

2015

# Abstract Uneducated Injustice: A Social Cognitive Approach to Understanding Juror Misconduct and Verdict Errors

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# Walden University

College of Social and Behavioral Sciences

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Walden University  
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Abstract

Uneducated Injustice: A Social Cognitive Approach to Understanding

Juror Misconduct and Verdict Errors

by

Melinee Calhoun

MBA, Liberty University, 2008

BA, Valdosta State University, 2005

Dissertation Submitted in Partial Fulfillment

of the Requirements for the Degree of

Doctor of Philosophy

Public Policy and Administration

Walden University

December 2015

## Abstract

A continual problem in the adjudication of crime in the United States is the continued occurrence of erroneous convictions and acquittals. This problem impacts the victims of crimes as they endure emotional and mental distress of additional investigations and new trials. Defendants are impacted by errors in verdicts because of the loss of freedom while being factually innocent. These errors may occur because jurors may not be knowledgeable of their role, right and responsibilities. Without regard to the judge's minimum instruction, the jury is not provided direction on the purpose and limitations of their roles. Guided by the social cognitive theory, this correlational study examined the incorrect verdicts by jurors in 2 Georgia counties in order to evaluate whether pretrial training has an impact on the incidence of verdict error. An experimental design was used to evaluate the impact of juror training on the occurrence of erroneous convictions and acquittals. The study included 156 participants who were registered voters from Lowndes and Lanier County, Georgia. The variables training, verdict errors, and juror misconduct were analyzed using *t* test, Pearson correlation analysis, Levene's Test of Equality of Variances, and Chi square analysis. The findings indicated a significant inverse relationship between the administration of pre-trial training and the occurrence of verdict error. The results suggest a relationship between the occurrence of juror misconduct and erroneous convictions, which is consistent with impact of behavior on decision making as posited by SCT. The implications for positive social change include recommendations to Lowndes and Lanier County court administrators to consider routine pretrial training that includes information about the role of the juror in criminal trials.

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## Dedication

This dissertation is dedicated to my mother, who successfully transitioned from mortal to immortal before having the opportunity to see the completion of my studies, none other than the Late Pastor Velma Moore Calhoun.

## Acknowledgments

I would like to take this opportunity to thank all of my friends and family who played a vital role in keeping me encouraged throughout my doctoral studies, Bishop Otis L. Calhoun (father), Zakiya and Kierra (my daughters), and the Sorors of the best Sorority, Zeta Phi Beta International Sorority, Inc.

I also thank my Dissertation Chair, Dr. Richard Worch, for all of his assistance in this very long dissertation process.

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## Chapter 1: Introduction to the Study

### **Introduction**

Uneducated injustice should resonate with anyone, especially those who have been affected by said occurrences. Many people have family, friends or acquaintances who have been accused of engaging in activities that resulted in criminal charges. Sometimes the criminal charges filed lead to the requirement of jury trials. Since the jury system is far from infallible, and over 311 post conviction DNA exonerations have occurred since 1989, it is imperative that inquiry be made into the causes of Type 1 and Type 2 errors and the impact of juror misconduct. Type 1 and Type 2 errors are otherwise known as erroneous convictions and erroneous acquittals, respectively. In this study, I proposed that the lack of training fosters a higher probability of occurrences of juror misconduct and Type 1 and Type 2 errors.

The potential social implications of this study are quite significant. There are several negative impacts that such occurrences have on the political, social, and judicial climates of this nation. Erroneous convictions and erroneous acquittals have not only financial effects on the system, but they deteriorate the very foundation of the justice system.

### **Background**

In order to function as efficiently and effectively as possible, the American judicial system relies on several components to fulfill its mission. The criminal judicial system consists of a number of individuals, including the judge, prosecutor and defense attorneys, victims, witnesses, and police officials. Each party plays an important role

within the judicial system and its processes. The American court system is composed of two different court systems, which are the federal and state systems (United States Courts, 2011a). I reside in the state of Georgia, which is the identified location for the study. In the state of Georgia, the court system comprises municipal, magistrate, probate, juvenile, state, and superior courts (Diagram of the Georgia Court System, 2011).

English law provides the foundation for the justice system within the United States. As detailed within The Declaration of Independence, one specific motivator for the declaration “that they are absolved from all Allegiance to the British Crown” was due to the King “depriving us in many cases, of the benefits of Trial by Jury” (U. S. Declaration of Independence-Text Transcript, Paragraph 5, 1776). The intent of this research was to focus more intensively on the concept, role, and impact of the jurors and their actions. As demonstrated by the previous statements quoted from the Declaration of Independence, our forefathers sought freedom from allegiance to the British Crown because of the deprivation of the right to a trial by jury, among other reasons. Considering the importance of the right to a trial by jury and the requirements of due process, it is essential to ensure that the process, functionality, and other elements of such are effective and efficient.

Jury duty is regulated by the Jury Selection and Service Act (or Jury Act, 1968), which establishes the criteria for jury selection as well as juror qualifications (Legal Information Institute, 2010). The legal requirements for an individual to be eligible to serve as a juror includes that he or she must

be a United States citizen; be at least 18 years of age; reside primarily in the judicial district for one year; be adequately proficient in English; have no disqualifying mental or physical condition; not currently be subject to felony charges; and never have been convicted of a felony [unless civil rights have been legally restored]. (United States Courts, 2011c, p.1)

The United States judicial system was established on the notion that the jury is best to determine the truths or facts of a case. Ultimately, the jury makes the decision of guilty or not guilty; therefore, it is logical to say that the jurors are one of the most powerful players in the courtroom (Blattner, 1995).

Common to the various courts is the entity called the jury. The U.S. Courts system calls jury duty one of the most important and fundamental civic responsibilities that an individual can perform (U.S. Courts, 2011b). The role of the juror is to be attentive to and consider all the evidence and reach a fair and impartial judgment. The jurors are to weigh the facts or evidence, determine the law's validity to the offense, and apply the law appropriately, without regard to any outside factors such as the defendant's or plaintiff's status (Standish, 1998). In essence, a juror's duty is to determine, based solely on the evidence presented during the trial by the defense and prosecuting attorneys, whether the prosecution proved its case beyond a reasonable doubt (Bell, 2010). The standard in a criminal case is beyond a reasonable doubt (Rodger, 2011). The responsibilities held by the jury create the problem to be researched in this study.

The problem of this study rests in the court system's dependence on ill-equipped and improperly trained jurors to administer justice by rendering verdict decisions and the

impact that result from this dependence. Ill-equipped and improperly trained jurors may be more apt to engage in behaviors of misconduct and/or render a verdict of error as a result of these behaviors. It is important to understand that the court systems and trial by jury are far from infallible. Errors within the criminal justice system frequently occur (Gould & Leo, 2010). Two of many errors within the criminal justice system include erroneous convictions and erroneous acquittals, which are otherwise called Type 1 and Type 2 errors, respectively. Within statistics, a Type 1 error is the incorrect rejection of a true null hypothesis; therefore, errors made within the criminal justice system are denoted Type 1 when an innocent defendant is convicted. Likewise, a Type 2 error is the failure to reject a false null hypothesis; therefore, errors made within the criminal justice system are denoted Type 2 errors in that an erroneous acquittal occurs when a guilty individual is acquitted of a criminal offense that he or she did commit.

The purpose of the research was not only to illustrate the impact of juror misconduct but also to demonstrate the necessity for properly educating and training individuals prior to the initiation of their civic duties. As it has been shown in the hundreds of juror misconduct cases and subsequent exonerations, Type 1 and Type 2 errors are major injustices.

The impact of juror misconduct is possibly more widespread than current research and knowledge base demonstrate. For instance, a juror sits on a murder case but fails to understand various elements of the trial discourse or dialogue and performs his or her own Google research into the topics not understood. The juror's engagement into



individual research and/or investigation would constitute juror misconduct, and subsequently, this misconduct, if not discovered, could result in a verdict of error.

Considering the numerous methods of juror misconduct, many of which are human nature or natural responses for an individual who has internalized certain technological advancements, it is virtually impossible to identify and detect every instance of juror misconduct. With the impossibility of identifying all occurrences of juror misconduct, it becomes apparent that it is more functionally efficacious and cost-effective to be proactive rather than reactive. Relying on reactive measures to address the occurrence of juror misconduct is not an efficient method. Reactive measures can be monetarily costly, such as in the declaration of mistrial and order for a new trial due to the occurrence of juror misconduct. Proactive measures, therefore, may provide more efficient methods of addressing juror misconduct by minimizing and possibly preventing occurrences of juror misconduct.

This research study was performed from a quantitative experimental approach to the exploration and assessment of the impact of training on the occurrence of juror misconduct within the trial deliberation setting as well as its impact on the occurrence of Type 1 and Type 2 errors. The exploration of the potential of a relationship between training, the occurrence of misconduct, and the occurrence of verdict error is critical for the minimization and prevention of erroneous convictions and erroneous acquittals.

The study was conducted in a setting that served to minimize and/or eliminate any influence. The jurors were randomly assigned a jury panel in which to participate and were shown a mock jury trial. Half of the mock juror participants received training prior

to their participation, which specifically dealt with jury, criminal, and judicial factors. After viewing the mock jury trial, jurors participated in jury deliberation, in which they were required to render a verdict of guilty or not guilty.

The foundation for this research study rests within the social cognitive theory (SCT). SCT establishes a basis for the anticipated impact of juror training. SCT provides an explanation as to how people obtain behavioral patterns and provides strategic intervention methodologies (Bandura, 1997). There are three major factors entailed with SCT, which include the environment, people, and behavior. SCT offers a structure for the design, implementation, and evaluation of programs. These factors are demonstrated within the concept of reciprocal determinism. Reciprocal determinism is the interaction and impact between the person, behavior, and the environment (Bandura, 1978). The chief concept in SCT is that an individual's behavior and cognitive processes are influenced by the observation or other learning environment.

There are two concepts related to SCT that are considered precursors to behavioral change: self-efficacy and outcome expectations. Self-efficacy is defined as an individual's confidence in their ability to succeed in a given situation (Bandura, 1995). Goal acquisition, task completion, and challenge acceptance are all impacted by one's level of self-efficacy. Outcome expectation involves the internalization of the necessity of a skill acquisition in reference to a specific situation. Due in fact to internalization, the individual places value in the skills acquisitions, which impacts the level of self-efficacy and subsequently the behavioral change.

There are several assumptions that should be described as well as the consideration of the scope and significance of the study. As with any research study, in this study, I made some assumptions in the implementation of the research design. The design of this study assumed the absence of any other influences, the internalization of the training material, the lack of previous knowledge of court procedures, the measurability of the variables, and the soundness of the theoretical framework.

Regarding any investigative analysis, within the scope of study, there were several limitations that were beyond my control. First, the results of this research study were limited by the accuracy of the theoretical framework. As discussed in the research design, there is a reciprocal interaction between the person, the behavior, and the environment. This interaction presented the study with a limitation that was unavoidable. I attempted to explore the impacts on juror behavior and decision-making, but it is important to consider that the environment or location selected for the deliberations could have an impact on the behavior. This study was limited in that it could not control the potential influences of person, behavior, and environment. Though in an effort to minimize the potential impact, the facility used to conduct the study was a nonbiased and mutual facility.

Another limitation to the study was that it was limited to only observable methods of juror misconduct. Understandably, there were methods of misconduct or actions/thought processes that could have been deemed misconduct, but since they were not observable, they were not included in this study. This limitation does open the opportunity for further inquiry and research of a qualitative nature.

The scope of this research study incorporated the selection of individuals for participation in mock trial deliberations and was held in a location that introduced the least environmental impact on the participants. Participants for the study were identified through the use of voter registration files for Lowndes County and Lanier County areas. The sample size was determined using a confidence level of 95% and confidence interval of 5.00 and a population of 240 based on the number of jurors engaged in an average year for these counties. The variables that were examined included receipt of juror training, the occurrence of juror misconduct, and the occurrence of Type 1 and Type 2 errors. The data obtained in this research study were collected by observing participants during the mock trial sessions.

The research literature reviewed in this study is comprised of studies on erroneous convictions, erroneous acquittals, attorney misconduct, false confessions/testimony, and eyewitness misidentifications. Over the years, all of these areas have impacted the occurrence of Type 1 and Type 2 errors, and while much research has been conducted to determine the impact of those factors, very few researchers have explored the causes of impact of juror misconduct.

The delimitations of a research study are the elements of a study that the researcher can control. The researcher can control who is allowed to participate in the study, while remaining separated from the process. Participation in this study was restricted to individuals who were eligible for jury duty as required by law. By only allowing participants who met the requirement for jury duty by law, I controlled this faction in order to foster greater representation. There are several criteria that individuals

must meet in order to be eligible to serve on a jury panel, and those criteria include citizenship, age, proficiency in English, mental/physical ability, and criminal history factors.

The objective of the study was to affect public policy by demonstrating the need for juror training before an individual is allowed to function in the capacity of juror. Prior to this study, researchers have concentrated on the influence of other variables that contribute to the cause of Type 1 and Type 2 errors, such as police misconduct, judicial misconduct, prosecutorial misconduct, false witness testimony, and evidentiary mistakes (Colvin, 2009). Other researchers have focused on the causes of juror misconduct, but unfortunately, inquiry into the effect of juror misconduct on the incidence of Type 1 and Type 2 errors is rather meager. The relationship between juror misconduct and the occurrence of Type 1 and Type 2 errors has not been fully developed, thus the intent of this study.

The examination of the possible cause-effect relationship between the two variables is critical. The relationship between the juror/jury and the verdict is tantamount to the relationship between the voters and the holder of an elected office. The jury determines the verdicts, and the verdicts may be a verdict of error; therefore, it should be second nature to assume a potential relationship between the jury and the occurrence of verdict error.

Further inquiry on the cause and effect of juror misconduct as well as the cause of Type 1 and Type 2 errors is imperative. One person convicted of a criminal offense that he or she did not commit is one too many. Therefore, understanding the impact of

training on the occurrence of juror misconduct and the occurrence of Type 1 and Type 2 errors is critical. Taking into consideration the social, political, and judicial impact of Type 1 and Type 2 errors, it is evident that this relationship should be explored in greater detail.

### **Problem of the Study**

The continued occurrence of Type 1 and Type 2 errors within the justice system presents injustices for the community, system, defendants, and victims (Abbott, 1999). Various factors have an impact on the occurrence of Type 1 and Type 2 errors. No researcher has focused solely on the jury who actually renders the verdict and at times even the sentence and the impact that their misconduct has on the occurrence of Type 1 and Type 2 errors. Because the jurors render the verdict decision, there is a clear problem to be explored if those responsible for the verdict are ill-equipped and lack proper knowledge, skills, and abilities to properly fulfill their civic duties.

