a pastor, all of which shaped her worldviews and filtered the information presented during trial. Moreover, the older ages, shared ethnicity, and limited prior trial experience of the participants heavily impacted how participants made sense of their respective cases. The general make-up of the juries that participants served on was White, older individuals. The overall uniformity of the participants and juries inherently biased perspective, worldviews, and sense-making, leading to faulty verdicts.

Views about law enforcement or relationships with people involved in the trial also colored juror perception and decision-making. Overwhelmingly, participants possessed a positive opinion about law enforcement. When asked about the testimony of law enforcement in his case, P4 said, “I had no reason to suspect anything with them being dishonest lying... they seemed straight-up type people.” Interestingly, it was revealed that the law enforcement officer in this case had lied, leading to the wrongful conviction of the defendant. Several participant’s sense-making was influenced by ties with trial participants. P10 had a personal relationship with the district attorney and the investigators working on her case, saying she informed of the exoneration by a phone call from the district attorney, “I got a phone call from an assistant district attorney... That I’m actually friends with.” Her connection with the investigators and prosecutors on the case impacted her perspective.

Summary

Thematic analysis of participant interviews revealed critical information about the experience of jurors serving on a wrongful conviction case and how errors in decision-making contributed to faulty verdicts. Prior research on the story model of juror decision-making and juror reliance on commonsense reasoning rather than legal instruction or case facts was substantiated and expanded upon by the findings of this study. I found that jurors continuously created narratives about defendants, trial participants, and information presented during trial based on personal experience and subjective viewpoints. I also determined that all jurors made sense of defendant behavior and case materials by comparing how they would have acted or how they understood the materials

from their own biased perspective. Jurors were overwhelmingly unable to objectively weigh the evidence and made decisions that were shaped by personal feelings and worldviews.

Additionally, the results of this study provided a unique perspective on what each juror felt like during the trial experience and after they learned that the defendant was exonerated. Overwhelmingly, participant experience was unpleasant, with feelings of trauma, burden, shock, disbelief, disagreement, anger, fear, regret, remorse, and guilt expressed by participants. The harmful consequences of having taken part in the wrongful conviction process were overpowering for many participants, causing them to disassociate and decompartmentalize the trauma.

Participant interviews revealed systemic disparity in the CJS based on race and SES. Racism, implicit bias towards defendants that were ethnically or financially different than the participants, and oppression based on SES overwhelmingly influenced verdict. Participants reported feeling skeptical in the efficacy of the CJS as a result of their experience. Most importantly amongst causes of skepticism was the common sentiment that wrongful conviction itself is “hogwash” and that exonerations occur only as a result of technicality or hiring an attorney that successfully twisted case facts. Finally, participants indicated that the group aspect of the jury process had significant impact on faulty verdicts. Interpretation of participant experience, framed by the story model of juror decision-making and commonsense reasoning, will be provided in the following chapter, along with study limitation, researcher recommendations, and implications of the study.

Chapter 5: Discussion, Conclusions, and Recommendations

Introduction

The purpose of this study was to capture the lived experience of jurors who served on wrongful conviction case and to identify patterns in juror cognition that contributed to faulty verdicts. The study is a phenomenological design and in-depth interviews were used to flesh out participant thoughts, feelings, and reactions about their experience. I used thematic analysis to analyze and interpret the interview data, revealing significant patterns in participant experience. In this section, I will interpret findings, discuss limitation, make recommendations for future inquiry, and articulate implications of this study. Additionally, social change considerations will be addressed.

Commonalties in participant experience were detected and developed into overarching themes. The themes I identified for Research Question 1 (RQ1) revealed overall negative feelings about the experience, systemic racism and oppression in the CJS, doubt in the efficacy of the CJS, disassociation and deflection of responsibility, and adverse implications of group decision-making. Themes for RQ2 included significant participant reliance on personal narratives to determine defendant culpability. Participant narratives were substantially influenced by case presentation, subjective views about trial actors, the complexity of case materials presented, and shaped by television and media. The themes that emerged for RQ3 demonstrated an extensive juror reliance on commonsense reasoning. Sense-making manifested in several patterns, including normative assumptions, social cognition, and accessibility bias. In addition, the

appearance and demeanor of trial actors and individual characteristics of participants impacted how they made sense of case facts.

Interpretation of the Findings

The jury system in the United States was designed to provide criminal defendants with a neutral, unbiased jury of their peers to determine guilt. Despite the optimistic intent of the CJS, the results of this study support previous findings of juror impartiality and inability to objectively receive or weigh case facts (Ellison & Munro, 2015; Hunt, 2015). Previous literature on wrongful conviction has focused on the implications of wrongful conviction for exonerees (Hoston, Thomas, Taylor, Clark, & Eaden, 2017), for legal system employees (Bishop & Osler, 2016), for victims and families of the victims (Williamson, Strickler, Irazola, & Niedzwiecki, 2016), and for other involved parties. Extant literature regarding the impact of wrongful conviction for jurors who served on a case is dearth. Findings in the study provide a detailed and important glimpse into the experience of a wrongful conviction juror.

Prior research regarding jurors and juror decision-making has been based on mock-juror experience (Bornstein, et al., 2017; Devine & Caughlin, 2014). Existing studies that pertain to wrongful conviction did not explore this phenomenon through the eyes of the individuals who served on the jury (Bornstein, et al., 2017; Devine, et al., 2016; Devine & Caughlin, 2014). This study offers unique and powerful insight into actual juror sentiment about being involved in a wrongful conviction case. Analysis includes participant experience with the process of serving on the jury and finding out that the conviction was overturned. Study results expand on prior research using the story

model of jury decision-making (Pennington & Hastie, 1986) and commonsense reasoning (Garfinkel, 1967) as psychosocial frameworks by assessing how errors in juror decision-making contribute to wrongful conviction. Moreover, the results of the study assist in the understanding of ways in which errors in juror cognition can be confronted and corrected.

Analytical Framework: Narrative Construction and Commonsense Reasoning

Data analysis of participant experience overwhelmingly substantiates previous findings of juror reliance on personal narratives to assign guilt and juror reliance on commonsense reasoning to make sense of case facts and determine culpability (Ellison & Munro, 2015; Rossner, 2019). The utilization of Pennington and Hastie's (1986) story model of decision-making and Garfinkel's (1967) commonsense reasoning as psychosocial frameworks in this study was extremely appropriate and well-aligned with the purpose and ultimate results of the study. Bennett (1978) and Pennington and Hastie (1986) identified a tendency in jurors to construct stories during trial and deliberations to understand, organize, and receive case facts. Every participant in the present study articulated the use of narratives when interpreting case information and making decisions. In addition, as established by Garfinkel (1967) and Maynard and Manzo (1993), participants relied heavily on default sense-making to comprehend and judge case facts, evidence, and trial actors. It was determined that participants relied on commonsense reasoning and narrative construction to make determinations of guilt.

Empirical investigation into the causes of wrongful conviction have explored many potential contributors, including eyewitness misidentification, police misconduct,

faulty evidence, etc., (Norris, 2019) but limited research exists that has tied errors in juror cognition to faulty verdicts. Specifically, juror tendency to create stories to understand case facts and juror reliance on commonsense reasoning needed to be examined to expose contributors to wrongful conviction and provide avenues of reform. The results of this study demonstrate the veracity and applicability of the story model of juror decision-making (Pennington & Hastie, 1986) and juror reliance on commonsense reasoning (Garfinkel, 1967) to wrongful conviction cases.

Narrative Construction

Juror dependence on constructing biased narratives from case information was prevalent in every participant experience. Participants described the use of personal life experience and biased perceptions about how the world works to create stories about how the crimes occurred in their individual trials, as evidenced in studies conducted by Ellison and Munro (2015) and Rossner (2019). Jurors formed opinions about defendant and attorney intent, sincerity, and morality based on the story and story characters they developed (Gambetti et al., 2016). Furthermore, stereotypical ideas, preconceived notions about courtroom proceedings, and inherent bias colored and shaped every aspect of juror thinking and findings of culpability. This substantiated important findings of Willmont et al. (2018) about an inherent lack of juror subjectivity prior to and during trial.