By 1987, 350 wrongful convictions in capital cases since the start of the 20th century had been identified (Gould & Leo, 2010). There is, therefore, a necessity to examine the likelihood of juror misconduct and its impact as well as the impact of training. Jurors are not required to have any training or knowledge about their roles, and the absence of such knowledge creates an environment for the engagement in activities that constitute misconduct, which subsequently can result in the occurrence of Type 1 and Type 2 errors.

Ultimately, the impact of this problem is expansive. There are not only individual but also societal impacts that can be avoided by properly addressing this problem. There

is an emotional, mental, physical, psychological, and financial impact on the victim as well as the community, judicial system, and even the defendant upon the occurrence of a Type 1 or Type 2 error. When an innocent defendant is convicted, such errors cost the system time and resources in prosecuting and housing the wrong individual, while the factually guilty is left free to potentially continue his or her criminal activity. Being convicted of an offense for which one is innocent has a detrimental impact on the defendant, as he or she loses time, resources, and reputation (Scott, 2010). Wrongful conviction and/or acquittal additionally have an impact on the victim. When a wrongfully convicted defendant is exonerated, there is an emotional or mental impact on the victim. The victim may even feel he or she has been victimized all over again (Scott, 2010). Due to the impact of the occurrences, it is imperative that everything that can be done to minimize the occurrence is utilized, and educating the juror and/or exploring the impact of the juror are opportunities to do so.

As aforementioned, the 350 capital case exonerations within the 20<sup>th</sup> century is a gross injustice, not to mention the more than 1,200 noncapital exonerations identified between 1998 and 2013 per the Northwestern Law's Center for Wrongful Convictions and its 2013 National Registry of Exoneration. The figures are startling, and various research projects such as the Innocence Project credits other factors such as police misconduct, eyewitness testimony, attorney error, fraudulent science, false confession, and informant error for these Type 1 and Type 2 errors, but none have addressed the impact of the juror itself.

Type 1 and Type 2 errors will continue to be a growing problem if all variables that potentially impact their occurrences are not identified, examined, and effectively addressed. The concept of reciprocal determinism details an interrelationship between the behavior, the environment, and the person; therefore, considering these relationships, it is certainly logical to deduce that the individual will have an impact on the results of a given behavior, whether direct or indirect. Thus, if a jury has produced a verdict of erroneous conviction or erroneous acquittals, then an examination of the individual jurors, their actions, their behaviors, and decision-making process should be necessitated.

I examined three specific variables in this research study: the occurrence of Type 1 and Type 2 errors (Type 1 and Type 2), the occurrence of juror misconduct (juror misconduct), and the occurrence of juror training (juror training). The variable Type 1 and Type 2 is a quantitative measure of how many of each type of error occurred throughout each of the mock trials. The variable juror misconduct is a quantitative measure of the observable occurrences of behaviors engaged in by jurors, which are consistent with the methods of misconduct. Lastly, the variable juror training denotes whether or not the specific jury panel received training on their roles, responsibilities, and duties prior to mock trial. I hypothesized that the research would show a positive relationship between variables Type 1 and Type 2 and juror misconduct, meaning that as the occurrence of juror misconduct increases, the occurrence of a Type 1 or Type 2 error would also increase. Contrariwise, I hypothesized that the research would show a negative relationship between variables juror training and Type 1 and Type 2 as well as juror misconduct, meaning that an increase in juror training would result in a decrease in



the occurrence or the probability of Type 1 or Type 2 errors as well as the occurrence of juror misconduct.

As aforementioned, there is a serious lack of research into the impact of the jury itself on the occurrence of Type 1 and Type 2 errors. Prior researchers have focused on factors such as police misconduct, false testimony, or attorney errors, for instance, but they have not focused on the individuals who actually engage in deliberation in order to determine the actual verdict itself. The gap in the research study is obvious and evident in that the behaviors or actions of the individuals, whose decision was erroneous, are not considered. Ample researchers have expounded on the other various factors that impact the occurrence of wrongful convictions and wrongful acquittals; now it is necessary to explore the impact of the jury itself as well as the variables that impact the jury.

Understandably, there are certainly several factors that impact any given jury member, such as age, ethnic background, criminal history, knowledge of or experience within the criminal justice system, and even socioeconomic status. These variables are predispositions that may impact the jury, and unfortunately, it is impossible to completely eliminate their impact. Therefore, another variable that could potentially impact the jury in a positive manner is training and education. Training and education could potentially minimize the impact of the abovementioned predispositions.

### **Operational Definitions**

*Environment:* Physical external elements (Skinner, 2005).

*Misconduct:* Unlawful conduct by an official in regards to his or her office or by a person in the administration of justice, such as a juror or lawyer; malfeasance (Mason, 2010).

*Observational learning:* Behavioral acquirement occurring through observing the activities and results of the behaviors of others (Bandura, 1977).

*Reciprocal determinism:* Interaction between the person, the behavior, and the environment (Bandura, 1978).

*Type 1 error:* Erroneous or wrongful conviction. A Type 1 error occurs when an innocent person is convicted (Schellenberg, 1997).

*Type 2 error:* Erroneous or wrongful acquittal. A Type 2 error occurs when a guilty person is acquitted (Schellenberg, 1997).

*Voir Dire:* The official process of juror selection, in which both defense and prosecuting attorneys present arguments on individuals who will be allowed to participate in the jury panel (Finkelman, 2010).

### **Research Questions and Hypotheses**

The primary research questions and hypotheses for this study are as follows:

1. Does juror training have an impact on the occurrence of juror misconduct?

$H_01$ : There is a no relationship between juror training and the occurrence of juror misconduct.

$H_{a1}$ : There is a relationship between juror training and the occurrence of juror misconduct.

2. Is there a relationship between the occurrence of juror misconduct and the occurrence of Type 1 errors?

*H*<sub>0</sub>2: There is no relationship between the occurrence of juror misconduct and the occurrence of Type 1 errors.

*H*<sub>a</sub>2: There is a relationship between the occurrences of juror misconduct and the occurrences of Type 1 errors.

3. Is there a relationship between the occurrence of juror misconduct and the occurrence of Type 2 errors?

*H*<sub>0</sub>3: There is no relationship between the occurrence of juror misconduct and the occurrence of Type 2 errors.

*H*<sub>a</sub>3: There is a relationship between the occurrence of juror misconduct and the occurrence of Type 2 errors.

4. Is there a relationship between juror training and the occurrence of a verdict error?

*H*<sub>0</sub>4: There is no relationship between juror training and the occurrence of a verdict error.

*H*<sub>a</sub>4: There is a relationship between juror training and the occurrence of a verdict error.

### **Purpose of the Study**

The purpose of the research was not only to illustrate the impact of juror misconduct but also to demonstrate the necessity for properly educating and training individuals prior to the initiation of their civic duties. As it has been shown in the

hundreds of juror misconduct cases and subsequent exonerations, Type 1 and Type 2 errors are major injustices. The wider research problems addressed are the societal injustices and impacts that are the result of the occurrence of Type 1 and Type 2 errors. As a result of the research problems identified in this study, there are financial, emotional, psychological, and morale impacts to not only the victim, but also the defendant, the judicial system, and the community as a whole. Failure to address the problems of this study will therefore result in detrimental impacts to society, which will end in a loss of respect and confidence in the system. If citizens lose respect and confidence in the ability and integrity of the system, this will hinder the system's effectiveness and efficiency.

This study was best suited as a quantitative study because I sought to explore whether or not training would minimize the occurrence of juror misconduct and subsequently the occurrence of Type 1 and Type 2 errors. Though a qualitative study could provide resourceful information, this quantitative design provided data summaries that supported generalizations concerning the phenomenon being studied as well as the use of standard means allowing for research replication. Additionally, quantitative studies minimize personal bias as the data are based on numerical values and not interpretation as with some qualitative studies.

The exploration of the direct and indirect impact of training was the first discovery that I sought. The theory of behaviorism details that behavior is impacted by various external factors; therefore, the training may have an observable impact that needs to be identified and explored. In this study, I pursued the discovery of a viable method of

minimizing and/or eliminating the occurrence of juror misconduct as well as the occurrence of Type 1 and Type 2 errors. In order to effectively minimize or eliminate these occurrences, it is imperative to identify the causes and explore methods of minimizing the impact of those causes. The knowledge that training has an impact on the occurrence of juror misconduct and Type 1 and Type 2 errors serves to direct further inquiry into how best to employ training to create the most effective and efficient impact.

The impact of juror misconduct is possibly more widespread than current research and the knowledge base demonstrate. The juror's engagement into individual research and/or investigation would constitute juror misconduct, and subsequently, this misconduct, if not discovered, could result in a verdict of error.

Considering the numerous methods of juror misconduct, many of which are human nature or natural responses for an individual who has internalized certain technological advancements, it is virtually impossible to identify and detect every instance. With the impossibility of identifying all occurrences of juror misconduct, it becomes apparent that it is more functionally efficacious and cost-effective to be proactive rather than reactive. Relying on reactive measures to address the occurrence of juror misconduct is not an efficient method. Reactive measures can be monetarily costly, such as in the declaration of mistrial and order for a new trial due to the occurrence of juror misconduct. Proactive measures, therefore, provide more efficient methods of addressing juror misconduct by minimizing and possibly preventing occurrences of juror misconduct.

Though there may be other forms of proactive methods to prevent or minimize the occurrence of juror misconduct, training and education on the roles, responsibilities, limitations, and duties of the jury is an advantageous preventative method. As behavior theorists define learning as nothing more than the acquisition of new behavior, one can draw the conclusion that jurors are able to acquire new behaviors consistent with the avoidance of misconduct if they are trained and educated properly (Phillips & Soltis, 1998). To date, there is no requirement for jurors to have any knowledge about their roles, responsibilities, and duties. With the exception of the judge's minimal instructions, which many times are not adhered to, this lack of knowledge fosters grave injustice (Abbott, 1999).

### **Nature of the Study**

This study was a quantitative observational research design. The quantitative design focused more on counting and classifying features and constructing statistical models and figures to explain what is observed. The independent variable was the occurrence of juror misconduct and the two dependent variables were the occurrence of a verdict error and the occurrence of juror misconduct. The occurrence of juror misconduct was examined as an independent as well as a dependent variable. This quantitative observational design was an empirical study that allowed me to estimate the causal impact of an intervention on the target population. Additionally, this design allowed for the controlling of the environments as well as for repeating experiments.

For this study, the two groups were observed. The experimental group was provided training prior to deliberation, and the control group did not receive any training

prior to their deliberation period. Observations made entailed the identification and calculation of the occurrence of the various types of misconduct as well as the occurrence of verdict error.

The mock jury trial research design was best in assessing these potential relationships as it was based on factual occurrences of the courtroom. Other than studying actual jurors and jury panel, the next best design was to draw from a consistent population from which jury panels are drawn.

As stated earlier, the variables in the study include training, juror misconduct, Type 1 errors, and Type 2 errors. Juror misconduct is the unlawful conduct of a jury member in regards to his or her civic duty and the administration of justice. Within this study, juror misconduct was evaluated as an independent as well as a dependent variable. Initially, misconduct was evaluated as a dependent variable in order to determine if the intervention, training, had an impact on its occurrence. As already mentioned, juror misconduct was assessed as an independent variable in order to determine if it had an impact on the occurrence of Type 1 or Type 2 errors. Mason (2010) detailed misconduct in general terms, but the definition can be applied to the various players within the criminal justice system.

Additionally, Type 1 errors are more commonly known as erroneous or wrongful convictions. In laymen's terms, Type 1 errors are the finding of an innocent person guilty. Type 2 errors are more commonly known as erroneous or wrongful convictions, otherwise described as the acquittal of a guilty defendant. Type 1 and Type 2 errors were evaluated as dependent variables.

The research design of this study was guided by quantitative methods. I was not in direct contact with the subjects during the study as to eliminate any influence. All data were collected by tallying the occurrences of misconduct through observations and through the tallying of occurrences of Type 1 and Type 2 errors as based on the verdicts rendered at the end of the deliberation periods.

The data collected were analyzed using an SPSS software and used to determine whether a positive or negative relationship existed between the variables, if any relationship at all. As identified by the previously mentioned research questions, the methodology was guided by the need to examine the impact of training on misconduct and misconduct's impact on verdict errors.

The data collection method used in this study involved quantitative observations, or in other words, the methodology involved the observation and calculation of occurrences of specific behaviors and/or actions. Establishing a statistical relationship between these variables requires the use of a quantitative study. In order to ascertain the impact of a specific occurrence on the occurrence of another variable, an observational study is effective. Therefore, a quantitative observational design, being guided by the desire to determine an impact or relationship between the included variables, was most efficient.

### **Theoretical Framework**

SCT lays a foundation for the anticipated impact of juror training. SCT explains how people obtain and sustain certain behavioral patterns and provides a basis for strategies of intervention (Bandura, 1997). Assessing behavioral modification is



contingent on three factors, which include the environment, people, and behavior (Bandura, 1997). SCT provides a framework for designing, implementing, and evaluating programs. The goal of the research was to demonstrate the necessity of juror certification and training prior to an individual being eligible to serve on a juror panel.

The juror training and education sessions were not tailored towards a lecture based format; instead, a more active learning design was employed. Active learning is the utilization of interactive methodologies of education and training for the engagement of students in their mission to obtain and understand knowledge.

Learning is a central cognitive process of human acumen. Theorists, such as Bandura (1977) and Piaget (1975), proposed various elements that have a significant impact on the process of learning and a subsequent effect on behavior. SCT (Bandura, 1977) provides a theoretical framework for understanding the cause of juror misconduct as well as a means of preventing such behavior. Cognitive learning requires that the individual internalize the information being taught. The concept of reciprocal determinism embodies the essence of the cause of misconduct. Reciprocal determinism is the interaction and impact between the person, behavior, and the environment (Bandura, 1978). Analysis of behavioral patterns reveals that, in addition to the prevailing sociocultural influences, unexpected events often exhibit important influences on human behavior (Bandura, 1982b).

SCT defines behavior as a continuous mutual collaboration between cognitive behavioral and environmental factors (Bandura, 1977). Bandura's SCT emphasizes the

importance of observing and modeling the behaviors, attitudes, and emotional reactions to people, the environment, and behaviors.

Learning would be exceedingly laborious, not to mention hazardous, if people had to rely solely on the effects of their own actions to inform them what to do. Fortunately, most human behavior is learned observationally through modeling; from observing others, one forms an idea of how new behaviors are performed, and on later occasions this coded information serves as a guide for action. (Bandura, 1977, p. 22)

SCT, which can be described as an all-inclusive form of social learning theory, explains the acquisition and maintenance of certain patterns of behaviors (Bandura, 1977). One major purpose of SCT is the identification of viable methods that can be used to modify or change behavior. Bandura (1986) posited that what the individual believes, feels, and/or thinks has a direct impact on the individual's behavior. Therefore, training and educating jurors on how to perceive their roles and the specifics of their responsibilities, duties, and limitations may affect change in the jurors' behaviors and decision-making process.

The components of the observational learning of SCT are attention, retention, motor reproduction, and motivation. Therefore, in order for observational learning to take place, it requires the observer be mindful and observant to what is being taught or modeled; it requires the preservation of the aftereffects of experience and learning that makes recall or recognition possible; it requires the physical ability to reproduce the modeled behavior, and internal or external impetus to reproduce the desired behavior.

The principles of SCT posit that people are more likely to accept and implement behavioral changes as demonstrated by the modeled behavior if the results, thereof, are valued or if the modeled behaviors have a functional value. Changes in the training and education received by jurors could result in a much needed decrease in the occurrence of Type 1 and Type 2 errors. Instructing jurors as to the possible results of error that their actions and/or verdict could cause presents them with behaviors where results are valued and have a functional value. It is human nature and the purpose of the criminal justice system to seek justice or true justice for criminal offenses, and true justice is priceless. Justice is not just the act of having someone held responsible for a criminal action, but rather to have the truly guilty be held responsible for the crime. Such a result has significant value, and therefore, the behavior that results as such has great functional value.

The theory of constructivism suggests that humans construct knowledge and meaning from their experiences. Bruner and Piaget each posited their own approach to the constructivist theory. Bruner suggested that learning is an active and constructive process, additionally stating that it is an active, contextualized process of constructing knowledge rather than acquiring it. Personal experiences and perception of the environment aid in the construction of knowledge. In other words, the learner is not a blank slate but brings past experiences and cultural factors to a situation. Therefore, due to the impact that previous experiences and cultural factors may have, it is imperative to minimize the possible impact. Training individuals on their roles, duties, and

responsibilities provides them with a specific set of guidelines or parameters, which they must follow. These parameters aid in minimizing the impact of outside factors.

### **Assumptions, Limitations, Scope, and Delimitations**

In this section, a discussion of the assumptions, limitations, scope, and delimitations are provided. Assumptions are the items that I did not verify but are assumed to be true. The limitations detailed in this section disclose any gaps or weaknesses in the study. In terms of scope, the data, sample, and generalizability of said data are expounded upon. Lastly, the delimitation details what is intentionally left out of the research.

#### **Assumptions**

As with any research study, I made some assumptions in the implementation of the research design. This research design was based upon the assumption that the outcome was only influenced by the treatment (receipt of training prior to participation), and no other factors influenced the outcome variable. Another assumption that should be noted was that the jurors given training have actually acquired and learned the information presented, which influenced the subsequent behavior. The third assumption was that the mock jurors had no previous knowledge of court proceedings and/or rules.

I additionally made the assumption that the foundation of the study, based on the theoretical framework of SCT, is sound. The assumption was that the theoretical framework was an accurate reflection of the phenomena studied. Therefore, the results of the study were limited by the accuracy of the theoretical framework. I assumed that the

variables within the study were measurable, and the instrument used was a valid and reliable instrument.

Assumptions are very important in research. Though assumptions are things that are out of the control of the researcher, the absence of these assumptions might result in an irrelevant study. Leedy and Ormrod (2010) posited, “Assumptions are so basic that, without them, the research problem itself could not exist” (p. 62). The assumption that no other factors impacted the outcome outside of the treatment is important in the examination of the dichotomy between the treatment and control groups. Drawing the assumption that the treatment was the only factor allowed me to draw the conclusion of whether or not the treatment had a positive or negative impact.

The assumption that the participants internalized the training information is important in that it allowed me to make the previous assumption. If participants did not learn the information presented, then I could not assume that the treatment was impactful or that it was the only impact. In this study, I sought to discover the impact of certain occurrences, and thus it was imperative to eliminate external factors. Therefore, for the purpose of the study, I drew the assumption of the absence of these external factors.

### **Scope**

Taking into consideration the concept of reciprocal determinism and the relationship between the behavior, the person, and the environment, the relationship between the variables of the study are clarified. As other researchers have demonstrated, there are several likely causes of Type 1 or Type 2 errors, but none of those causes include specific actions or the impact of those actually rendering the verdict decisions. If

the jury renders the verdict, which in turn is a verdict of error (Type 1 or Type 2 error), then one can logically deduce that the individual or individuals rendering the verdict could have impacted the subsequent verdict error.

If the study demonstrates the intended results, the administration of training prior to deliberation could improve the facilitation of practices within the judicial system. Essentially, in this study, I demonstrated that the treatment of the study causes the outcome of the study.

The scope of this research study encompassed the selection of juror eligible individuals for participation in mock trial sessions held in a facility that presented the least environmental impact on the participants, such as the public library. Jury eligible individuals were identified through the use of public data records available for the Lowndes County and Lanier County, Georgia areas. The sample size was determined with a confidence level of 95% and confidence interval of 5.00, when considering the population of 240, for a sample size of 148.

In order to be called for jury duty, an individual must be registered to vote, and said information is public record. The mock trial sessions that research participants partook in were conducted daily over a 6-week time interval, in an attempt to minimize the potential effect that differing conditions related to timing might present.

The variables that were examined included receipt of juror training, the occurrence of juror misconduct, and the occurrence of Type 1 and Type 2 errors. The data obtained in this research study were collected by observing participants during the mock trial sessions. I assigned each participant an individualized identifier, which was

used to organize the data. There was a minimum of 12 mock jury panels consisting of 12 participants each. Each panel was labeled with a corresponding alphabetical letter, A to L, and subsequently, each participant was identified with a number, 1 to 12, followed by the corresponding panel letter, such that jury member number one in the first jury panel was identified as mock jury participant, 1-A.

In quantitative research, the concept of external validity is important to be able to demonstrate that the conclusions made can be generalized. There is generalization across situations as well as people. This study addressed generalizability by improving the external validity with proper and adequate sampling techniques.

For the purpose of this study, and to ensure that the research participants are truly representative of an actual jury panel, only individuals who would normally be qualified to serve were allowed to participate in the research study. The representative nature of participants in the study improved the external validity of the study.

### **Delimitations**

Participation in this study was delimited to individuals who were deemed eligible for jury duty as required by law. Participants were (a) United States citizens, (b) at least 18 years of age, (c) resided primarily in the judicial district for one year, (d) adequately proficient in English, (e) had no disqualifying mental or physical condition, (f) were not currently subject to felony charges, and (g) had never been convicted of a felony (unless civil rights have been restored).

Individuals for participation were identified from the voter registration records and sent formal invitations to partake in the study. The invitations included only enough

information to solicit the participation but not to disclose too much detail about the study to be conducted.

Additionally, I did not assess other factors such as the impact of police misconduct, evidentiary errors, or prosecutorial misconduct, and the study was thus delimited to assessments of training and juror related impacts.

### **Limitations**

Within the scope of this research study, there were several limitations that were not controllable. The research study employed the use of a convenience sample, which is unlike the random sample that can generally be applied to a larger population, and can only be suggested. Due to the lack of substantial recent research, I used research material that was greater than five years old.

Taking into consideration the reciprocal interaction between the person, the behavior, and the environment, the environment in which the mock deliberations were held could have an impact on the behavior. According to the social learning theory principle of reciprocal determinism (Bandura, 1969), cognitions and behavior influence one another in a dynamic learning process. In an effort to minimize the potential impact of the environment, the facility used to conduct the study was a nonbiased and mutual facility.

Additionally, the time interval in which the study was conducted presented limitations, as the conditions and/or public or social issues of the day may have an impact, such as current court cases that have been highly publicized. In order to minimize the impact that time may have on the study, the study was conducted daily for



six consecutive weeks, in hopes of avoiding and minimizing variable factors that could influence the participants' behaviors. Considering that human behavior as well as decision making/thought processing are impacted by past life experiences, it is important to acknowledge that it is impossible to avoid these experiences and their potential impact.

As with any research study, there was a potential impact of bias. Unfortunately, as with the court system in general, it is impossible to completely eliminate all jurors with biases. Depending upon the mock trial case to be explored, the mock jurors could have unidentified biases as they may have a history of criminal activity, or they could simply have experienced or been a witness to the type of activity for which the defendant is on trial. There are several other variables for which a participant could have an unidentified bias, such as race, age, gender, socioeconomic status, or education level of the defendant and/or the victim.

For example, a juror member may have an unidentified bias in the event that he or she possesses racist or sexist ideologies, or a preconceived notion about individuals of a specific socioeconomic class consistent with that of the defendant or the victim. These ideologies or preconceived notions may bare an impact on the outcome of the study as the actions of the participants are impacted.

In an effort to reduce the impact of the limitations, the research study was held in a mutual location, as to ensure the least amount of impact. Research participants were not provided any details in reference to the specifics of the study prior to participation as to ensure that they did not try to conform their behavior patterns to be consistent with or divergent from the results I projected. Lastly, it is unfortunate that timing and real life

cases were publicized and could have an impact on the mock jury members. In real life cases, members could be sequestered in an effort to minimize the impact of case advertisements in the media, but not all cases result in such sequestering. In an effort to minimize the impact of media and real life occurrences/developments, the mock juror cases were held in one session or day, not to exceed a 4-hour duration from start to finish.

I could have legitimately used the court and actual jurors deliberating a real case, but that process would have been more time consuming and would have required levels of clearance that would only serve to extend the study. The only aspect of the study that a judge may not approve is that it would require the experimental group to be given training before they listened to the case.

If the study were to use an actual court case and juror members, the presiding judge would have to approve the experiment, and considering the legal parameters of judicial proceedings, a judge would likely deny a request to perform the study on an actual case. Additionally, it would be difficult to use actual jurors because the case to which the jurors would be sitting on would not be the same, which might be used as an argument for the difference in verdicts and potential errors.

In this study, I employed both random and convenience sampling strategies. In regards to the selection process, one potential problem is in the reliance on convenience sampling for the selection process. Though the convenience sampling was a benefit as it ensured a degree of separation from the selection process, it still created a problem. I

would have been required to wait for responses to be received and could not guarantee a definitive time frame in the completion of the selection process.

In general, the disadvantages of convenience sampling included the thought that the results are not representative and that samples are hard to replicate. For the purpose of this study, the use of this technique served to enhance the sampling process by eliminating the impact of the researcher in the selection process.

### **Significance of the Study**

The goal of the research study was to impact public policy by exhibiting the need for juror certification and training before an individual is allowed to serve on a jury panel. The lack of inquest into the impact of the jury and its members certainly leaves a broad cavity in the discipline. This study exuded the need to further examine the impact of the individuals who provide the verdict decisions.

Prior research in this area focused on the impact of other factors that contribute to the cause of Type 1 and Type 2 errors, such as police misconduct, judicial misconduct, prosecutorial misconduct, false witness testimony, and evidentiary mistakes (Colvin, 2009). Other researchers focused on causes of juror misconduct, but unfortunately, research on the impact of juror misconduct on the occurrence of Type 1 and Type 2 errors was quite sparse. The connectivity between the occurrence of juror misconduct and the occurrence of Type 1 and Type 2 errors has not yet been solidified. Given the potential cause-effect relationship between these phenomena, proactive measures can be presented to minimize the causal factors. Being one of the most important civic duties, it is

important that an individual be given all of the resources and information needed to perform the duty effectively and efficiently.

The impact that this research may have on the judicial system will be quite resourceful. This study contributes to positive changes within the judicial system, considering that a reduction in the occurrence of juror misconduct could cause a decline in the occurrence of Type 1 and Type 2 errors. One of the goals of the criminal justice system is to reduce the occurrence of such errors, and doing so will reduce the number of innocent men and women who are imprisoned falsely or wrongfully sentenced to death. A reduction in these types of errors may have a positive financial effect on the system, due to a decline in cases requiring a second trial and/or having to expend funds to house an innocent person as well as compensating the wrongfully convicted for their loss of time and/or life. The reduction may also have a positive impact on the community, the victims as well as their families.

This research and its results will not only impact change within the judicial system but will affect social change. Social change can affect the mindsets, policies, and behaviors in order to encourage the exhibition of the ideals of diversity, equality, inclusion, and opportunity. This research study fosters social change in that it may contribute to the reduction of Type 1 and Type 2 errors. The occurrence of Type 1 and Type 2 errors has a negative impact on society. The wrongful convictions and acquittals of criminal defendants affect the defendant, the victim, the community as well as the system.

The defendant, if wrongfully convicted, is denied his or her liberty and civil rights and is subjected to the disciplinary structure of the prison system, all of which have negative psychological consequences. The psychological consequences of which include difficulties within relationships and mental or emotional instability and deterioration (Ground, 2004). Upon reentry into society, these individuals are more apt to recidivate given the psychological trauma that they have been unfairly subjected to. The victims in criminal cases who have resulted in wrongful convictions are also impacted. Victims not only have to endure additional criminal procedures in the event that another trial is required, but some may also feel remorse or guilt if their testimony (for example, a rape victim mistakenly identifies a defendant, who after serving several years in prison, is subsequently exonerated by DNA testing), resulted in a wrongful conviction.

Wrongful convictions and acquittals foster doubt within the minds of the community and creates an environment in which the community members no longer trust the system to protect and serve. Repeated wrongful convictions lead to decrease citizen cooperation with police and jurors who disbelieve prosecutors (Weinberg, 2009). The mindset created by the errors within the system creates a hostile environment and indirectly encourages some citizens to promote and engage in acts of vigilante justice. Therefore, steps taken to minimize the occurrence of Type 1 and Type 2 errors are proactive measures used to nurture varied aspects of both restorative and retributive justice.

Erroneous convictions and acquittals are not only miscarriages of justice that have an impact on the system but the defendants and victims as well. A reduction in these

errors will reduce the impact of these errors. A 2003 study conducted by the Life After Exoneration Program of 60 exonerates, researchers found that “nearly half of the exonerates suffered from depression, anxiety disorder or some form of post-traumatic stress disorder” (Scott, 2010, p. 13). Therefore, as a result of their wrongful imprisonment, these individuals are forced into a life that requires mental health treatment. These, among other impacts, are the results of wrongful convictions and wrongful acquittals.