Biased narratives about defense attorneys was significant for the participants of this study. Participants all defaulted to prosecution theories or narratives rather than being able to consider evidence presented by the defense as credible or substantial enough to outweigh the prosecution's case. Overwhelmingly, participants had adverse reactions to

the defense, did not believe material the defense presented, and accepted prosecution without question. Even when large pieces of the story were missing in the case presented by the state, participants found ways to make the evidence fit a conviction. In several cases, it was revealed that the prosecution had failed to produce evidence or properly investigate the case, leading to exoneration of the defendant.

Gaps in case presentation and an abundance of complex case information led to participants using faulty stories to understand case material. Rossner (2019) and Ellison and Munro (2015) previously established dependence on narratives built from juror personal life experience rather than case facts as jurors attempted to comprehend difficult, contradicting trial information. The participants in this study overwhelmingly partook in this as well. In several instances, information presented by defense experts was overlooked because it did not fit into the biased narrative participants created about the crime and the defendant. Interestingly, this information that was presented by the defense during trial ultimately led to the cases being overturned for many of the defendants.

Participants explicated the tendency to disregard legal instructions in favor of faulty narratives and commonsense reasoning, as established by Ellison and Munro (2015). Mueller-Johnson et al. (2018) identified the inclination of jurors to gloss over or misunderstand complex legal instructions and standards. This study confirmed and expanded upon these findings. The repeated disregard for legal standards, such as reasonable doubt and mitigation evidence, disrupts the integrity of the CJS and puts criminal defendants at risk. Failure to comprehend or adhere to pivotal instruction appeared to be a systemic issue in the jury system. Furthermore, several participants

refused to believe that the defendant was wrongfully convicted and stuck to their faulty narrative about how the crime occurred even after being disproven. Ellison and Munro (2015) had similar findings pertaining to jurors refusing to abandon faulty narratives even after the narratives had been disproven.

Alarming, multiple participants experienced significant information being withheld during trial. The direct result of material being withheld was the wrongful conviction of the defendant. Whether prosecutorial misconduct, defense attorney inadequacy, or time limits set forth by the court caused critical evidence to be mishandled, the participants were shocked and disheartened to learn that they had made a uniformed decision. Suppressed or undeveloped evidence created substantial gaps in case narratives and forced jurors to fill in these gaps with mini-narratives and subjective thinking. The tendency of participants in this study to create evidence that was not presented to explain and justify the story they created about the crime led to the faulty conviction of the defendant.

A final aspect of the manifestation of narratives in juror decision-making was the influence of television, books, and the media on ideas and expectations about how the court system functions. Ruva and Gunther (2017) had similar findings pertaining to pretrial bias and the media. Participants had preconceived ideas about trial actors and criminal defendants based on what they had previously viewed or heard about. Specifically, participants relied heavily on media portrayal of defense and public defender attorneys to form expectations and judge performance. Participants also relied

heavily on murder mystery books and real crime television shows to determine story plots, comprehend case facts, and assign culpability.

Commonsense Reasoning

Default sense-making based on subjective, flawed preconceptions was described by all participants in this study. Faulty assumptions manifested in many important ways in scenarios where participants misunderstood complex evidence of legal standards, as previously established by (Maynard & Manzo, 1993), and further substantiated by Rossner (2019). In addition, participants disregarded critical exculpatory evidence in favor of what made sense to them, leading in many cases to the wrongful conviction of the defendant. As previously addressed with regard to how missing information led participants to create mini-narratives and false narratives, the same was true for missing case information and commonsense reasoning. Participants took it upon themselves to make sense of the material based on what made sense to them in the absence of solid case facts. Furthermore, nonsensical phenomenon presented by the prosecution was accepted as reasonable by participants and used to justify faulty narratives. Participants also described how geographical sense-making took place, comparing their personal knowledge of the area to witness statements and testimony presented about how the crime occurred.

Rossner (2019) identified mock juror reliance on normative assumptions and life events to assign culpability. Normative assumptions played a role in participant reasoning for this study. Several participants referred to how they would have acted or how they expected the defendant or attorneys to act based on their idea of normal behavior.

Accessibility bias (Finkel, 1995) also manifested as participants described relying on case information that was easily recalled or struck a particular nerve with participants.

Participants were particularly influenced by case information pertaining to parenting roles and their perception that the defendant was a failure as a father. When it came to judgement, several participants' decisions were made based on this. Moreover, sense-making based on individual participant understanding of how the world works, referred to as social cognition by Capestany and Harris (2014), was readily apparent in participant experience. Many participants described interpreting behaviors and assigning credibility and culpability based their own worldviews. Participant inability to empathize with the defendant or see the world through the eyes of the defendant was prevalent. Defendants with different lifestyles that did not make sense to participants were regarded as guilty.

Physical appearance, demeanor during trial, and history of trial participants significantly impacted the way participants made sense of the case and actions of those involved. Overwhelmingly, the physical appearance of the defendant made a difference in how the participants viewed him or her. It was particularly obvious that Black defendants appeared more culpable and less remorseful than White defendants. Participants assigned sincerity, motivation, and believability to criminal defendants based on how they looked and acted in the courtroom. Furthermore, professionalism was critically linked to participant perspective on how attorneys and defendants were dressed during trial. Defendant history of drug use or prior contact with law enforcement substantially and adversely shaped participant perception. Finally, victim demographics colored and skewed participant ability to view case facts objectively. Most participants

put themselves in the perceived victim's shoes rather than considering anything from the defendant or defense attorney point of view (Skorinko, et al., 2014). Data analysis revealed tremendous victim sympathy, which heavily influenced verdicts and prohibited participants from keeping an open mind when reviewing case facts.

Results substantiated findings of Devine and Caughlin (2014) regarding the interplay of individual juror characteristics, commonsense reasoning, and determinations of guilt. Participant demographics majorly influenced the way they viewed defendants and victims, causing faulty decision-making. Hunt (2015) reviewed the influence of race, ethnicity, and culture on juror verdicts and determined judgement and group dynamics of juries are impacted by these characteristics. All participants in this study were White and had very different lifestyles, upbringings, and worldviews that the defendants. Even in cases where the defendant was White, the differing cultures caused participants to view defendants as guilty. Pica, et al. (2017) established a link between defendant's actual and developmental age and juror decision-making. The age of participants, and the general age of the juries in which they served on, influenced guilty verdicts. The lack of diversity in age, ethnicity, and experience for the participants in this study has far-reaching and devastating implications for the United States CJS, especially in light of racial disparity.

Work history and medical history also had substantial influence on participant ideology and default-sense making. Participants relied heavily on their work experiences, especially those who worked in the CJS or with at-risk youth. Medical history played into sense-making as participants used their own injuries and afflictions to judge defendant credibility. Views on law enforcement also colored the way participants made sense of

the case. Overwhelmingly, participants expressed a favorable viewpoint towards law enforcement, even after discovering that law enforcement had tampered with or covered up exculpatory evidence or lied during testimony. Some participants had personal relationships with the prosecuting attorney and/or investigators on the case, creating significant bias against the defendant. Religious affiliation also had an impact on default sense-making, with several participants describing reliance on their religious beliefs during sentencing and determinations of guilt.

Lived Experience of Participants

Overwhelmingly, this was a negative experience for all participants in this study. Lonergan et al. (2016) highlighted the harmful psychological consequences of jury service and participants in this study explicated similar reactions to their experience. Being involved in a wrongful conviction case resulted in far-reaching, adverse feelings about having served on the jury and having unjustly condemned the defendant. Many jurors were haunted by the experience due to graphic case details and the gravity of holding an individual's freedom and future in their hands. Learning that they had wrongfully convicted the defendant was devastating for many of the participants and feelings of remorse, regret, guilt, and being heartbroken about their failure to make the right decision were prevalent. Conversely, but equally as devastating, were participants who expressed anger and disbelief, feeling duped or cheated by the process because they strongly believed the exoneree was guilty.

Systemic racism and oppression in the CJS were explicated by the majority of participants. Specifically, disparity in the system was apparent in cases involving Black

defendants as participants described extremely subjective perspectives towards the defendants and an overall failure of the CJS to protect Black defendant's legal rights. Some participants openly surmised that the jury voted guilty because the defendant was Black. Although nothing was overtly stated that could be interpreted as racism and prejudice, both were devastatingly obvious in participant accounts. Oppression pertaining to defendants of lower SES was also apparent in participant accounts. References were made about the limited resources of the defendants and poor representation. Additionally, the overall inability to relate to defendants of different ethnicity or socioeconomic status was demonstrated in participant experience.