This study was a quantitative observational research design where I examined the variables, training, juror misconduct, and occurrence of verdict errors. The significant points identified in Chapter 1 included the identification of the major purpose of the study, which was to determine the existence of a positive or negative relationship between training and juror misconduct as well as the relationship between juror misconduct and the occurrence of verdict errors. Prior researchers explored the impact of judicial misconduct, police misconduct, erroneous evidentiary proceedings, and so forth.

Additionally, the theoretical framework of the study was based on the SCT, which defined behavior as a continuous mutual collaboration between cognitive behavioral and environmental factors (Bandura, 1977). SCT’s concept of reciprocal determinism is essential to this study and the results. As previously mentioned, reciprocal determinism involves the relationship between the person, the behavior, and the environment, and these concepts guide the study.

### **Summary and Transition**

The goal of this chapter was to express the research problem, scope, purpose, and assumptions of the research study, in addition to presenting the research questions and hypotheses. In Chapter 1, I sought to clarify the specific elements, entities, and/or occurrences witnessed within the specified operation of the judicial process.

In the remainder of this research study, I further define and expound upon the scope and concepts relating to the occurrence of juror misconduct and Type 1 and Type 2 errors as well as data integration and analysis. In Chapter 2, I explore the literature as related to the problem statement and research questions aforementioned. In the literature review, I will identify and articulate the relationship between the literature and the specified field of research, while illustrating how the subject has been previously researched as well as highlight the gaps within the previous research studies.

## Chapter 2: Literature Review

### **Introduction**

The occurrence of Type 1 and Type 2 errors is a serious issue that continues to plague our criminal justice system. I explored the various factors that impact the occurrence of Type 1 and Type 2 errors within the criminal justice system. Current research covers a variety of topics, but as this review will show, researchers have failed to explore the impact of the lack of juror training as well as the impact of juror misconduct on the occurrence of Type 1 and Type 2 errors. This literature review serves to demonstrate how the decision making process of the jury is impacted by a variety of factors. Erroneous convictions encompass a variety of causative factors that can be the consequence of inadvertent errors or deliberate actions of misconduct. This literature review is organized into categories as follows: erroneous convictions and acquittals, impact of counsel (prosecutorial and defense misconduct), eyewitness misidentification, false confessions, and impact of juror misconduct/lack of training.

Taking into consideration the seriousness of the issues surrounding erroneous convictions and erroneous acquittals, it is certainly surprising that there is a severe lack of literature on the impact of juror misconduct on the occurrence of these types of errors as well as the impact that the lack of juror training has on the occurrence of juror misconduct. The literature that is available addressed the occurrence of Type 1 and Type 2 errors from a variety of perspectives, such as judicial misconduct, police misconduct, false witness testimony, prosecutorial misconduct, incompetent counsel, among other



factors, but researchers have failed to examine the impact of the mis-education of jurors and juror misconduct (Schwartz & Pratt, 2011).

The literature exploration is carried out from publications of law journals and various other databases for the purpose of identifying the data selection, screening, and analysis of data. A systematic literature search was undertaken using the databases, ProQuest, LexisNexis, Google Scholar searches, Thoreau database searches, dissertation searches, and Ebscohost for the purpose of identifying the documents that met specified inclusion criteria. Boolean operators “and” and “or” were used as appropriate searching strategies. Boolean logic is also a way of adding to, subtracting from, and multiplying search items in order to expand. The use of truncations (\*) enabled me to identify all possible endings to key terms written.

This literature review provides a detailed evaluation and assessment of various factors and themes that current research studies point to in regards to their impact on the judicial system and the occurrence of verdict errors. Keywords used throughout the search parameters included *erroneous convictions*, *wrongful convictions*, *erroneous acquittals*, *wrongful acquittals*, *juror training*, *police misconduct*, *prosecutorial misconduct*, *judicial misconduct*, *false witness testimony*, *evidentiary error*, *wrongful indictments*, and *SCT* as well as *social learning theory*.

The literature review is organized using six major topics of discussions. The topics addressed in this review are erroneous convictions and erroneous acquittals, impact of counsel, eyewitness misidentification and false witness testimony, false confessions, impact of juror misconduct, and SCT. In this literature review, I

demonstrate how previous researchers have highlighted other variables in the cause of Type 1 and Type 2 errors and failed to efficiently and effectively demonstrate the role that juror misconduct plays in the occurrence of Type 1 and Type 2 errors.

The section on erroneous convictions and erroneous acquittals shows current research in the area. Additionally, it provides crucial statistics and addresses the societal impact of these errors within the justice system.

The review of the theoretical framework based on SCT, also referred to as social learning theory, includes an assessment of the concepts of SCT and evaluates how SCT influences training and the impact of training on behavior. This section details how behavioral theory will provide a deeper look into how behavior is impacted by not only the training administered, but the behavior of others, the environment, and the people.

This literature review demonstrated the specifics of the impact of the occurrence of erroneous convictions and erroneous acquittals. There are various facets in which these errors are negatively impactful. The impacts to the community, society, and even the faith that citizens have within the judicial system must be considered. Additionally, I explore the factors surrounding the impact of counsel. As evidenced by other research studies, the misconduct of the defense and prosecutorial counsels have been assessed in reference with their contributions to the occurrence of Type 1 and Type 2 errors.

Eyewitness testimony, false witness, and false confessions are additional reasons why verdict errors occur. These sections highlight the details of what these factors are and also how they impact the occurrence of Type 1 and Type 2 errors and other areas of impact that these elements have. Lastly, in this literature review, I explore the impact of

the little research concept of juror misconduct as well as how the SCT explains the impact that juror misconduct may have on the occurrence of Type 1 and Type 2 errors. SCT demonstrates how the behavior, the person, and the environmental elements impact each other, and the role that this impact plays in the occurrence of these verdicts of error. SCT and its concepts of behaviorism illuminate how juror misconduct could have a detrimental impact on the occurrence of Type 1 and Type 2 errors in the judicial system.

The methodology of this research study was conducted using data collected through the observation of mock juror trials. The subsequent data were analyzed using correlation and regression analysis methods. Regression analysis involves identifying the relationship between a dependent variable and one or more independent variables. This measurement was done using correlation analysis to show if there is a relationship among the variables or whether one predicts the other. Employing this design allowed me to examine the correlation between variables, rather than causality (Creswell, 2009).

For the purpose of this literature review, the Walden library as well as Google Scholar was used to obtain the research resources documented in this study. Specific databases used were Dissertation and Theses, Dissertation and Theses at Walden University, Homeland Security Digital Library, LexisNexis Academic, ProQuest Central, ProQuest Criminal Justice, Sage Premier, Thoreau, SocIndex with Full Text, and the Inter-University Consortium for Political and Social Research to identify the most resourceful research articles and references. Governmental websites were also used in the search for research on the issues, such as the Bureau of Justice Statistics, National

Institute of Justice and the National Criminal Justice Reference Services, and Justice Research and Statistics Association.

The key search terms used for literature review were *juror misconduct*, *wrongful indictments*, *convictions*, *conviction of innocents*, and *jurors' training*. This study was particularly based on the quantitative method of research. This method is in contrast to the qualitative research method in the main aim to answer the research questions of the study. Moreover, I attempted to cater the exploration of innovative and newer levels of knowledge in an environment or setting that is natural (Creswell, 2008, p. 58).

For the purpose of this study, the terms of years searched were within the past ten years. I desired to be able to identify research studies less than five years old, but unfortunately, the majority of the data available were older than five years. The literature reviewed included dissertations and theses from Walden and other universities, journal articles, and other peer reviewed articles.

### **Social Cognitive Theory**

The theoretical basis upon which this study was established is SCT. SCT began as social learning theory and was then formulated by Bandura. There are six major constructs of SCT, which are reciprocal determinism, behavioral capacity, observational learning, reinforcements, expectations, and self-efficacy. Reciprocal determinism, observational learning, and expectations are the most influential constructs that impacted the variables of this study. As aforementioned, reciprocal determinism details the interaction between the person, the behavior, and the environment, while observational

learning behaviors are the results of modeling observations, and expectations refer to anticipated consequences of one's behavior (Bandura, 1978).

SCT finds its origins in social learning theory. Theorists, Miller and Dollard (1941), proposed the Social learning theory. In 1986, Bandura wrote *Social Foundations of Thoughts and Actions* and established the framework for SCT. Bandura's focus was on motivational factors and self-regulations, thus his proposal of the concept of SCT.

SCT is an appropriate theory to be applied in this study as the skills or knowledge acquired as a result of juror training will impact the occurrence of juror misconduct. SCT also purported that the behavior is impacted by behaviors; therefore, it can be assumed that the results, or Type 1 and Type 2 verdict errors, are impacted by the behavior known as juror misconduct. Lastly, the skills acquisitions resulting from juror training, as anticipated with SCT, a relationship or impact between juror training and the occurrence of a verdict error can be assumed.

The concept of SCT known as reciprocal determinism also played a major role in the assumptions presented in this study. As previously discussed, reciprocal determinism explains the relationship between the person, the behavior, and the environment. It is imperative to understand that the person could be the individual engaging in the behavior or other individuals. The behavior represents not only the behavior being examined but any behavior or actions occurring. The environment, lastly, includes a variety of factors composing the setting or surroundings. For the purpose of this study, the person(s) was representative of all of the individual juror members. The behaviors include the interactions between the juror members, training received, as well as the activities that

juror members engage in. The atmosphere of the study included the physical location and its characteristics or elements.

As stated before, SCT consists of six constructs, of which three will allow for me to demonstrate the potential relationship between the identified variables. Reciprocal determinism, observational learning, and expectations each highlight varied elements that support the existence of a relationship between the given variables. The basis of this study was to demonstrate the relationship, whether negative or positive, between juror training, juror misconduct and verdict errors (Type 1 and Type 2). The constructs identified within the SCT provided the vehicle by which this study was able to demonstrate the existence of said relationship.

SCT was used because cognitive psychology investigates human cognitive activity. As a reaction to behaviorism in the view in which man reacts to external stimuli, it was necessary to explore how individuals actively use themselves and their environment and the knowledge gained from operations as a basis. Cognitive function includes areas such as detection, interpretation, learning, remembering, inference, decision-making, explaining, and evaluating. Social psychology is primarily interested in social cognition—how the human cognitive processes affect social life and also how to edit the social life cognitive functioning. Cognitive psychology, in addition to the basic concepts of this section, shows the operation of explaining, the attitude of the research, and the development of cognitive theories. People cannot influence their own motivation and actions without paying attention to their own performances, the conditions surrounding their performances, and the outcomes. Therefore, success is partly dependent

on how close people can monitor their own actions. Depending on people's values and the importance of different activities, they tend to ignore those that are not important to them. However, self-monitoring is not simple.

As described in this theory, observational learning is a process that happens intentionally and unintentionally; therefore, one may or may not be aware of the given behavior. This speaks directly to the idea that jurors may engage in forms of juror misconduct and may be unaware that they have engaged in misconduct. The theory's concept of reciprocal determinism involves an individual's cognition and other personal factors, behaviors, and environmental elements that interactively function as determinants of the other (Bandura, 1963). SCT is a multifaceted theoretical framework that strives to comprehend human thought processes and behavior. Within SCT, behavioral, personal, and environmental factors influence people's thoughts and behaviors simultaneously in a reciprocal fashion (Bandura, 1978).

Overall, I sought to determine if the administration of juror training prior to the commission of their civic responsibility would have a negative or positive influence of the occurrence of juror misconduct and verdict errors. SCT stated that the person, the behavior, and the environment all have a reciprocal influence on each other; therefore, it is plausible to state that the behavior of training should impact the person (juror) and his or her engagement in behaviors of misconduct and verdict errors.

The research questions of this study built upon the theory of SCT as it allowed me to determine if proponents and concepts of SCT were consistent with the reciprocal relationship between the jurors, trainings, misconduct, and verdicts errors. The

affirmation of positive relationship between these variables provides another layer of validation to the application SCT.

In 2009, researchers Kanekar and Sharma conducted a cross sectional design employing SCT based interventions. The study's purpose was to determine predictors of safer sex behaviors among African American college students employing the concepts of SCT. The results of the study determined that self-efficacy towards safer sex was a statistically significant predictor (Kanekar & Sharma, 2009). Self-efficacy is one of the constructs of SCT, which is the extent to which one believes in his or her ability to complete a task or reach a goal (Bandura, 1977).

A study conducted in 2000 seeking to explain health behaviors among college students, more specifically condom use, found that interventions that focused on self-efficacy (a construct of SCT) reduced anxiety related to condom use and increased the likelihood of condom use (DiIorio et al., 2000). These researchers demonstrated that the constructs of SCT directly relate to the engagement of behaviors. As with this study, SCT provided a useful framework for understanding how determinants of behavior operate together to explain actions (Bandura, 1986, 1997).

Zikic and Saks (2009) used SCT to illuminate the relationship between activities relevant to the acquisition of a new career (i.e., training programs and others), self-regulatory variables, and variables from the theory of planned behavior and job search intensity. The results of the study demonstrated that career seekers who devoted more time to explore activities reported a higher level of job search clarity and self-efficacy (Zikic & Saks, 2009). In laymen's terms, individuals who engaged in more continuous



improvement, training, and other career based resources were better equipped to understand their job searches and felt better prepared and confident while conducting them. The results offer evidence that with the application of SCT, career seekers can improve their job search clarity/self-efficacy, which can result in the application for and acquisition of more or better opportunities.

A 2012 case study used a related method and SCT to explain instructional innovation. Within this case study, teachers received specialized training with the intent of changing their teaching methods. Bandura's SCT was used to support the framework for this study. I utilized the Constructivist Teaching Inventory in evaluating and scoring the data on teacher beliefs. The results of the study suggested to researchers that ensuring instructional innovation and reform is impacted by tools, resources and/or training aimed at increasing comprehension of new teaching methods. The study has social implications that provide a model of instructional reform that promote a more useful and resourceful method of learning (McCracklin, 2012).

SCT not only focuses on the person's egoistic tendencies but it also takes into consideration the environmental factors that impact behavior. SCT stressed the importance of observing and modeling behaviors, attitudes and emotional responses to individuals. SCT required a process of socialization, either by direction education, observing others and/or self-evaluation (Cumming, 2010). The major emphasis tends to be concerned with learning by observation and modeling. SCT is rooted in social learning theory, which originated from the theory of behaviorism. Though social learning theory shares its origin with behaviorism, it has evolved to encompass many of

the concepts that cognitivists hold and has become known as social cognitive learning (Abbott, 2007).

Behaviorism is defined as a developmental theory that measures observable behaviors produced by the learner's response to a given stimulus (Smith, 1996). Behaviorism, as a learning theory, tells us that learning is a consequence of environmental events. Triadic reciprocal determinism establishes that behavior, the individual, and the environment all have an impact on the other. Therefore, it is the assumption of this research that the provision of behavior modification training, such as juror training and education, may minimize the impact that outside forces have on the behavior of jurors. Smith (1996) wrote that behaviorism focuses on the study of behaviors that are observable, and thus measurable.

Bandura's (1989) SCT proposed that individuals contribute to their own motivation, behavior, attitudes, and knowledge. Bandura (1989) conjectured that teaching and learning are social activities; social interaction is an important concept in the process of learning. Therefore, if jurors engage in social interaction in the form of training, this might minimize the occurrence of certain adverse behaviors. SCT explains the acquisition and maintenance of behavioral patterns, while establishing a basis of strategic interventions (Bandura, 1997).

Fundamentally, SCT affirms that humans are not born with any specific patterns of behavior (Bandura, 1986). Rather, as humans grow and age, cues are acquired from their behaviors and personal experiences, and these factors impact and shape not only behavior but the environment and personal factors (Thompson, 2008). Sinclair and

Ferguson (2009) discussed SCT in relation to teaching and learning. Their approach sought to understand how people learn, as well as the effectiveness of learning (Sinclair & Ferguson, 2009). SCT has been utilized to examine teaching and learning strategies, and interpersonal behaviors and can clarify current behaviors and predict future behaviors (Nabi & Clark, 2008).

SCT posits that human behavior is a product of personal, behavioral, and environmental factors, which “all operate as interacting determinants that influence one another” (Bandura, 1999, p. 21). According to SCT, the environment, the person, thoughts, and behaviors all have an impact on one another. The constructs of SCT serve to aid in the explanation of the behavior change process. The constructs of SCT are: expectations, perceptions, self-efficacy, self-control, emotional coping, reciprocal determinism, reinforcements, behavioral capacity, observational learning (Bandura, 1999). These constructs direct the understanding of the learning and behavior change process.

Albert Bandura, within social learning theory, proclaimed that behavior is the consequence of cognitive and environmental factors that interact among each other, thus why it came to be known also as SCT (Bandura, 1963). The theory proposes that people learn deviant behaviors in a like manner as they learn behaviors that conform to the norm or non-deviant behaviors. Akers and Jensen wrote that social learning theory is also viewed as one of the major crime and deviance theories (Akers and Jensen, 2006). Akers also stated that criminal behavior is decreased or increased as per the associations that the

individual keeps (Akers, 1998). Therefore, if an individual has a greater exposure to criminal or deviant models, they will likely conform to such behaviors.

There are four key ideas that evolve with this theory, specifically, differential association, differential reinforcements, modeling and definitions (Akers, 1998). Social cognitive theory says that learning occurs when the individual engages or interacts with other people, places, behaviors or environmental factors and this sharing of diverse perspectives and experience lead to the development of a mutual basis of understanding (Cheng & Mattor, 2010; Brummel et al., 2010). Behavior is directed or impacted by the process in which these common understandings are created and thus, strategically develop actions to improve the situation or experience (Cheng & Mattor, 2010).

As previously discussed, the occurrence of Type 1 and/or Type 2 errors within the criminal justice system is a phenomenon that may have disastrous ramifications. Therefore, inquiry into the cause and effect of these variables is imperative. Other research has explored the various potential causes of Type 1 or Type 2 errors from other non-jury related perspectives. The absence of jury related inquiry as it relates to the potential impact on the occurrence of Type 1 and Type 2 errors is critical. Rational thinking tells us that if the result is the consequence of a given action, then the individual or entity responsible for the given action should be considered in any attempt to explain the result or the cause of the result. Failure to consider the agent by which an action is taken, results in an incomplete assessment of the phenomenon. It is therefore evident that the variables, occurrence of juror misconduct, occurrence of Type 1 errors and occurrence of Type 2 errors, and how they relate are essential.

### **Erroneous Convictions and Erroneous Acquittals**

Over the recent years an increasing amount of attention has been drawn to the issue of wrongful convictions and acquittals (McAuliff, Nemeth, Bornstein, & Penrod, 2003). Research in the area of erroneous convictions and acquittals has increased over the years. The criminal justice system and society have become more attentive to the serious nature of the problem and considering the greater focus given to these critical errors, the need to better understand what these occurrences are and what their causes are, is increasing. An erroneous conviction can occur when a defendant is convinced to plead guilty or nolo contendere to an offense of which he or she is factually innocent, or when a defendant is found guilty as a result of a jury verdict.

The current literature discusses the causes of wrongful convictions including, investigatory misconduct, eyewitness mistakes and prosecutorial misconduct (McAuliff, Nemeth, Bornstein & Penrod, 2003). As previously mentioned, erroneous or wrongful convictions and acquittals are verdict errors also known as Type 1 and Type 2 errors. This article aided in identifying the need to expound upon the impact that juror misconduct has on the occurrence of Type 1 and Type 2 errors.

Additionally, without regard to the actual guilt or innocence of a defendant, an erroneous conviction can also occur when the process of adjudication is tainted with errors that are irreversible errors or prejudice (Westervelt and Humphrey, 2001). Researchers, Westervelt and Humphrey, used this publication as a critique of the justice system. As with other sources, they attributed the occurrence of erroneous convictions with inadequate legal representation, racial bias, erroneous identification, and false

confessions. Additionally, the authors explored the “quality of information presented to the decision maker” (Westervelt and Humphrey, 2001, pg. 256). As with other studies, the process of jury selection and deliberation are not considered or discussed. Current research has continually overlooked the main decision makers of the courtroom and this can only have disastrous impacts. Overlooking the needs of the individuals that make the decision, which are classified as errors is a mistake and thus it is important for research to explore the various options that would improve the decision making of the jurors. One of the questions that guided this study was the identification of a relationship between training juror and the occurrence of verdict errors; exploration into this relationship could be beneficial in minimizing verdict errors.

One author stated that wrongful convictions should be renamed unlawful convictions (Bandes, 2008). Considering the abundant occurrences of erroneous convictions and erroneous acquittals, Bandes stated that it is important to learn from these occurrences and to “implement systemic reform” to minimize the occurrence of these errors in justice (Bandes, 2008). Bandes tried to focus on categorizing the issue as to who is considered “wrongfully convicted” and characterizing governmental misconduct. This researcher sought to expand the focus beyond the element of innocence, but rather to focus on a larger issue of injustice. The study targeted police and prosecutorial misconduct in framing the case of wrongful conviction. The research described a wrongful conviction movement which has the goal of impacting and implementing systemic reform (Bandes, 2008, pg. 23). Just as with other studies, the focus has been on the system and system elements that do not include the jury. This article further

supported the current research by directing the causes of verdict errors to other factors such as prosecutorial misconduct. This article lacked exploration into how the misconduct of jurors impacts the verdicts rendered, thus identifying the need to explore this relationship.

An erroneous acquittal occurs when a defendant that is factually guilty is found not guilty of an offense (Connolly, 1987). This study, unlike most others, focused on the jurors and their relationships to the occurrence of erroneous convictions and acquittals. Unfortunately, the study targeted their relationships per decision theory and sought to explain how they came upon their decision and how their understanding of reasonable doubt impacted the probability of the selection of the four possible decisions. There are four possible decisions to be made in a criminal court: Type 1 error, Type 2 error, guilty defendant is convicted, or innocent defendant is acquitted.

This article came near in examining the relationship between juror misconduct and verdict errors, but it took a different approach than that presented within the scope of this study. Unlike this article, the study presented sought to explore the narrower relationship between jurors, their behaviors and verdict errors.

Huff (2004) pinpoints various methods of misconduct which could result in the occurrence of a Type 1 or Type 2 errors, such as courtroom misconduct; mismanagement of physical evidence; intimidating witnesses; or the introduction of fabricated evidence. To date, unfortunately, there was not a collective data pool to track the occurrence of erroneous convictions and acquittals within the United States. The lack of this collective data makes it hard to accurately exemplify the magnitude of these errors within the

system (Huff, 2004). The current research study was guided by the questions of the relationship between juror misconduct, and training and juror misconduct and the occurrence of verdict errors and explorations into this relationship was essential.

This article discussed how post-conviction DNA exonerations forced wrongful convictions into the spotlight. Once again, this study attributed causes of wrongful convictions to eyewitness error, police and prosecutorial errors, false confession, false informants and so forth. The survey conducted in this study concluded that 79% of respondents ranked witness error as the major cause of wrongful convictions (Huff, 2004). Additionally, the study examined the Innocence Protection Act of 2003, which provided means of minimizing the risk of executing an innocent person, but more has to be done to minimize and eliminate the occurrence of wrongful convictions.

Though the American justice takes pride in its system of due process, there are some systemic errors that cannot be prevented (Colvin, 2009). Current research studies demonstrated that there are errors ranging from the investigation of the offense through the prosecution of the offenses. Researchers have identified an array of errors that defense attorneys, prosecution officials, police officers and other legal entities have engaged in, which are linked subsequent wrongful convictions (Colvin, 2009). Unlike other research studies, the proposed study sought to explore the errors of the jury that result in verdict errors as well as means of minimizing these errors.

A survey conducted by Huff estimated that the United States criminal justice system may produce an accurate verdict in approximately 99.5 percent of convictions (Huff, 2003). Considering the fact that there were 2.20 million arrests for index crimes



made in the United States in 2000, this would suggest that 7,500 resulted in erroneous convictions (Huff, 2003). Index crimes are criminal offenses reported in the annual Uniform Crime Reports (UCR) by the Federal Bureau of Investigation (FBI), which include aggravated assault, forcible rape, murder, robbery, arson, burglary, larceny-theft and motor vehicle theft (Levitt, 1998). Of these possible 7,500 erroneous convictions, there is no data collected to demonstrate the frequency of juror misconduct in these cases.

This article spoke to the heart of the issue at hand. Of the statistics presented, there are over 7000 people who were possibly wrongfully convicted and are serving sentences for offenses for which they are not guilty. Reducing these occurrences may be possible by various methods and thus, this study sought to examine if training jurors would have a negative or positive impact on the occurrence of verdict errors.

### **Impact of Counsel: Prosecutorial and Defense**

The Center for Public Integrity (CPI) conducted a research study and reported that prosecutorial misconduct played a central role in more than 2,000 cases that have resulted in dismissal of criminal charges, reversal of convictions and reduced sentences (Prosecutorial Misconduct Revealed by Research, 2003). Prosecutorial misconduct has certainly proven to be one of the most common causative factors that directly or indirectly impact the occurrence of Type 1 and Type 2 errors. The annual report by the Northern California Innocence Project identified over 92 cases of prosecutorial misconduct in the state which led to the setting aside of the conviction/sentence. This study demonstrated that prosecuting and defense attorneys have an impact on the occurrence of verdict errors. Considering the actions of the attorneys' impact the

verdicts, it is also logical to deduce that the actions of the juror as well may impact the verdicts rendered; thus, demonstrating the need to expound upon the research question of the relationship or impact that juror misconduct has on the occurrence of wrongful convictions and acquittals.

The concept of prosecutorial misconduct arose in the early 1930s with the case of *Berger v. United States*. Prosecutorial misconduct means “overstepping the bounds of that propriety and fairness which should characterize the conduct of such an officer in the prosecution of a criminal offense.” There are several methods in which a prosecutor could engage in misconduct, such as knowingly using perjured testimony, withholding exculpatory evidence, and extending due process to undisclosed evidence (Henning, 1999). The article examined how the court determines whether prosecutorial misconduct violates the rights of the defendant, as well as what the constitution provides as remedies for violations by the prosecution (Henning, 1999).

In regards to prosecutorial misconduct, the Constitution does not detail a methodology for deterring misconduct, but only provides a means of punishment, which could include relieving the defendant of the charges. Unfortunately, the occurrences at times result in Type 2 errors and guilty defendants are released due to technicalities. Type 2 errors open a window of rights to double jeopardy protections, which lead to loss of ability to render justice.

This article examined the various aspects in which attorneys can engage in misconduct and that these actions can result in verdict errors. This study aided in opening the discussion to exploring the various methods of juror misconducts, the factors

that impact the occurrence of juror misconduct as well as how juror misconduct impact the occurrence of verdict errors. As detailed in the research questions of this study, this article demonstrated the need to answer the questions of the impact of training on juror misconduct and the occurrence of misconduct on verdict errors.

The work by Dwyer, Scheck and Neufeld (2000) detailed the exoneration of ten men convicted due to various causes such as prosecutorial misconduct, flaws in the trial system, police misconduct and mistaken eyewitness testimony. Dwyer et al (2000) distinguished among several types of prosecutorial misconduct to include, but not limited to improper closing arguments, fabrication of evidence, false statements provided to the jury, coerced witnesses, and other misconduct. Additionally, prosecutors have purposefully destroyed evidence that may have proven a defendant's innocence, and this has resulted in the conviction of innocent persons (Dwyer et al, 2000).

In 1963, the United States Supreme Court ruled in the case of *Brady v. Maryland* that a prosecutor's participation in practices identified as misconduct exhibits a deprivation of due process, and consequently resulted in the overturning of hundreds of convictions because prosecutors engaged in such behavior (Dwyer et al., 2000). Type 1 and Type 2 errors are also the result of investigatory misconduct. The prosecution as well as police officials may engage in forms of investigatory misconduct. Investigatory misconduct was shown to be a substantial factor in 63 percent of the DNA exonerations that were assessed by the Cardozo Innocence Project (CIP) (Dwyer et al., 2000).

This study demonstrated the systemic impact that the occurrence of misconduct on the part of investigation officials as well as legal counsel among other entities. Taking

into consideration the concepts of SCT, one could draw the assumption that misconduct on the part of other judicial parties may impact the occurrence of juror misconduct and its influence on verdict error considering the fact that other judicial misconduct has been established as a cause of verdict errors.

Though prosecutorial misconduct has apparently contributed to the occurrences of Type 1 and Type 2 over the years, it has continued to go undetected and unpunished as the prosecutors pointed out that while a court may use the words "prosecutorial misconduct" to describe what happened, that term is loaded in the eyes of the public. To face reprimand by the State Board, a prosecutor must have intentionally made a mistake that deprived a defendant of his or her rights. (Grissom, 2012)

Based on this statement, one would draw the assumptions that prosecutors may not wish to accept the possibility of the impact of their actions, but one author wrote, "a crucial part of the problem rests in the hearts and souls of those whose job it is to uphold the law" (Bandes, 2008).