Participants described intense skepticism towards the CJS and were left feeling fearful, bitter, frustrated, and sad about the implications of their experience. Whether participants supported or refuted the conviction, the experience left them unsettled and confused. Many expressed a hesitancy to ever serve on a jury again and explicated an extreme shift in perspective about the perceived innocence of victims, the professionalism and integrity of prosecutors and law enforcement, and the overall efficacy of the system. An overall sense of disheartenment was illuminated.

Every participant described a form of disassociation from the responsibility of having wrongfully convicted the defendant and from the trial experience entirely. Several explicated putting the case out of their mind after the trial was finished and were unable to recall case details because of the willful detachment from the case. Moreover, most participants justified and rationalized their verdicts by blaming other parties or chalking it up to doing the best they could with what they had. Three of the participants were very

remorseful and took some responsibility for their decision-making, but even these participants held the other jurors accountable for their actions. It was apparent that disassociation and deflection was a defense mechanism used minimize the trauma and emotional impact of the experience for all participants.

The final theme that emerged in participant experience was how the group decision-making process influenced verdicts. Peer pressure and coercion tactics were prevalent for most participants, whether they were pressured by the group or they were the ones pressuring others to vote guilty. Participants were forced to abandon their reasonable doubt to accommodate other jurors demands and thinking, especially in light of jurors' desire to get the trial done and over with. Jurors with strong personalities swayed more passive jurors, revealing a huge weakness in the jury system. Many participants described being unable to defer judgement until deliberations and many said that the other jurors had determined guilt prior to discussing it with the group jurors are legally obligated to remain neutral until the deliberation process, so this data highlights a need for reform. Opportunity to admit bias during voir dire was not taken by several participants as they were unwilling or unable to recognize and voice their own bias.

Limitations of the Study

The general limitations of qualitative research are true for this study. Limitations in qualitative research pertain to the credibility, transferability, dependability, and confirmability of qualitative data. For this study, each of these potential limitations were addressed to the best of my ability, as thoroughly discussed in previous sections. However, the following limitations must be acknowledged.

The sample size of the study was small, and purposive sampling was used to find participants who fit the criteria for this study (Ravitch & Carl, 2016). Moreover, all participants were White, limiting the demographic diversity. Therefore, transferability was inherently limited but data saturation was reached as 12 participants were interviewed and rich, descriptive data was collected on participant experience. (Guest et al., 2006). Participants from all over the United States were used, representing a geographically diverse sample of people who served as jurors on criminal cases. Additionally, the sample consisted of men and women of various ages, increasing the generatability of results.

The interview guide used for this study was developed and used for the first time in this study. I developed the semi-structured interview instrument based on my interest in this topic and prior phenomenological interview guides that have been utilized to illicit rich, descriptive data (Jovchelovitch & Bauer, 2000). Reliance on prior methods used in phenomenological research and the production of vivid, colorful data from participant account of their experience mitigates the limitations of the data collection tool and transferability of the data.

The data produced in this study was based on participant recall. Therefore, recall bias and memory issues are a significant factor limiting the credibility and validity of the results. In addition, the sensitive nature of this topic inherently limits the data as some participant recall was likely skewed or unintentionally biased. Participant selection was limited to those participants who served on a jury within the past 10 years in attempt to mitigate faulty recollection and alleviate issues with memory. I conducted member-

checking with participants as well to provide participants with an opportunity to add to or clarify their experience.

Finally, researcher bias is a potential factor in qualitative research and the subjective and impressionable nature researcher-participant relationship must be acknowledged (Ravitch & Carl, 2016). I engaged in continuous reflexive journaling throughout the data collection process and documented all reactions to and impressions of participants to enhance researcher awareness and limit bias. Furthermore, I conducted member checks to ensure the accuracy of my interpretations; no discrepancies were noted and all participants agreed with findings. I also had a peer reviewer independently analyze and interpret the data, alleviating bias and increasing the credibility of my findings. My peer reviewer did not detect bias and our findings were aligned.

Recommendations

This study offers unique and critical insight into juror lived experience with wrongful conviction. The participant sample consisted of actual jurors who took part in a criminal trial and made a faulty determination of guilt. Prior research utilized mock jurors to examine the ways in which juror bias manifested and contributed to wrongful conviction but none that I am aware of used actual jurors. Further, I was unable to identify any prior studies with actual jurors that captured the essence of what it felt like to serve on the jury and wrongfully convict a defendant. The strengths of this study far outweigh the limitations. Further and more extensive research regarding juror experience with wrongful conviction is critical, and this study highlights the necessity of further exploration of this topic.

Although this study reached data saturation and offers considerable insight into the emotional impact of serving on a wrongful conviction case for jurors, the above listed limitations warrant further research. Additional research using a larger participant sample would increase generalizability and enhance understanding of this topic. Devine, Krouse, Cavanaugh, and Basora (2016) highlighted the lack of empirical research using large-sample studies of juror decision-making with real jurors that served on criminal trials in the United States. As articulated by these authors, additional research is needed using increased sample sizes across various types of serious felony cases. As pointed out by Hunt (2015) juror research focusing on other racial groups, not just White or Black, is needed to fully understand the interplay of race and jury decision making. Furthermore, research on the experience of judges, attorneys, and other CJS workers is necessary to explore additional factors limiting juror objectivity and provide a heightened understanding of systemic issues within the juror system.

It may be beneficial to pursue research that is conducted with the entire group of jurors who served on the same wrongful conviction case. Identifying individual characteristics within the same juror group and then assessing how the group as a whole reached their verdict is necessary to fully understand faulty decision making. Analyzing juror cognitive processes independently and then collectively, on the same case, would provide invaluable insight into preventing wrongful conviction. Finally, I would recommend supplementing wrongful conviction juror experience with qualitative demographic data to enhance findings and elucidate additional patterns related to juror demographics and faulty decision-making.

Implications

Wrongful conviction is a prevalent, devastating issue in the United States. Not only are those who are wrongfully convicted impacted, many individuals are forever affected by this phenomenon, including families and friends of the defendant(s) and of the victim(s), attorneys, judges, jurors, tax payers, criminal justice advocates, and society as a whole. A study conducted by Gross, O'Brien, Hu, and Kennedy (2014) approximated about 4.1% of death penalty convictions between 1973 and 2004 are likely false! The CJS in its entirety is adversely affected as false conviction tears at the integrity and well-meaning foundation of the system. Furthermore, innocent individuals are incarcerated and the true perpetrators of horrible crimes remain free to continue offending (Norris, Weintraub, Acker, Redlich, & Bonventre, 2020). This study contributes to understanding how wrongful conviction occurs through the eyes of jurors who rendered the guilty verdict and provides vital information pertaining to errors in juror cognition that can be corrected.

The results of this study identify an urgent need to take drastic measures to correct the ways jurors receive and process case information. Findings offer original, rich insight into the relationship between juror inclination to construct faulty narratives about defendants, juror dependence on commonsense reasoning when trying to comprehend case facts, and wrongful conviction. The results of this study substantiate and expound upon the seminal findings of Pennington and Hastie (1986) and Garfinkel (1967) and offer future researchers a unique perspective on and method to utilize for further exploration of juror experience. Accessing actual jurors as participants was rare prior to

this study and mostly archival data was used to investigate juror decision-making. This study provides a novel approach in recruiting actual jurors to participate in future research.

Confirming the applicability of the psychosocial frameworks used and the overwhelming dependence of jurors on the story model and commonsense reasoning paves the way for upcoming investigation and reform. Study findings, combined with further research assessing the different ways in which narrative construction manifests, can provide crucial ideas how to dismantle juror tendency to create faulty stories about case facts and defendants. This study demonstrated that narrative construction arose through reliance on personal narratives based on case presentation, the complexity of the material, and media influence. Furthermore, the evidence produced by this study pertaining to the various ways juror fallback on commonsense reasoning can be mimicked for future studies and illuminate critical details as to how to prevent jurors from biased default sense-making. As demonstrated by participants for this study, commonsense reasoning manifested via normative assumptions, accessibility bias, social cognition, appearance and demeanor of trial participants, and based on the individual characteristics of the jurors.