Taking into consideration the rate at which prosecutorial and investigatory misconduct occurs, one must question why it continues. Bandes (2008) wrote,

many of the problems that lead to wrongful convictions arise, not from identifiable individual intentions, but from incentive structures deeply imbedded in police culture, prosecutors' offices, and other agencies, abetted and exacerbated by political pressures and other external sources (Bandes, 2008).

This statement necessitated further inquiry to the subculture of the criminal justice and judicial system. This article exemplified the need to explore the impact that prosecutorial misconduct subsequently has on the jury and its members' actions as well as how the actions of judicial officials contribute to the jurors'.

Possley (2010) detailed the results of an extensive analysis of prosecutorial misconduct in the state of California. The Northern California Innocence Project (NCIP) conducted a study of more than 4000 state and federal cases that resulted in appellate court proceedings and discovered that 707 cases demonstrated evidence of prosecutorial misconduct with an additional 282 inconclusive (Possley, 2010). The analysis included cases from 1997 to 2009 and Possley calculated that an average of one case per week for 13 years involved some form of prosecutorial misconduct. Of the 707 cases, 548 of the convictions were upheld due to the courts' ruling the misconduct innocuous meaning that 159 convictions (or more than ten per year over the 13 year period) were overturned or set aside and the prosecutor had to retry the cases (Possley, 2010). The cases in which the prosecutor was required to retry not only cost emotional and financial stress on the defendant, his or her family as well as the victim and his or her family, but also has cost to the community as well as the system. Possley also noted that though these sometimes severe cases of misconduct occur, the state of California quite infrequently exacts disciplinary actions. Possley furthermore went on to state that 4,741 disciplinary or corrective actions were identified in the California State Bar Journal during the time period used within the study, but of those only ten incidents involved prosecutors. These

statistics go to support the idea that the risk associated with abuses of authority is outweighed by the benefits and incentives of a conviction (Possley, 2010).

Though there are a variety of factors that impact the occurrence of wrongful convictions, poor or inadequate legal representation is also a key contributor of wrongful convictions (Huff, 2002). An ineffective and incompetent defense team which fails to properly investigate, and prepare for trial has led to the convictions of many innocent people; and likewise, failure of prosecutorial counsel to prepare has led to the acquittal of many guilty people.

With the discovery of DNA, exonerations due to DNA testing is on a steady rise, but has also resulted in an increase of innocence claims post-conviction. This article discussed the facts that this issue is one in which prosecutors have not been quick to address (Boehm, 2014). The prosecutor's role is one as a "minister of justice", and they are supposed to rebut any claims of innocence that are presented, while maintaining their obligation to avoid wrongful convictions (Boehm, 2014, pg. 675). This article presented that of the many innocence claims, the vast majority are frivolous attempts and it is the job of the prosecutor to effectively distinguish between the factually valid claims and those which are not in a manner that is time and cost effective. Boehm (2014) presented suggestions of structural modifications and tiered review processes that will aid prosecution in the balancing act. Though the researcher understood the impact of the prosecution in wrongful convictions, this article, as with others failed to examine the role that the juror plays in processing the evidence presented by the prosecution which resulted in the verdict error.

Statistics demonstrate that 28 percent of erroneous convictions are the direct or indirect result of an ineffective and/or incompetent counsel (Rizer, 2003). This study examined the impact of race in reference to erroneous convictions and the role that eyewitness identification plays. This report furthermore went on to examine the problems with eyewitness identification. There are five problems discussed in this article, namely, (a) composition of the lineup may be suggestive, (b) cues from the lineup administrator may influence the identification, (c) witnesses may misunderstand the role of the identification procedure in the investigation process, (d) witnesses' confidence in the identification is susceptible to suggestions and subject to change, (e) beyond lineups, how eyewitness misidentifications happen in show ups and composites (Rizer, 2003). Lastly, this report detailed methods of improving eyewitness identification.

Prior research explored the impact of prosecutorial misconduct, but very little research has explored the subject from a social cognitive approach. Cummings' (2010) research explored how SCT examined the cognitive, and also the situational influences on the behavior of prosecutors leading to misconduct (Cummings, 2010). Cummings utilized SCT as well as Moral Disengagement Theory to examine willful and knowledgeable misconduct by prosecutors, rather than actions that prosecutors engaged in unknowingly. Prosecutorial misconduct presents a grave injustice to those that find themselves defendants in civil or criminal cases, but also to the victims and their families. When prosecutorial misconduct results in judicial dismissal, this leaves the system in a position of financial and time loss, and must retry the case. Judicial dismissal also causes hardship and emotional distress on the victim.

Unfortunately, not all occurrences of prosecutorial misconduct are identified and many times innocent defendants are convicted or guilty defendants are acquitted. The occurrence of these errors has devastating financial, emotional, physical, and psychological damage to the system, the community, the defendants and the victims. Prosecutorial misconduct, whether knowingly or unknowingly, may impact jurors and their ability to properly devise a decision. The misconduct of the counsel may even result in or impact the occurrence of juror misconduct. This opens another window for further inquiry on the relationship between prosecutorial misconduct and juror misconduct.

### **Eyewitness Misidentification and Testimony**

A study completed by the Innocence Project showed that nearly 75% of DNA exonerations evaluated were the results of eyewitness misidentification. Unfortunately, this study only evaluated the first 239 DNA exonerations and researchers have limited the scope of their analyses to the obvious factors of influence, but have continued to overlook the influence of the individuals that make the final verdict decisions. This study by the Innocence Project compared eyewitness misidentification, invalid/improper forensic science, false confessions, and informant testimony, but does not explore other viable factors such as juror misconduct and its impact.

Sandra Thompson, author of *Judicial Blindness to Eyewitness Misidentification*, emphasizes the impact of eyewitness misidentification of innocent defendants. When eyewitnesses misidentify defendants, this certainly can and does result in the occurrence of Type 1 errors. The research conducted in this study challenges the legality of the processes and procedures that are used in eyewitness identification. The authors describe



the leading cause of Type 1 errors or wrongful convictions as eyewitness misidentifications, and that they play a role in 75% of all wrongful convictions (Thompson, 2010, p 639).

The study notated that there are several factors that impact or create unreliable eyewitness identifications, such as the environment that the witness observed the defendant within (i.e. diminished lighting), use of disguises, age of the witness, and potential substance use factors could impact the identification. As of the writing of this study, hundreds of defendants have been exonerated and eyewitness misidentifications have played a role in several of these cases.

Clearly, eyewitness misidentification does have an impact on the occurrence of Type 1 errors, but this article does not explore several of the other factors that impact its occurrences, such as juror misconduct. One does begin to question how jurors handle the false evidence they receive and must examine. Understandably, misidentifications are critical factors, but the research seeks to understand the potential influence that training could have on reducing the impact of those misidentifications as well as ensuring that the jury properly handles that evidence.

Eyewitness identification is a critical element to criminal apprehension and prosecution. A study conducted by Rattner (1988) surveyed literature cases of wrongful convictions and detailed this finding by describing the distribution of the offenses, sentences and types of errors that resulted in the Type 1 error. Rattner reviewed 205 cases of proven wrongful convictions, and determined that 52 percent involved faulty eyewitness identification and testimony (Rattner, 1988). Eyewitness evidence is an

important resource used to exonerate innocent individuals, but can certainly have an adverse effect of promoting the acquittal of a truly guilty defendant.

The distribution of the types of errors contributing to the wrongful convictions included eyewitness misidentification, perjury by witness, negligence by criminal justice officials, pure error, coerced confessions, frame ups, perjury by criminal justice officials, identification by police due to prior criminal record, forensic science errors, and other errors(missing data) (Rattner, 1988, pg. 291). Once again, the jury and the actions of its members are not considered in the cause of wrongful convictions. Clearly, there are other variables that contribute to the occurrences of Type 1 and Type 2 errors, but there is not significant research on the impact of juror misconduct.

Taslitz (2013) wrote about the cognitive science of improving jurors' ability to identify eyewitness errors, specifically those that are racially tainted misidentifications. As described in other studies, eyewitness misidentifications are a contributor to wrongful convictions. This study explored the various procedures used in identification, such as live line ups, photographic line ups, and live show-ups. Prior studies proposed that twenty percent of the times witnesses identify the innocent space filler from the line up (Taslitz, 2013).

The author wrote about the principles of drafting and utilizing good juror instructions as well as how to encourage juror compliance and methods to de-bias how jurors treat the evidence. These concepts are critical in teaching jurors how to identify eyewitness error, and the research questions in this study build on these very concepts.

Training jurors how to comply with appropriate juror conduct, as well as de-biasing how jurors treat evidence are crucial factors in avoiding juror misconduct.

There is an inherent danger in dealing with eyewitness testimony. Eyewitnesses are more likely to make a false identification in the absence of properly conducted lineups. Therefore, eyewitness identification is subjective to the techniques utilized and may have detrimental results. Processes and procedures used to acquire eyewitness identification can be detrimental and result in an error (Huff, 2003). Taking into consideration the persuasive nature of eyewitness evidence, as well as the intrinsic danger of misidentifications, it is essential to take an evaluation of the policies or procedures that impact or are impacted by the eyewitness identification. It is the responsibility of the criminal justice system to ensure that only reliable and accurate evidence and information is submitted into court and presented to the jury. The role of the jury is a significant and critical one; the jury is already presented with the task of deciphering the evidence and applying the law, therefore, it is imperative that they be presented with accurate information. Among the various other causes described, eyewitness misidentifications as well as false witness testimony are significant causes leading to erroneous convictions in the United States (Huff, 2003).

As has been established, eyewitness testimony is a crucial element in convicting a suspect, and according to Joffe (2010), eyewitness testimony has been considered faulty due to reconstructing memory. Joffe presented the facts that studies have shown and researchers have cautioned the court system of the unreliability of eyewitness testimony (Joffe, 2010). The system has continually failed to effectively and efficiently address

the issues and implement methods to safeguard against the reliance on faulty eyewitness testimonies.

Eyewitness testimony is quite problematic as human perception is inherently unreliable, humans are susceptible to suggestions and eyewitness testimony is weighted heavier though it is unreliable (Greene and Loftus, 1984). Due to the problems presented with eyewitness identification, many innocent men and women have been erroneously convicted. The study by Green and Loftus (1984) examined four specific solutions to minimizing and/or possibly eliminating their occurrence and impact.

This study made specific mention of the jury and how they play a role in minimizing the impact the faulty eyewitness testimony has. The researchers suggested that the judge should provide specific instructions to the jury in reference to how they should handle eyewitness testimony, as to ensure that they properly understand, utilize and incorporate the testimony provided (Greene and Loftus, 1984). This aspect of the study began to identify the importance of the jury, but does not completely identify the impact of the jury. The jury may process the eyewitness testimony incorrectly or even place more weight on the testimony than deemed necessary, and this is a method of misconduct that the researchers failed to expound upon in the study.

### **False Confessions**

Among the other factors that receive an abundance of attention in regards to the causes of wrongful convictions or acquittals, false or coerced confessions are important contributors (Huff, 2004). Over the years, and with the admissibility of DNA evidence in criminal prosecution, more focus and attention has been placed on the issues of coerced

false confessions. Questions arise as to how or why an innocent individual would admit guilt for a criminal offense that he or she did not actually commit. Huff (2004) stated that false or coerced confessions are often related to suggestive interrogations (Huff, 2004, pg. 111). Fifteen out of 62 post-conviction DNA exonerations involved false confessions, which are approximately 25% of the identified exonerations (Huff, 2004, 111).

Huff (2004) went on to explore other occurrences that contribute to the occurrence of Type 1 and Type 2 errors which include eyewitness error, overzealous police officials, prosecutorial misconduct, perjury, community pressure and forensic errors. As to be expected the jury and its actions are not considered as a possible influence on the occurrence of these errors. If the jury renders the verdict, which is the error itself, why is the jury overlooked in the cause of the error?

Often times the psychological pressure from extensive and tiresome questioning during police interrogations, defendants feel they have no other choice but to admit guilt. After hours of intense interrogations, an individual who provides a false confession fails to fully appreciate the consequences associated with his or her confession. This mentality is caused by the continued implication that a confession will be rewarded with lenient sentencing or going home. A study conducted by Kassin demonstrated that 20 to 25 percent of DNA exonerations involved defendants who previously confessed to the offense (Kassin, 2008, p. 249).

Kassin (2008) classified false confessions into three categories: voluntary, compliant and internalized and additionally identifies a process which results in these

false confessions. Kassin suggested that police misjudgment of truth, police interrogation tactics and juror failure to discount apparent coerced confessions are directly related to why false confessions occur, which result in verdict errors. Kassin hits home with the suggestion that jurors' failure to discount apparent coerced confessions result in verdict errors. These actions by jurors are considered misconduct and clearly influence the verdict rendered.

In a study conducted by Kassin, mock juries were presented three versions of a confession in the same murder trial. One confession was high pressure; one was low pressure and one was a no pressure-control group. The conviction rate for the no pressure control group was 19%; whereas, the conviction rate for the high pressure confession was 47% (Kassin, 2008, pg. 252). Clearly the juror response and handling of the confession was different for each pressure scenario, therefore, it is imperative to explore the impact of jury and its decision making process.

Other articles described the widespread nature of the occurrences of wrongful convictions with the American criminal justice system. Leo and Drizin (2012) posited that many studies have established that false confessions are a leading factor in the occurrence of wrongful confessions (Leo and Drizin, 2012). Collins et al (2009) supported the idea that a defendant's confession to a criminal act of which he or she is factually innocent is the second leading cause of wrongful conviction (Collins et al., 2009). The article explored possible causes of false confessions, such as a police induced confession, but the authors suggested that the resulting wrongful convictions are not impacted by the type or impetus for the confession.

In a study by Radelet, Bedau and Putnam (1992) of the leading causes of erroneous convictions, false confessions were one of the top three. False or coerced confessions are the results of not only police pressure, but also prosecutorial pressure. It is impossible to provide an approximation of the occurrence police or prosecutor induced false confessions though they do regularly occur. In this study, approximately 90% of the case studies involved some instance of “official judgment of error” and 10% were classified as “unofficial judgments”. This resource provided critical data needed to shape, and define the awareness of criminal justice related issues. *In spite of innocence* raises awareness by detailing several specific cases involving wrongful convictions and the actions which led to the occurrence of these errors.

*In spite of innocence* did discuss the juror and its possible impact to some extent, in that, it acknowledges that jurors bring to the jury their own life experiences, personal biases and perceptions. Unfortunately, the authors did not further expound upon the specific impact that these individual traits have on the occurrence of misconduct as well as the verdict rendered by the jury. It is important to understand that any given juror’s personal experiences and biases will have an impact on their behaviors as well as their decision making.

Dwyer, J., Scheck, B., and Neufeld, P. (2000) found that there was a significant correlation between exonerations and false confessions. Research data presented by Dwyer et al’s (2000) study showed that twenty-four percent of the criminal defendants in a study, who were exonerated by DNA, had previously confessed the crime of which they were factually innocent. A study presented by Gross et al. (2005) examined 328

exonerations also showed that 15 percent of the defendant initially confessed to the crimes for which they were charged.

In a study by Klaver, Lee and Rose, they wrote that “in simulated juror studies, confession evidence has demonstrated stronger impact on verdicts than eyewitness testimony or character evidence” (Klaver, Lee and Rose, 2008, p. 71). The study results suggested that the most influential method of persuading a confession, regardless of factual guilt, is to make suggestions of guilt. Unlike other research studies, Klaver et al (2008) suggested that certain interrogation tactics were less likely to evoke a confession of guilt.

Clearly false confessions have a significant impact of the jury and their decision making process, but this study as the others did not examine the impact that the jurors themselves have on the verdict decision. If factors external to the jury process and procedures may have such a significant effect on the jury decision, then it is not too far-fetched to deduce that the jurors and their actions have a direct impact on the jury decision.

Malloy et al (2014) conducted a study to examine the frequency of false confession among youths as well as qualitatively expound upon interrogations by police/lawyers and the impact of these interrogations on the occurrence of false confessions. The study demonstrated a 17.1% false confession rate as well as an 18.1% false guilty plea (Malloy et al, 2014). These false confessions and false guilty pleas were the result of intensive interrogations and threats by both police officers and prosecution. Interrogation techniques such as befriending, deception, verbal insults, threats, refusals



and use of forces are tactics reported by the youth in the study as methods used by police and prosecution to solicit a confession. The results of the study demonstrated a necessity to require training for those interrogating youth defenders as well as ensure other methods and procedures to minimize interrogation techniques which result in false confessions. Though this study is very informative, there are limitations identified, such as limiting the study to only male youths. Female youths may demonstrate different responses to the tactics used by police and prosecution.

Furthermore, false confessions and false guilty pleas resulted in the occurrence of Type 1 errors or erroneous convictions. Unfortunately, Type 1 errors that result from false confessions and false guilty plea sometimes require greater lengths to exonerate and disprove. It is imperative that the criminal justice system ensure that it does not behave in a manner that causes Type 1 or Type 2 errors.

Perillo and Kassin (2011) conducted a study to assess the impact of bluffing on the rate of confession and ultimately, the rate of false confessions. The study held three separate experiments which indicated that (1) bluffing increases false confessions, and (2) innocent participants saw the bluffs as promises of possible exonerations which led to false confessions. Historical data demonstrates that “confession evidence has been implicated in numerous wrongful convictions—including 20–25% of DNA exoneration cases in the United States” (Perillo and Kassin, 2011 and Garrett, 2008). The study concluded that bluffing tactics put factually innocent defendants at a greater risk of making false confessions, resulting in a Type 1 error (Perillo and Kassin, 2011).

A study conducted by Leo and Liu (2009) included a survey of possible jury members in an effort to expound upon their understanding of the interrogation techniques and false confessions (Leo and Liu, 2009). Most people do not consider the importance of confessions in investigating and solving crimes. Police and prosecutors understand that eliciting a confession from a defendant and convincing them to plead guilty eliminates the need to obtain further evidence and the system can move on to the next case. Results of the study demonstrated that interrogation techniques are coercive and may result in true confession, but did not believe that they would result in false confessions. This study served to demonstrate that juror understanding and perception can impact his or her decision making ability.

Participants in the study did not feel that intensive interrogation techniques would result in false confession, therefore, jurors are more apt to accept false confessions without further consideration of the possibility. This study supported the need for informing jurors of the research on coercive interrogation methods and the impact of these techniques. Failure to properly educate jurors can result in their making errors in judgment.

Researchers have distinguished between the various types or forms of false confessions, which are voluntary false confessions, coerced, and coerced internalized (Kassin, 1997). A voluntary false confession is described as a self-incriminating statement that is the result of no external pressure (Kassin, 1997). A coerced false confession occurs when an individual confesses to an act they did not commit, as a means of escaping intensive interrogative tactics utilized within interviews conducted by police

officials (Kassin, 1997). Coerced-internalized false confessions occur when a suspect confesses as a result of internalizing the guilt and subsequently accept culpability (Kassin, 1997).

A study conducted by Garrett (2010) examined the substance of false confessions. Many fail to understand how an innocent person could be convinced into lying and making a false confession, knowing that it will result in his or her conviction and punishment. This study additionally assessed the content of interrogations as well as confession statements. The phenomenon Garrett chose to study is the contamination of confessions. The article promoted systemic reforms that could minimize contamination of confession and subsequently, reduce the occurrence of Type 1 errors. Garrett (2010) stated that certain criminal procedures render the substance of confessions unreliable and result in injustice. The study proposed that false confessions were the result of deceptive techniques, suppression, use of expert witnesses, and feeding defendant information.

A study of exonorees demonstrated that all but two cases included methods of coercion which resulted in false confessions (Garrett, 2010). Fortunately for those in the study, they were ultimately exonerated of the criminal offenses for which they were convicted, but it is imperative to understand that the majority of wrongful convictions go unsolved.

An empirical study conducted by Gould, J., Carrano, J., Leo, R., & Hail-Jares, K. (2014) used ten variables to account for the causes of erroneous convictions. The study was conducted using experimental and control groups. The factors selected for the study included age, criminal history of the defendant, punitive nature of the state, *Brady*

violations, forensic error, weak defense, weak prosecution case, the existence of a family defense witness, non-intentional misidentification, and lying by a non-eyewitness (Gould et al, 2014, pg 515). As stated in the study, this study reports from the first large-scale empirical research project assessing the impact of the given variables and erroneous convictions. The results of the study indicated that the issues within the justice system results in convictions of innocent persons as well as hinders the proper prosecution and conviction of factually guilty persons.

The study was an excellent example of which to compare the proposed study. The researchers did an excellent job in identifying factors that impact the occurrences of these verdict errors, but like others they fail to identify and expound upon the potential impact of the individuals actually rendering the verdict. This study as with other studies, served to support the identification of the gap within the current literature.

### **Impact of Juror Misconduct**

While the present research provided a solid foundation in discussing the factors that result in wrongful convictions and wrongful acquittals, there are still obvious gaps in the literature that must be filled. Juror misconduct has been overlooked in prior research as an impact or factor in erroneous convictions or acquittals. Jurors are human beings with prejudices, preconceived notions and biases, which are typically unfavorable to defense teams (McAuliff, Nemeth, Bornstein, & Penrod, 2003). Subsequently, the biases and errors made by jurors can have a negative impact on the verdict rendered by the jury.

The laws governing the misconduct of jurors in the United States are rooted in the constitutional right to a fair and impartial jury (McAuliff, Nemeth, Bornstein, & Penrod,

2003). Jurors are expected to make ruling solely on the facts presented during the trial. The standard jury instructions elaborate on this duty and jurors must swear to uphold it (McAuliff, Nemeth, Bornstein & Penrod, 2003). Unfortunately, many times members of the jury fail to fulfill the duties they have sworn to uphold. Interactions or postings with fellow colleagues on social networking sites fall into the category of juror misconduct as well (McAuliff, Nemeth, Bornstein & Penrod, 2003). McAuliff, Nemeth, Bornstein & Penrod (2003) wrote that the Supreme Court expressed the central rule on external communication with jurors. The court stated that any contact, private communication or tampering with juror during proceedings is considered presumptively prejudicial. Despite the far-reaching constitutional protections enshrined in the American justice system, numerous defendants are wrongfully convicted or acquittals. Wrongful convictions and acquittals are grave injustices to the defendant, the system, as well as the American people. Other juror related problems include jurors' inability to accurately comprehend the credibility of facts presented by the expert witnesses (McAuliff, Nemeth, Bornstein, & Penrod, 2003).

Juror misconduct occurs in different ways. For example, a juror who intentionally lies during voir dire has engaged in juror misconduct (Rotteinstein, 2010). Further, jurors that neglect jury instructions commit juror misconduct. Juries are instructed to consider only the facts they have gathered in courtroom when determining the case. Therefore, jurors who discuss a pending case with their friends or spouses who are not members of the jury have also engaged in acts of misconduct. In most high profile cases, juries are

sequestered in an effort to deter this kind of accidental or intentional juror misconduct (Rotteinstein, 2010).

The research provided by Rotteinstein is resourceful and certainly guides future study. When juror misconduct is discovered and has impacted a given case, a new trial can be ordered. It is important to pinpoint that the research does not address the fact that most occurrence of juror misconduct go undiscovered for years or even forever. What happens when a juror's actions of misconduct in a case result in a verdict error, but the juror's actions go undiscovered? Unfortunately, an innocent individual pays the price for his or her error, or a guilty individual is acquitted and the victim as well as society pays the price. Thus, the importance of this study was identified. It is imperative to identify, minimize and/or eliminate the occurrence of juror misconduct.

An article by Kiernan and Cooley (2012) examined the background of juror misconduct, court reaction to occurrence of misconduct, and how the juror's use of social media results in juror misconduct. The U.S. jury system is certainly not without its critics. With such cases as O.J. Simpson and Rodney King, the jury system has been the recipient of much criticism and complaints (Kiernan & Cooley, 2012). The state and federal constitutions assure a defendant indicted of an offense the right for a trial by an impartial and unbiased jury. A juror who is biased is deemed unfit to exercise his duty; hence, is subject to be substituted and discharged. Unlike so many studies, this study indirectly acknowledged the impact of juror misconduct on the occurrence of erroneous convictions and acquittals. The study identified cases that were overturned because of later discovered juror misconduct (Kiernan and Cooley, 2012). For example, as stated in

the article, a Maryland first degree murder conviction was overturned as a result of discovering that a juror had conducted self-research via Wikipedia (Kiernan and Cooley, 2012, pg 188). Though the study cannot guarantee that the conviction was the result of the information that the juror member obtained from the internet, the impact of the information is not totally known, and neither can it be determined if the information was factually accurate. Therefore, the court ruled that the information obtained may have impacted the jury's verdict. Clearly, this study supported the proposed study and demonstrated the impact that juror misconduct can have on the occurrence of Type 1 and Type 2 errors.

The article details the case *United States v. Benally*, in which the Court of Appeals invalidated deliberations and verdict rendered due to juror testimony concerning racial comments made during deliberations (Pond, 2010). These actions demonstrated juror misconduct, which could have resulted in a verdict error. Though several dissenters disagreed and presented their arguments against the court's decision, it is important to consider that a juror's personal and racial biases impacted a decision that should have been made in an unbiased manner as the rights to trial by jury require (Pond, 2010). One juror member's expression of racial biases could have contaminated the jury deliberations and negatively and or positively impact the other juror's decision making. Taking into consideration the fact that any defendant has the constitutional right to a fair and unbiased trial, the actions of the jury were unconstitutional, and misconduct was clear. The study proposed may result in the establishment of viable reforms which will minimize the occurrence of this method of misconduct.

Psychologists have comprehensively researched problems related to jurors' lack of proper training, and these problems result in wrongful convictions and acquittals. Several studies reveal that most jurors barely understand their judicial roles, responsibilities, and duties. Elwork, Sale & Alfini (1997) explained that scarcely 40 percent of the jurors questioned actually comprehended the instructions provided by the judge. The article detailed two studies conducted to ascertain the validity of criticism of the jury instructions as well as to determine viable solutions to the problem if it is validated. Criticisms of the jury instructions involved jury decisions based upon improper and/or absence of understanding the instructions themselves. The first study determined that the criticisms were valid (Elwork, Sale and Alfini, 1997). Subsequently, the second study determined that rephrasing the instructions as well as providing instruction before hearing the case as well as immediately before deliberations, resulted in significant improvements of their understanding and ability to apply the instructions (Elwork, Sale and Alfini, 1997).

These studies demonstrated impact of SCT's concepts. Jurors were provided with instructions that they could comprehend, and due to their comprehension, they were better equipped to perform their duties and more readily able to make informed decisions rather than arbitrary decisions. Training jurors in reference to their roles, responsibilities, duties, rights and limitations may then result in better comprehension of their roles as well as minimize the occurrence of misconduct and verdict errors.

The efforts to rewrite basic guidelines in a more simplistic terminology have improved jurors' understanding of procedural requirements including the presumption of



innocence (Charrow & Charrow, 1979). This study was an empirical, objective linguistic study that sought to explore the comprehension of the legalese of jury instructions. The results of their experiments supported their hypotheses that (1) standard jury instructions are not well understood, (2) certain linguistic constructions are incomprehensible, (3) problems with comprehension would improve with certain reform in wording (Charrow and Charrow, 1979, pg 1358).

Considering the implications that these studies provide, it is clear the soundness and confidence in the jury system should be questioned. The Charrow and Charrow (1979) study demonstrated a dire need for more inquiry into the issues surrounding the jury system. Therefore, it is imperative that the jury system be examined and reforms made, thus the purpose of the study presented. This study sought to determine if juror misconduct impacts the occurrence of verdicts errors, and if so, would proper training minimize the occurrence of juror misconduct.

Although jurors are expected to determine whether the accused are innocent or guilty, some researchers assert that at times jurors lack the ability to reason (Hoiberg and Stires, 1973). Both actual jurors and mock jurors often underutilize probabilistic information, have problems comprehending statistical testimony, fail to recognize scientific flaws and neglect to consider samples presented when drawing conclusions (Hoiberg and Stires, 1973). The experiment by Hoiberg and Stires tested the effects of different types of pretrial publicity. The study demonstrated that pretrial publicity was high in each form of pretrial publicity and resulted in higher rates of conviction among

female jurors. In regards to male jurors, pretrial publicity did not significantly influence rate of conviction (Hoiberg and Stires, 1973).

The study served to support the fact the jurors are impacted by various elements and their subsequent decision can be influenced. It is important to minimize the variables that impact the jurors and their decision making. Since it is impossible to completely eliminate predispositions and occurrences of pretrial publicity, the system must develop reforms which will circumvent the effects of those occurrences. The study presented explored and determined viable options to this issue.