Overwhelmingly, participants described the presence of racial injustice, systemic prejudice, and bias towards minority groups in the CJS. Studies conducted by Najdowski (2011, 2014) indicated that perpetuating adverse stereotypes about Black defendants pave the way for both the law enforcement community and the public to wrongfully convict these individuals. The implications of these findings are call for direct action as the

United States CJS is ripe with prejudice and displays an alarming overrepresentation of minority groups in custody. Disparity in the system due to lack of funds, poor resources, lack of support, and addiction was devastatingly apparent in participant experience. State and county programs designed to offer support for low SES and marginalized defendants are absolutely critical in the prevention of further false imprisonments. Information from this study, and future studies that mimic the methods used in this study to recruit juror participants, should be used to inform all CJS professionals and the public as to the inherent bias in the CJS towards minorities and low-income individuals.

All participants in this study were White and the majority of the jurors they served with were White. Hunt (2015) conducted an extensive literature review and uncovered concerning patterns of systemic use of race-based peremptory challenges to exclude minorities from serving on juries. The exclusion of minorities inevitably leads to a biased jury as research has shown that ethnically diverse juries possess a larger scope of perspectives and life experience (Hunt, 2015). The areas in which participants resided have some of the highest populations of Latino and Black residents, yet the juries consisted of mostly, if not all, White jurors. One participant stated that the prosecutor on the case he served on was publicly reprimanded for racial discrimination during voir dire. The lack of minority jurors in each of these cases is alarming and demands immediate attention and reform.

Importantly, prior to and after learning of the wrongful conviction, suspicion, assumptions of insincerity, and doubt about the defense attorney, especially public defender attorneys, was rampant in participant description of their experience. The

implications of these adverse feelings towards defense attorneys and assumed innocence of all victims for these cases are truly concerning and warrant immediate attention.

Education and training for jurors and attorneys is necessary to combat this inherent bias and create a more objective criminal justice process. The sentiment towards defense attorneys identified in this study absolutely resulted in the participants wrongfully convicting the defendant as they were unable to overcome their adverse feelings about the defense.

Several participants described the reliance on eyewitness identification statements during trial, all of which led faulty narratives. Participants accepted the eyewitness statements without question as part of the credible prosecution case. The fallibility of eyewitness testimony has been empirically investigated and proven as far back as the 1900's (Munsterberg, 1908; Smalarz & Wells, 2015). The results of this study add credence to scholarly concerns about eyewitness's testimony and provide additional information for updated policies and protocol with regard to how law enforcement and the CJS handle eyewitness accounts.

The role appearance played in the narratives created and how participants made sense of witnesses and trial actors is concerning. The influence of how people presented and appeared on guilty verdicts was overwhelmingly apparent, causing participants to make snap judgements that had little to do with case facts. Future research focusing strictly on appearance and verdicts would further illuminate this issue. Mandatory trainings on implicit bias based on appearance, calling attention to how past

jurors have relied on the way people look and present, would be beneficial for future jurors so they could avoid making the same mistake.

The devastating emotional impact of the trial and in experiencing wrongful conviction on participants must be addressed. All jurors who serve on criminal trials will inevitably be affected and require mental health support. Lonergan et al. (2016) concluded that serving as a juror was often stressful and traumatic and caused psychological issues consistent with PTSD, including nightmares, depression, invasive recollections, hyperarousal, and evasion. The results of this study regarding individuals who serve on a serious felony case, in which the defendant's life is literally in their hands, clearly demonstrate that these jurors need resources to process the emotional trauma and the burden of serving on the case. Substantial policy updates for all jurors must be implemented and specialized resources must be made available for those jurors who are involved in wrongful conviction cases. In addition, education about biases and the criminal justice process prior to serving on the jury will assist jurors in avoiding repeated mistakes and resulting trauma.

Social Change

The implications for social change are immense and far-reaching. Discovering the ways in which faulty juror decision-making contributes to wrongful conviction has enormous potential in preventing wrongful conviction. The unique results of this study provide valuable information and opportunity for criminal justice and jury system reform. Data can be utilized to develop practices and policies that require a new, more rigorous juror education program so that jurors can better understand complex legal jargon, how

the criminal justice process works, and be made aware of their implicit bias. Findings can be used to educate attorneys and judges on the devastating consequences of juror reliance on narrative construction and commonsense reasoning so that narratives presented during trial are more complete, legal instructions are less complex, and jurors not left filling gaps with faulty, biased narratives.

Results pertaining to racial disparity and economic oppression can be used to create higher level training for judges, attorneys, jurors, and everyone involved in the criminal justice process. Attitudes about defense attorneys can be confronted and supplemental education can be provided to jurors pertaining to the legal system and the function of public defenders and defense attorneys. Furthermore, the heavy emotional trauma that was apparent in each juror participant experience can be alleviated through improved juror education and development of support services for jurors throughout trial and after a verdict has been rendered. In sum, the findings of this study further understanding of jurors and juror decision making in important ways, ultimately helping in the prevention of wrongful conviction, the prevention of social injustice, the prevention of racial and economic disparity, the prevention of suffering of the defendant, the prevention of suffering of the defendant and victim's families, and the prevention of further suffering of society as a whole.

Conclusion

Wrongful conviction cases in the United States are plentiful and deeply concerning. The National Registry of Exonerations (2020) have identified 2,662 wrongful conviction cases since 1989, with exonerees spending a combined amount of more than

23,770 years unjustly imprisoned! Scholarly attention to this phenomenon was required due to the wide-spread, destructive consequences and the lack of understanding as to how actual jurors contribute to this trend. Empirical investigation into juror decision-making and wrongful conviction had been debated and explored for many decades. However, most of the existing research is quantitative, which does not capture the essence of the experience for the juror. In addition, the qualitative research available on this topic has been conducted with mock jurors or archival data (Bornstein, et al., 2017; Devine, et al., 2016), severely limiting the generalizability and applicability of findings. In-depth interviews with actual jurors was critical to fill a significant gap in the extant literature pertaining to juror contribution to wrongful conviction.

The purpose of this study was to explore the lived experience of wrongful conviction jurors and to reveal how errors in cognition during decision-making led to juror reliance on narrative construction and commonsense reasoning rather than legal and judicial instruction. The research questions for this study were:

1. What is the lived experience of jurors who have rendered verdicts in wrongful conviction cases?
2. How does juror reliance on narrative construction of case facts manifest during deliberations?
3. How does juror reliance on commonsense reasoning manifest during decision making?

To best capture and explore actual juror experience with serving on a wrongful conviction case, I used a phenomenological study design and conducted in-depth

interviews with 12 participants who had served on a wrongful conviction case in the United States within the past 10 years. The interview guide and study were framed by the story model of jury decision making (Pennington & Hastie, 1986) and commonsense reasoning (Garfinkel, 1967). The phenomenological design and analytical framework also informed the interview process and data analysis. Thematic analysis (Braun and Clarke, 2006, 2017) was used to analyze and interpret commonalities in participant experience.

A notable lack existed in prior studies in investigating the lived experience of actual jurors who had wrongfully convicted a criminal defendant, and this information is invaluable in understanding how jurors thought, processed, and reacted to trial information, defendants, and exoneration. Learning that the experience was emotionally taxing, inconvenient, and overall traumatizing speaks volumes and necessitates change in the jury system to protect jurors and foster confidence in the CJS. Jurors need to be educated thoroughly prior to being seated on juries, with training on implicit bias, cultural and ethnic diversity, and the CJS process. Furthermore, the results clearly demonstrate the need for additional juror support and debriefing opportunities as they process the heavy burden of making a grave decision about someone else's life. The phenomenon of uneducated jurors making uneducated decisions that lead to false imprisonments is demonstrated plainly. This phenomenon must be confronted and changed if wrongful conviction is to be prevented and true justice can prevail in the CJS.

The overwhelming evidence of racial and economic disparity in the CJS calls for immediate attention and offers critical insight into how and why wrongful conviction

occurs more frequently with minorities. The interplay of race, culture, SES, and juror characteristics resulted in dire consequences for the defendants in each of these 12 cases. Additionally, jurors who have not experienced the lifestyles or worldviews of the defendants resulted in extreme bias and adverse judgement of the defendants. CJS advocates and professionals should take note of how systemic racism, systemic oppression, and juror inability to relate to people who live differently than them manifest continuously in wrongful conviction cases. Furthermore, steps need to be taken to actively combat this trend via implicit bias and cultural trainings, hiring individuals who are experts in these matters, and promptly exposing these issues to all involved in the CJS.

The results of this study provide confirmation that jurors do, in fact, rely heavily on faulty narratives and erroneous commonsense reasoning mechanisms to make decisions about guilt in criminal cases. The ways in which narrative construction and default sense-making led to faulty verdicts were uniform across cases and boiled down to jurors using their own experiences to determine guilt. The bottom line is that criminal defendants cannot benefit from an impartial, unbiased jury if errors in juror cognition are not confronted head on. Using information from this study to initiate nation-wide jury system reform is critical in ensuring justice in criminal cases, bettering the experience for future jurors, and preventing false convictions.

References

- Appleby, S. C., & Kassin, S. M. (2016). When self-report trumps science: Effects of confessions, DNA, and prosecutorial theories on perceptions of guilt. *Psychology, Public Policy, and Law*, 22(2), 127-140. doi: 10.1037/law0000080
- American Psychological Association. (2017). *Ethical principles of psychologists and codes of conduct*. Retrieved from: <https://www.apa.org/ethics/code/>
- Anney, V. N. (2014). Ensuring the quality of the findings of qualitative research: Looking at the trustworthiness criteria. *Journal of Emerging Trends in Educational Research and Policy Studies*, 5(2), 272-282. Retrieved from: <https://jeteraps.scholarlinkresearch.org>
- Barner, J. R. (2014). Life of death decision making: Qualitative analysis of death penalty jurors. *Qualitative Social Work*, 13(6), 842-858. doi: 10-1177/1473325013507304
- Belknap, J., & Potter, H. (2006). Intimate partner abuse. In Rensetti, C., Goodstein, L., & Miller, S. L. (Eds.), *Rethinking gender, crime, and justice: Feminist readings*. Los Angeles, CA: Roxbury. doi: 10.1177/0734016808316825
- Bell Holleran, L. L., Vaughan, T. J., & Vandiver, D. M. (2016). Juror decision-making in death penalty sentencing when presented with defendant's history of child abuse or neglect. *Behavioral Sciences and the Law*, 34, 742-766. doi: 10.1002/bsl.2271
- Bennett, W. L. (1978). Storytelling in criminal trials: A model of social judgement. *The Quarterly Journal of Speech*, 64, 1-22. doi: 10.1080/00335637809383408

- Bennett, W. L. (1979). Rhetorical transformation of evidence in criminal trials: Creating grounds for legal judgement. *The Quarterly Journal of Speech*, 65, 311-323. doi: 10.1080/00335637909383482
- Bennet, W., & Feldman, M. (1981). *Reconstructing reality in the courtroom: Justice and judgement in American culture*. New Brunswick, NJ: Rutgers University Press.
- Bishop, J., & Osler, M. (2016). Prosecutors and victims: Why wrongful convictions matter. *Journal of Criminal Law and Criminology*, 105(4), 1031-1047. <https://scholarlycommons.law.northwestern.edu/jclc/>
- Bonino, G., Jesson, G., & Cumpa, J. (Eds.). (2014). *Defending realism: Ontological and epistemological investigations*. Retrieved from <https://ebookcentral.proquest.com>
- Bornstein, B. H., Neuschatz, J., Magyarics, C., Golding, J. M., Kimbrough, C., Reed, K., & Luecht, K. (2016). Mock juror sampling issues in jury simulation research: A meta-analysis. *Law and Human Behavior*, 41(1), 13-28. doi: 10.1037/lhb0000223
- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), 77-101. doi: 10.1191/1478088706qp063oa
- Braun, V., & Clarke, V. (2017). Thematic analysis. *The Journal of Positive Psychology*, 12(3), 297-298. doi: 10.1080/17439760.2016.1262613
- Brown, J. M., & Sorensen, J. R. (2014). Legal and extra-legal factors related to the imposition of blended sentences. *Criminal Justice Policy Review*, 25(2), 227-241. doi: 10.1177/0887403412465431
- California Penal Code, § 851.8. (2018). *Sealing and destruction of arrest records: determination of factual innocence*. CA; Thomas Reuters

- Capestany, B. H., & Harris, L. T. (2014). Disgust and biological descriptions bias logical reasoning during legal decision-making. *Social Neuroscience, 9*(3), 265-276. doi: 10.1080/17470919.2014.892531
- Carline, A., & Gunby, C. (2011). "How an ordinary jury makes sense of it is a mystery": Barristers' perspectives on rape, consent and the Sexual Offences Act 2003. *Liverpool Law Review, 32*, 237-250. doi: 10.1007/s10991-011-9100-6
- Cornell Law School. (n.d.). *28 U.S. Code § 1861: Declaration of policy*. Retrieved July 1, 2019 from: <https://www.law.cornell.edu/uscode/text/28/1861>
- Cornell Law School. (n.d.). *Sixth amendment*. Retrieved July 1, 2019 from: https://www.law.cornell.edu/constitution/sixth_amendment
- Creswell, J. W. (2007). *Qualitative inquiry and research design: Choosing among five traditions*. Thousand Oaks, CA: Sage.
- Curtis, G. J. (2013). Don't be happy, worry: Positive mood, but not anxiety, increases stereotyping in mock-juror decision-making task. *Psychiatry, Psychology, and Law, 20*(5), 686-699. doi: 10.1080/13218719.2012.729019
- Devenport, J. L., Penrod, S. D., & Cutler, B. L. (1997). Eyewitness identification evidence: Evaluating commonsense evaluations. *Psychology, Public Policy, and Law, 3*(2/3), 338-361. doi: 10.1037/1076-8971.3.2-3.338
- Devine, D. J., & Caughlin, D. E. (2014). Do they matter? A meta-analytic investigation of individual characteristics and guilt judgements. *Psychology, Public Policy, and Law, 20*(2), 109-134. doi: 10.1037/law0000006

- Devine, D. J., Clayton, L. D., Dunford, B., B., Seying, R., & Pryce, J. (2001). Jury decision making: 45years of empirical research on deliberating groups. *Psychology, Public Policy, and Law*, 7(3), 622-727. doi: 10.1037//1076-8971.7.3.622
- Devine, D. J., Krouse, P. C., Cavanaugh, C. M., & Basora, J. C. (2016). Evidentiary, extraevidentiary, and deliberation process predictors of real jury verdicts. *Law and Human Behavior*, 40(6), 670-682. doi: 10.1037/lhb0000209
- Doyle, J. M. (2010). Learning from error in the American CJS. *Journal of Criminal Law and Criminology*, 100, 109-147. Retrieved from:
<https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=7346&context=jclc>
- Ellison, L., & Munro, V. E. (2015). Telling tales: Exploring the narratives of life and law within the (mock) jury room. *Legal Studies*, 35(2), 201-225. doi: 10.1111/lest.12051
- Englander, M. (2012). The interview: Data collection in descriptive phenomenological human scientific research. *Journal of Phenomenological Psychology*, 43, 13-35. doi: 10.1163/156916212X632943
- Espinoza, R. K. E., Willis-Esqueda, C., Toscano, S., & Coons, J. (2015). The impact of ethnicity, immigration status, and socioeconomic status on juror decision making. *Journal of Ethnicity in Criminal Justice*, 13, 197-216. doi: 10.1080/15377938.2014.984044

- Fawcett, H., & Clark, K. (2015). Linkage analysis as evidence in court: A thematic analysis of mock juror deliberations. *Journal of Investigative Psychology and Offender Profiling, 12*, 247-266. doi:10.1002/jip.1429
- Feigenson, J. (2016). Juror's emotions and judgements of legal responsibility and blame: What does the experimental research tell us? *Emotion Review, 8(1)*, 26-31. doi: 10.1177/1754073915601233
- Finkel, N., J. (1995). *Commonsense justice: Jurors' notions of the law*. Cambridge, MA: Harvard University Press.
- Fortune, L. D. (2009). On being a juror: A phenomenological self-study. *Indo-Pacific Journal of Phenomenology, 9(2)*, 1-9. doi: 10.1080/20797222.2009.11434000
- Gambetti, E., Nori, R., & Giusberti, F. (2016). Intentional or negligent homicide? Evidence for juror decision making. *Psychological Reports, 119(2)*, 395-410. doi: 10.1177/0033294116661545
- Garfinkel, H. (1967). *Studies in ethnomethodology*. Los Angeles, CA: Polity Press.
- Garfinkel, H. (1988). Evidence for locally produced naturally accountable phenomena of order, logic, reason, meaning, method, etc., in and as of the essential quiddity of immortal ordinary society (I of IV): An announcement of studies. *Sociological Theory, 6*, 103-106. doi: 10.2307/201918
- Giorgi, A. (1997). The theory, practice, and evaluation of the phenomenological method as a qualitative research procedure. *Journal of Phenomenological Psychology, 28(2)*, 235-260. doi: 10.1163/156916297X00103

- Giorgi, A. (2009). *The descriptive phenomenological method in psychology: A modified Husserlian approach*. Pittsburg, PA: Duquesne University Press.
- Grant, C., & Osanloo, A. (2014). Understanding, selecting, and integrating a theoretical framework in dissertation research: Creating the blue print for your “house.” *Administrative Issues Journal Education, Practice, and Research*, 4(2), 12-26. doi: 10.5929/2014.4.2.9
- Gross, S. R., O’Brien, B., Hu, C., & Kennedy, E. H. (2014). Rate of false convictions of criminal defendants who are sentenced to death. *Proceedings of the National Academy of Sciences*, 111, 7230-7235. doi: 10.1073/pnas.1306417111
- Guest, G., Bunce, A., & Johnson, L. (2006). How many interviews are enough? An experiment with data saturation and variability. *Field Methods*, 18(1), 59-82. doi: 10.1177/1525822X05279903
- Holstein, J. A. (1985). Jurors’ interpretations and jury decision making. *Law and Human Behavior*, 27, 29-51. Retrieved from: <http://dx.doi.org/10.1007/BF01044291>
- Hoston, W. T., Thomas, A. A., Taylor, R. R., Clark, D. E. M., Eaden, A. (2017). Wrongfully convicted, rightfully exonerated: The lives of Cornelius Dupree Jr. and Anthony Massingill. *The Journal of Pan African Studies*, 10(5), 3-19. <https://www.jpanafrican.org/>
- Howard, A., & Hirani, K. (2013). Transformational change and stages of development in the workplace. *Journal of Integral Theory and Practice*, 8(1&2), 71-86.

- Hunt, J. S. (2015). Race, ethnicity, and culture in jury decision making. *The Annual Review of Law and Science, 11*, 269-288. doi: 10.1146/annurev-lawsocsci-120814-121723
- Innocence Project. (2019). *Exonerate the innocent*. Retrieved on June 19, 2019 from <https://www.innocenceproject.org/exonerate/>
- Jones, E. E., Bandy, A. D., & Palmer Jr., P. G. (2018). "I did it, but not like that": Effects of factually incorrect confessions on juror judgements. *Psychiatry, Psychology, and Law, 1*-18. doi: 10.1080/13218719.2018.1519467
- Jones, A. M., & Penrod, S. (2018). Improving the effectiveness of the *Henderson* instruction safeguard against unreliable eyewitness identification. *Psychology, Crime & Law, 24*(2), 177-193. doi: 10.1080/1068316X.2017.1390113
- Jovchelovitch, S., & Bauer, M. W. (2000). *Narrative interviewing*. London, England: LSE Research Online. Retrieved from <http://eprints.lse.ac.uk/2633>
- Kalven, H., & Hans, Z. (1966). *The American jury*. Boston, MA: Little, Brown, and Company.
- Karagoizis, N. (2018). The complexities of the researcher's role in qualitative research: The power of reflexivity. *The International Journal of Interdisciplinary Educational Studies, 13*(1), 19-31. doi: 10.18848/2327-011X/CGP/v13i01/19-31
- Kassin, S. M. (2017). False confessions: How can psychology so basic be so counterintuitive? *American Psychologist, 72*(9), 951-964. doi: 10.1037/amp0000195

- Leo, R. A. (2005). Rethinking the study of miscarriages of justice: Developing a criminology of wrongful convictions. *Journal of Contemporary Criminal Justice*, 21, 201-223. doi: 10.1177/1043986205277477
- Leo, R. A. (2017). The criminology of wrongful conviction: A decade later. *Journal of Contemporary Criminal Justice*, 33(1), 82-106. doi: 10.1177/1043986216673013
- Levine, J. P. (1996). The case study as a jury research methodology. *Journal of Criminal Justice*, 24(4), 351-360. Retrieved from: [https://doi.org/10.1016/0047-2352\(96\)00016-5](https://doi.org/10.1016/0047-2352(96)00016-5)
- Lieberman, J. D., Krauss, D. A., Heen, M., & Sakiyama, M. (2016). The good, the bad, and the ugly: Professional perceptions of jury decision-making research practices. *Behavioral Sciences and the Law*, 34, 495-514. doi: 10.1002/bsl.2246
- Lonergan, M., Leclerc, M., Descamps, M., Pigeon, S., & Brunet, A. (2016). Prevalence and severity of trauma-and stressor-related symptoms among jurors: A review. *Journal of Criminal Justice*, 47, 51-61. doi: 10.1016/j.jcrimjus.2016.07.003
- Lynch, M., & Haney, C. (2015). Emotion, authority, and death: (Raced) negotiations in mock capital jury deliberations. *Law and Social Inquiry*, 40(2), 377-405. doi: 10.1111/lsi.12099
- Maeder, E. M., & Yamamoto, S. (2018). Investigating race salience, defendant race, and victims race effects on mock juror decision-making. *Justice Quarterly*, doi: 10.1080/07418825.2018.1460390

- Maynard, D. W., & Manzo, J. F. (1993). On the sociology of justice: Theoretical notes from an actual jury deliberation. *Sociological Theory, 11*(2), 171-194.
Doi:10.2307/202141
- McCarthy Wilcox, A., & NicDaeid, N. (2018). Jurors' perceptions of forensic science expert witnesses: Experience, qualifications, testimony style, and credibility. *Forensic Science International, 291*, 100-108. doi:
10.1016/j.forsciint.2018.07.030
- Meaux, L. T., Cox, J., & Kopkin, M. R. (2018). Saving damsels, sentencing deviants, and selective chivalry decisions: Juror decision-making in an ambiguous assault case. *Psychiatry, Psychology, and Law, 25*(5), 724-736. doi:
10.1080/13218719.2018.1474817
- Morse, J. M. (1994). Designing funded qualitative research. In Norman K. Denzin & Yvonna S. Lincoln (Eds.), *Handbook of qualitative research* (2nd ed. Pp. 220-35). Thousand Oaks, CA: Sage.
- Mueller-Johnson, K., Dhimi, M. K., & Lundrigan, S. (2018). Effects of judicial instructions and juror characteristics on interpretations of beyond a reasonable doubt. *Psychology, Crime, and the Law, 24*(2), 117-133. doi:
10.1080/1068316X.2017.1394461
- Munsterberg, H. (1908). *On the witness stand*. New York, NY: McClure.
- Murphy, S. B., Banyard, V. L., & Fennessy, E. D. (2013). Exploring stakeholders' perceptions of adult female assault case attrition. *Psychology of Violence, 3*(2), 172-184. doi: 10.1037/a0029362

Najdowski, C. J. (2011). Stereotype threat in criminal interrogations: Why innocent black suspects are at risk for confessing falsely. *Psychology, Public Policy, and Law*, *17*, 562-591. doi: 10.1037/a0023741

Najdowski, C. J. (2014). Interactions between African Americans and police officers: How cultural stereotypes create a wrongful conviction pipeline for African Americans. In A. D. Redlich, J. R. Acker, R. J. Norris, & C. L. Bonventre (Eds.), *Examining wrongful convictions: Stepping back, moving forward*. (pp. 55-70). Durham, NC: Carolina Academic Press.

The National Registry of Exonerations. (n.d.). Retrieved August 28, 2020 from <http://www.law.umich.edu/special/exoneration/Pages/Exonerations-in-the-United-States-Map.aspx>

The National Registry of Exonerations. (2012). *The National Registry of Exonerations* [Data file]. Retrieved from: <http://www.law.umich.edu/special/exoneration/Pages/detailist.aspx>

Norris, R. J., Weintraub, J. N., Acker, J. R., Redlich, A. D., & Bonventre, C. L. (2020). The criminal costs of wrongful convictions: Can we reduce crime by protecting the innocent? *Criminology and Public Policy*, *19*, 367-388. doi: 10.1111/1745.9133.12463

Olney, M., & Bonn, S. (2015). An exploratory study of the legal and non-legal factors associated with exoneration for wrongful conviction: The power of DNA evidence. *Criminal Justice Policy Review*, *26*(4), 400-420. doi: 10.1177/0887403414521461

- Olsen-Fuleco, L., & Fulero, S. M. (1997). Commonsense rape judgements: An empathy-complexity theory of rape juror story making. *Psychology, Public Policy, and Law*, 3 (2/3), 402-427. Retrieved from: <https://psycnet.apa.org/buy/1998-00745-009>
- Ortlipp, M. (2008). Keeping and using reflective journals in the qualitative research process. *The Qualitative Report*, 13(4), 695-705. Retrieved from <http://www.nova.edu/ssss/QR/QR13-4/ortlipp.pdf>
- Park, E., Caine, V., McConnell, D., & Minaker, J. (2016). Ethical tensions as educative spaces in narrative inquiry. *Forum: Qualitative Social Research*, 17(2), 360-378. Retrieved from: <http://www.qualitative-research.net/>
- Patton, M. Q. (2015). *Qualitative research & evaluation methods* (4th ed.). Los Angeles, CA: SAGE.
- Pennington, N., & Hastie, R. (1986). Evidence evaluation in complex decision making. *Journal of Personality and Social Psychology*, 51, 242-258. doi:10.1037/0022-3514.51.2.242:
- Pennington, N., & Hastie, R. (1988). Explanation-based decision making: Effects of memory structure on judgment. *Journal of Experimental Psychology: Learning, Memory, and Cognition*, 14, 521-533. Retrieved from: <http://dx.doi.org/10.1037/0278-7393.14.3.521>
- Pennington, N., & Hastie, R. (1991). A cognitive theory of juror decision making: The story model. *Cardozo Law Review*, 13, 519-557. Retrieved from:

[https://heinonline.org/HOL/LandingPage?handle=hein.journals/cdozo13&div=30
&id=&page=](https://heinonline.org/HOL/LandingPage?handle=hein.journals/cdozo13&div=30&id=&page=)

Pennington, N., & Hastie, R. (1992). Explaining the evidence: Tests of the story model for juror decision-making. *Journal of Personality and Social Psychology*, 62(2), 189-224. Retrieved from: <http://dx.doi.org/10.1037/0022-3514.62.2.189>

Pennington, N., & Hastie, R. (1993). A theory of explanation-based decision making. In G. A. Klein, J. Oransanu, R. Calderwood, & E. C. Zsombok (Eds.), *Decision making in action: Models and Methods* (pp.188-201). Westport, CT: Ablex.

Pica, E., Pettalia, J., & Pozzulo, J. (2017). The influence of a defendant's chronological age, developmental age, and race on mock juror decision making. *Journal of Police Criminal Psychology*, 32, 66/79. doi: 10.1007/s11896-016-9201-1

Ravitch, S. M., & Carl, N. (2016). *Qualitative research bridging the conceptual, theoretical, and methodological*. Thousand Oaks, CA: Sage Publications

Reynolds, P., & Hicks, J. (2015). 'There is no justice in a police department': A phenomenological study of police experiences. *Police Practice and Research*, 16(6), 469-484. doi: 10.1080/15614263.2014.931229

Ribeiro, G., Tangen, J. M., McKimmie, B. M. (2019). Beliefs about error rates and human judgement in forensic science. *Forensic Science International*, 297, 138-147. doi: 10.1016/j.forsciint.2019.01.034

Ritchie, J. (2015). Probabilistic DNA evidence: The layperson's interpretation. *Australian Journal of Forensic Sciences*, 47(4), 440-449. doi: 10.1080/00450618.2014.992472

- Rodriguez, L., Agtarap, S., Boales, A., Kearns, N. T., & Bedford, L. (2018). Making a biased jury decision: Using the Steven Avery murder case to investigate potential influences in jury decision-making. *Psychology of Popular Media Culture*, 1-12. doi: 10.1037/ppm0000192
- Rossner, M. (2019). Storytelling rituals in jury deliberations. *Onati Socio-Legal Series*, 1-24. Retrieved from: <https://onatifirstonline.wordpress.com/2019/05/24/rossner/>
- Rubin, H. J., & Rubin, I. S. (2012). *Qualitative interviewing: The art of hearing data* (3rd Ed.). Los Angeles, CA: SAGE.
- Ruva, C. L., & Guenther, C. C. (2017). Keep your bias to yourself: How deliberating with differently biased others affects mock-jurors' guilt decisions, perceptions of the defendant, memories, and evidence interpretation. *Law and Human Behavior*, 41(5), 478-493. doi: 10.1037/lhb0000256
- Schuller, R. A., Erentzen, C., Vo, A., & Li, D. (2015). Challenge for cause: Bias screening procedures and their application in a Canadian courtroom. *Psychology, Public Policy, and Law*, 21(4), 407-419. doi: 10.1037/law0000056
- Skinner-Osei, P., & Stepteau-Watson, D. (2018). A qualitative analysis of African American fathers' struggle with reentry, recidivism, and reunification after participation in re-entry programs. *Journal of Human Behavior in the Social Environment*, 28(2), 240-255. doi: 10.1080/10911359.2017.1402724
- Skorinko, J. L., Laurent, S., Bountress, K., Nyein, K. P., & Kuckuck, D. (2014). Effects of perspective taking on courtroom decisions. *Journal of Applied Social Psychology*, 44(4), 303-318. doi: 10.1111/jasp.12222

- Sloan, A., & Bowe, B. (2014). Phenomenology and hermeneutic phenomenology: The philosophy, the methodologies, and using hermeneutic phenomenology to investigate lecturers' experiences of curriculum design. *Quality and Quantity*, 48(3), 1291-1303. doi: 10.1007/s11135-013-9835-3
- Smalarz, L., & Wells, G. L. (2015). Contamination of eyewitness self-reports and the mistaken identification problem. *Current Directions in Psychological Science*, 24, 120-124. doi: 10.1177/0963721414554394
- Spackman, M. P., Belcher, J. C., Cramer, L. & Delton, Y. (2006). A qualitative investigation of mock-jurors' theories of emotion and reason. *Cognition and Emotion*, 20(5), 671-693. doi: 10.1080/02699930500304738
- Strub, T., & McKimmie, B. M. (2016). Sugar and spice and all things nice: The role of gender stereotypes in jurors' perceptions of criminal defendants. *Psychiatry, Psychology, and Law*, 23(4), 487-498. doi: 10.1080/13218719.2015.1080151
- United States Courts. (n.d.). *Juror Qualifications*. Retrieved on July 27, 2020 from <https://www.uscourts.gov/services-forms/jury-service/juror-qualifications>
- United States v. Garsson, 291 F. 646 (S.D.N.Y. 1923).
- van, Manen, M. (1997). *Researching lived experience: human science for an action sensitive pedagogy*. Retrieved from <https://ebookcentral.proquest.com>
- van Manen, M. (2014). *Phenomenology of practice: Meaning-giving methods in phenomenological research and writing* (1st ed.). New York, NY: Routledge.
- Warden, R. (n.d.) *First wrongful conviction: Jesse Boorn and Stephen Boorn*. Retrieved from:

<https://www.law.northwestern.edu/legalclinic/wrongfulconvictions/exonerations/vt/boorn-brothers.html>

- Williamson, E. J., Strickler, J. M., Irazola, S. P., & Niedzwiecki, E. (2016). Wrongful convictions: Understanding the experience of the original crime victims. *Violence and Victims, 31(1)*, 155-166. doi: 10.1891/0886-6708
- Willmont, D., Boduszek, D., Debowska, A., & Woodfield, R. (2018). Introduction and validation of the Juror Decision Scale (JDS): An empirical investigation of the Story Model. *Journal of Criminal Justice, 57*, 26-34. doi: 10.1016/j.jcrimjus.2018.03.004
- Woody, W. D., Stewart, J. M., Forrest, K. D., Camacho, L. J., Woestehoff, S. A., Provenza, K. R., Powner, S. J. (2018). Effects of false-evidence ploys and expert testimony on jurors, juries, and judges. *Cogent Psychology, 5*, 1-22. doi 10.1080/23311908.2018.1528744:
- Yamamoto, S., & Maeder, E. M. (2017). Defendant and juror race in a necessity case: An ultimate attribution error. *Journal of Ethnicity in Criminal Justice, 15(3)*, 270-284. doi: 10.1080/15377938.2017.1347542
- Walker, W. (2007). Ethical considerations in phenomenological research. *Nurse Researcher, 14(3)*, 36-45. Retrieved from: <https://journals.rcni.com/nurse-researcher>
- Weller, S. C., Vickers, B., Bernard, H. R., Blackburn, Borgotti, S., Gravlee, C. C., & Johnson, J. C. (2018). Open-ended interview questions and saturation. *PLoS ONE, 13(6)*, 1-11. doi: 10.1371/journal.pone.0198606

Wimpenny, P., & Gass, J. (2000). Interviewing in phenomenology and grounded theory: Is there a difference? *Journal of Advanced Nursing*, *31*(6), 1485-1492. Retrieved from: <https://onlinelibrary.wiley.com> > journal

Appendix A: Interview Guide

The following guide will be used with interviews with each participant:

1. **Preparation:** I sent a consent form and a summary of the purpose of the interview to each participant via email. I also verbally reiterated the consent statement and purpose prior to the beginning of the interview. Participants were reminded that the interview would be recorded and that I would be taking notes for the duration of the interview;
2. **Introduction:** I began the interview with explaining that I wanted to hear their personal, detailed story about what it was like to serve on a jury for the purpose of getting their individual perspective and experience with being a juror, including the positive things they noted, the negative things they noted, and what they thought may have been the cause(s) for the jury convicting the defendant;
3. **Main Narration:** I asked the participant to tell their story about serving on the jury from beginning to end, uninterrupted, with as much detail as possible. I used prompts for this narration, such as “If I would have been on the jury with you during the trial and deliberations, what would I have seen, heard, noticed, smelled, etc. Take me through your entire experience with serving on the jury.” During narration, I used subtle verbal cues to keep the interview going, such as a “yes, please continue,” but I wouldn’t ask them to clarify anything during this phase;
4. **Follow Up Questioning/Probes:** after the individual shared their story, using their own language, explanations, sequencing, and perspective, I clarified

anything that needed clarification and then asked a maximum of five follow up questions about particularly interesting topics that the participant brought up during their story or to get additional perspective on something that wasn't brought up but is important to understanding the phenomenon. Follow-up questions focused on specific aspects of how the story model of decision making or reliance on commonsense reasoning manifested during decision-making, if not addressed in their narrative description, including:

- What do you believe about the CJS?
- Have you ever been involved in the CJS? In what capacity?
- Have you ever been the victim of a crime?
- Have you ever perpetrated a crime?
- What are your beliefs about how to deal with criminal behavior?
- What was your first impression about the criminal defendant?
- What do you think about the efficacy of the court system based on your experience during trial and deliberations?
- How do you feel about prosecuting attorneys?
- How do you feel about defense attorneys?
- How do you feel about law enforcement?
- What do you think causes criminal behavior?
- How do you feel about wrongful conviction?
- Why do you think wrongful conviction occurs?
- Why do you think this defendant was wrongfully convicted?

- How do you feel about wrongfully convicting this defendant? What has it been like since you found out?
- Is there anything you would do differently if you were on a jury again?
- What do you think about how the court system and CJS can be improved in general?
- Is there anything that, had you known about it during trial, would have changed the outcome of this verdict?
- How did it feel deciding as a group about the defendant's guilt?
- Do you recall any of the other jurors' reasoning or narrative about the crime in question? Did that influence your verdict?

5. **Concluding Statement:** After the recording was stopped, an informal conversation continued with some about the participant's experience as they felt more at ease if the formal interview is over. I reiterated that the participant would remain anonymous and asked if there were any questions the participant had for me. I also inquired if there were any aspects of their experience that I did not ask about and they would like to share.

Appendix B: Letter of Introduction

Hello xxx,

I hope this note finds you well.

I am in the Walden PhD program in Forensic Psychology. For my doctoral dissertation, I am conducting research on juror experience and wrongful conviction. Would you be interested in assisting? The topics I will be interviewing you about is: your lived experience serving as a juror and how it feels to experience wrongful conviction as a juror who served on the case. I am only interested in your feelings and description on both topics and will use the interview data to inform scholars, policy makers, and future jurors.

The practice will include completing an Informed Consent statement (I'll e-mail this to you); and allowing me to interview you in person, or if necessary, via telephone. The whole process should take no more than 90 minutes of your time. Please let me know if you would like to participate. Please contact me by phone at [REDACTED] or e-mail me at [REDACTED] if you have any questions.

Thank you for your time and consideration,

Danielle

Appendix C: Participant Email Consent Form

You are invited to take part in a research study about juror experience with wrongful conviction. The researcher is inviting anyone who served on a jury in a criminal case in which the defendant was convicted by the jury but later determined to be not guilty of the crime. I obtained your name/contact info via _____. This form is part of a process called “informed consent” to allow you to understand this study before deciding whether to take part.

This study is being conducted by a researcher named Danielle Lewis, who is a doctoral student at Walden University.

Background Information:

The purpose of this study is to find out about how it feels to have been on a jury and wrongfully convicted the defendant to better understand juror experience. Finding out juror thoughts and feelings, through allowing participants to describe their experience, is the goal of the study.

Procedures:

If you agree to be in this study, you will be asked to:

- Participate in an interview that will last 60-90 minutes to tell me about your experience and answer questions about your experience.
- Participate in a follow-up interview that will take 30 minutes or less, after the data has been reviewed, to make sure I understand your experience.

Here are some sample questions:

- Tell me the full story of your experience with having served on the jury with as much detail as possible.
- What are your beliefs on how to deal with criminal behavior?
- What are your beliefs about the efficacy of the criminal justice system?
- How did you feel when you learned that the defendant was actually innocent?

Voluntary Nature of the Study:

This study is voluntary. You are free to accept or turn down the invitation. No one will treat you differently if you decide not to be in the study. If you decide to be in the study now, you can still change your mind later. You may stop at any time. The researcher will follow up with all volunteers to let them know whether or not they were selected for the study.

Risks and Benefits of Being in the Study:

Being in this type of study involves some risk of the minor discomforts that can be encountered in daily life, such as feeling guilt or shame about wrongful conviction, distress and fatigue, and depression or anger at oneself or others in the criminal justice

system. Free support resources will be provided if needed. Being in this study would not pose a risk to your safety or wellbeing.

Free resources for support are NAMI's National Help Line: 1(800)-950-NAMI or the Crisis Text Line: Text HELLO to 741-741.

The potential benefits of this type of study could improve the criminal justice and juror system, provide understanding about the experience of being on a jury, provide understanding about preventing wrongful conviction, and could be used to educate everyone involved in the criminal justice system, including jurors, attorneys, judges, defendants, victims and their families, and witnesses.

Payment:

All participants will receive a \$25 Amazon gift card for their time and contribution to this study. The gift card will be given during the initial interview or mailed/electronically sent to participants who are interviewed remotely.

Privacy:

Reports coming out of this study will not share your identity. Details that might identify participants, such as the location of the study, also will not be shared. The researcher will not use your personal information for any purpose outside of this research project. Data will be kept secure by being maintained on a password protected laptop and a password protected iPhone, all participant names will be coded to maintain confidentiality, all participant names will be kept separate from the interview data and data analysis. Data will be kept for at least 5 years, as required by the university.

Contacts and Questions:

You may ask any questions you have now. Or if you have questions later, you may contact the researcher via phone [REDACTED] or email [REDACTED]. If you want to talk privately about your rights as a participant, you can call the Research Participant Advocate at my university at 612-312-1210. Walden University's approval number for this study is 01-23-20-0726453 and it expires on January 22, 2021.

Print or save this consent form for your records.

Obtaining Your Consent

If you feel you understand the study well enough to make a decision about it, please indicate your consent by replying to this email with the words, "I consent."