Lack of psychological training is connected to the incompetence of individuals who act as jurors in the legal system and is a reflection of unfair verdicts passed by jurors. Nisbett argued that lack of scientific education deter the ability of laypersons to analyze scientific problems reasonably (Nisbett, 1993). Criminal cases, many times, involve language that is technical or expert in nature and jurors are expected to understand and properly examined all the evidence. If individuals do not fully understand the evidence or the instructions provided, they cannot be expected to be able to properly assess the evidence or provide a valid and informed decision.

The concepts of trial ethics and the need for jury research are expanding significantly, especially considering the technological advancements of the 21<sup>st</sup> century. Hoffmeister (2012) described how the Digital Age has made it significantly easier to violate courts' instructions against juror research and communications. Hoffmeister presented several suggestions on solutions to the occurrence of such violations, such as increased penalties, improved monitoring as well as improved juror instructions (2012).

This article admitted that these measures may provide short terms results, but that a more effective method is needed; thus, the purpose of this study, which is to determine if training would possibly have a positive impact on the occurrence of juror misconduct.

According to Pizzi (1996, p. 1035) in spite of how creatively the evidence is presented or crafted, or how well the investigatory procedures are configured, the jury system remains weak in hands of untrained jurors (Pizzi, 1996). Pizzi stated that society expects to hold a significant level of confidence that the trial system will be able to effectively and efficiently manage the criminal and or civil cases presented (Pizzi, 1996). The study noted the O. J. Simpson trials, but did make mention of other significant cases, such as the Rodney King trials. Furthermore, Pizzi proposed that racial divides and societal problems were aggravated by an ineffective trial system, and much of the problem rests in the inadequacies of the jury. This study supported the need to make reforms to the jury and the training and education they receive.

In a survey of jurors, only three percent acknowledged their inability to analyze information; the same jurors failed to answer 30 percent of questions related to legal judgments (Saxton, 1998). A survey by Ellsworth (1989) reported that the jurors surveyed failed 35 percent of the critical true–false questions shortly after being served with judicial instructions (Ellsworth, 1989). Ellsworth (1989) noted that untrained jurors were unable to apply the law when compared to trained jurors.

As humans we do not want to appear incapable, or ignorant, thus explaining why so few jurors acknowledged their incompetence. If an individual does not understand legal judgment, how can they render an accurate verdict? The survey by Ellsworth

identified other factors that must be examined as well. If the jurors failed 35 percent of critical questions immediately after receiving the judge's instructions, how can they be expected to properly weigh the evidence and render an accurate verdict? Ellsworth went on to support the notion of necessary training for juror prior to their participation as this may better equip them to understand their roles, responsibilities and duties.

Taylor (2014) explored the impropriety of the jury and how the occurrence of juror misconduct created distaste within the community. Occurrences of juror misconducts have caused society to question the ability of the jury to understand and effectively fulfill its obligations (Taylor, 2014). As with other studies, Taylor discussed the impact of social media and technology on the jury, and the need to ban access to such resources. The author noted that a total ban would be unreasonable, but there was an expressed need to limit such. Taylor highlighted a few specific examples of juror misconduct and their impacts, such as referencing additional material not presented at trial, improper approaches or contacts, dissension among the jurors, and inadvertent acquisition of information (Taylor, 2012). All of the aforementioned are methods of misconduct that, if not properly trained to identify and avoid, jury members may intentionally or unintentionally engage.

Psychological investigations conducted in order to look into the decision making process of the jury demonstrate various severe defects in the constitutional right to a jury trial which leads to wrongful convictions or acquittals. These problems include jurors' failure to understand judge's guidelines (Shaw and Skolnick, 1995), and jurors'

prejudices developed from pretrial publicity, which undermines their capacity to remain impartial (Moran & Cutler 1997).

These articles demonstrated the impact of the jurors and their mindsets biases and prejudices. The study by Shaw and Skolnick (1995) assumed that prohibitive nor informative jury instructions would not be observed. The study observed 316 mock jurors who were required to read one of four versions of a criminal case (Shaw and Skolnick, 1995). Within these cases, there were different types of instructive, races, and were examined based on individual and jury verdicts. The results of the study demonstrated that jurors reactions adhere more closely to informative methods of instruction over prohibitive (Shaw and Skolnick, 1995). The effects of this study revealed that juries may be better at performing their duties if they are better informed. Different individuals within a jury panel will respond differently to the same information that they are provided; therefore, ensuring that all jury members are properly trained and educated can possibly minimize the occurrence of violations of their civil responsibilities.

Jury confusion or failure to comprehend regarding the standard of proof and the presumption of innocence are of social concern. According to Lieberman & Sales (1997), only one-sixth of jurors are able to rephrase the presumption of innocence. Lieberman & Sales (1997) explained that about 50 percent of jurors believed that defendants must present evidence of their innocence. Forty percent of jurors believed that the actual issuance of charges constitute guilt. These statistics demonstrated how failure to properly train jurors can have detrimental effects. If a juror believes that a defendant must present evidence of his or her innocence, and the defense does not do so, then that

particular juror is likely to present an erroneous verdict. It is not the responsibility of the defense to present evidence of innocence, but rather it is the prosecution's job to prove the defendant's guilt, and the failure of the jury to properly understand the role, responsibilities and duties of all the parties in the courtroom can result in errors.

Therefore it is imperative that we understand the impact that training has on the jurors and subsequent misconduct. Likewise, it is critical to examine the impact that juror misconduct has on the occurrence of erroneous convictions and erroneous acquittals. Prior research has certainly provided an abundance of information concerning the impact of other variables and factors, but the impact of the insufficient training and juror misconduct must be assessed.

Current literature research in this area concentrated on Type 1 and Type 2 errors being results of prosecutorial misconduct, police misconduct, false eye witness identification and testimony, false confessions, faulty evidence or even investigation errors. The current literature focused on the indirect links to the occurrence of Type 1 errors and Type 2 errors. Prosecutorial misconduct can result in a Type 1 error due to errors such as withholding evidence that would benefit the defense, for example. Police misconduct could result in a Type 1 error by engaging in unethical interrogation strategies that result in a false confession. False confessions are in essence Type 1 errors, as they require an innocent individual to confess to an offense for which he was factually innocent. Errors in the investigation could result in Type 1 or Type 2 errors as they could cause the prosecution to try an innocent person, which may result in conviction, or they may fail to provide crucial evidence to support the prosecution's case, which would have

led to an accurate conviction. Admittedly, these variables or factors are valid in regards to their potential to result in an erroneous conviction or erroneous conviction, but there are other substantial variables that must be considered.

As mentioned earlier, the current literature did not include a complete study of all of the variables that have an impact on the occurrence of Type 1 and Type 2 errors. The current research has failed to properly examine the impact of the jury itself on the occurrence of Type 1 and Type 2 errors. It is imperative to fully consider and investigate the impact of the jury and their possible misconduct. One may ask why we would assume a relationship between juror misconduct and the occurrence of Type 1 and Type 2 errors, but it is critical to understand the role of the decision maker. The jury renders the verdict, so if the verdict is one of errors, it is logical to assume that the entity rendering the faulty verdict may have impacted the occurrence of the error. Upon assessing the potential relationship between juror misconduct and the occurrence of Type 1 and Type 2 errors, the proposed study wished to evaluate the impact that training has on the occurrence of juror misconduct, and subsequently, the occurrence of Type 1 or Type 2 errors.

Previous research has studied wrongful convictions and acquittals as related to the concepts of prosecutorial and police misconduct, false confessions, eyewitness testimonies, evidence errors, and investigatory errors. The findings of the studies highlighted in the literature review support that wrongful convictions and acquittals are the result of various errors within the criminal justice, namely, the aforementioned variables. False confession and false eyewitness testimony appear to be the most

highlighted occurrence that results in wrongful convictions. There did not appear to be an outstanding cause of erroneous acquittals. As identified with the purpose of this study, current literature has failed to explore the impact of the juror, thus the study presented.

As demonstrated by the provided literature review, the major themes identified within the area of inquiry include wrongful convictions, erroneous acquittals, and prosecutorial misconduct, police misconduct, false witness testimony, errors in evidence, judicial misconduct, juror misconduct and the interrelationship between each of these variables. Wrongful convictions and acquittals demonstrate errors in verdict rendered. Police and prosecutorial misconducts are actions that officials engage in which diverge from the roles, limits, duties and responsibilities of their positions.

The literature demonstrated that there is a serious lack of inquiry into the impact of the jury and its members on the occurrence of juror misconduct and Type 1 and Type 2 errors. Additionally, the current literature explored the occurrence of juror misconduct, but failed to explore the relationship between the juror and juror misconduct as well as what influences it and its subsequent impacts of juror misconduct.

The current research study was an observational quantitative design which was used frequently in behavior research. Researchers Quake-Rapp, Miller, Ananthan and Chiu conducted a direct observation study in order to assess the frequency of behaviors in youths, more specifically, maladaptive behaviors in youths with behavioral disorders. The authors described direct observation as either “naturalistic descriptive observation or systematic direct observation, according to the environment or the setting” (Quake-Rapp, C., Miller, B., Ananthan, G., and Chiu, E., 2008). Observational study designs are at



times referred to as frequency recording and/or time interval sampling and are useful in identifying behavior patterns and triggers. Observational studies provide extremely accurate, detailed, verifiable information about the person being assessed (Salvia, Ysseldyke, & Bolt 2006).

Sanchez-Algarra and Anguera presented a study that discusses the dichotomy between qualitative and quantitative approaches. They posited that "...the logic of the observational methodology process enables the perspectives to be sequenced..." (Sanchez-Algarra and Anguera, 2013, p. 1237). "The *observational design* is a highly important aspect in that it provides a framework and methodological basis for any study involving observational methodology" (Sanchez-Algarra and Anguera, 2013, pg 1246). Quantitative methodologies allow for observations to be translated into figures and enables researchers to identify relationships between the concepts from a theoretical framework.

A behavioral quantitative observational study conducted by de Jersey, Nicholson, Callaway and Daniels found that one group of the women in their study were more frequently engaging in the given nutritional/physical behavior activities. The study found that recipients of the adequate professional advice and education more readily engaged in the healthy behaviors. The results of the study found a relationship between receipt of professional advice and healthy nutritional/physical behaviors (de Jersey, S., Nicholson, J., Callaway, L., and Daniels, L., 2013). This study was consistent with the study proposed by the current research in that some participants will be provided a certain level

of information and a quantitative observation will be conducted in order to assess the potential relationship between the training and the occurrence of the given behavior.

### **Methodological Literature Based Description**

The quantitative quasi-experimental design employed within the study took the form of a cross sectional observation study in that it examined a relationship between exposure and outcome in a given population at a singular point in time. Observational studies provide direct access to the phenomena being evaluated. The study conducted by Sanchez-Algarra and Anguera (2013) demonstrated the resourceful nature of observational studies as well as the flexibility in use of the data collected. Salvia et al (2006) demonstrated how the use of an observational design can lead to the identification of behavior patterns as well as provide an impetus for further inquest into the phenomena.

As evidenced by the varied studies and literature discussed in the literature review, it is evident that previous studies focused on wrongful convictions from several perspectives. Researchers have examined and identified a relationship between the occurrence of verdict errors and prosecutorial misconduct, police misconduct, incompetent defense council, false witness testimony, faulty evidence and false confession; but none have examined the relationship between the juror's actions and verdict errors. Taking into consideration the fact that the jury makes the verdict decision, it is imperative to understand the impact of the role they play.

Jury research has not been highlighted in earlier research as much as it should, but more recently, the field of research has been getting more attention. Little is known about the jury as the deliberation that they engage in are not open to the public. It is

known that various factors impact the jury; consequently, that is why many juries are sequestered in order to limit the outside influence that public opinion and publicized media information may have. The impact of training and education on juror decision-making, and its subsequent impact on the verdict rendered are important factors that are not yet known. Additionally, the impact or influence that juror's actions have on, not only the jury, but the verdict is also a serious unknown. Little research has been done on the jury, but with the increasing number of exonerations, it has become evident that all of the variables, including the jury need to be examined for effectiveness and efficiency.

This study filled the gap in the literature by identifying and exposing the impact of the role and actions of the jury in the occurrence of verdict errors as well as if training will have an impact on the jury. This quantitative study aided in identifying a relationship between the given variables, but now considering the identified relationship, it opens the door for further inquiry into understanding the mentality and decision-making process of the jury as well as exploration on how the jury can be skilled in identifying and avoiding factors or variables which may generally cause the jury to engage in misconduct and/or verdict errors.

Chapter three evaluates the quantitative methodological approach and research design to be employed within the study and how the variables (training, misconduct and verdict errors) will be assessed. Chapter four includes a detailed description of the data collection and results. Chapter five concludes with recommendations, as well as implications for positive social change.

## Chapter 3: Research Method

### **Introduction**

The purpose of the research was not only to illustrate the impact of juror misconduct but also to demonstrate the necessity for properly educating and training individuals prior to the initiation of their civic duties. As it has been shown in the hundreds of juror misconduct cases and subsequent exonerations, Type 1 and Type 2 errors are major injustices. The impact of juror misconduct is more widespread than current research demonstrates.

This chapter includes a description of the elements related to the methodology of this research study, which includes the research design, setting/sample description, process of recruitment and data collection and analysis, and operationalization. In this chapter, I also discuss how the research plans to maintain ethical standards. The purpose of this chapter is to detail the research design and methodology used in this study. I clarify the settings of the research study as well as the sample demographics that include but are not limited to an explanation of the determination of sample size and the sample selection process. The data collection and analysis section details what data and how the data were collected as well as an explanation of the statistical methods that were used to analyze the data.

The problem of the study is the occurrence of Type 1 and Type 2 errors within the judicial system. Type 1 and Type 2 errors are erroneous convictions and erroneous acquittals, respectively. There are several possible causes of these types of errors, but the impact of juror misconduct has not been completely researched. Juror misconduct comes

in a variety of forms, but it is important to understand that many times jurors are not even aware that they have engaged in misconduct, as many forms of misconduct are actually human nature. Ultimately, the problem is not only the occurrence of Type 1 and Type 2 errors but also the impact of juror misconduct. Juror misconduct is a behavior; therefore, minimizing juror misconduct can be achieved through behavior modification. The minimization of juror misconduct may result in a reduction in the occurrence of Type 1 and Type 2 errors. Educating and training jurors may result in reduction of juror misconduct and subsequently a reduction of Type 1 and Type 2 errors. I examined the differences between the control and experiment groups. The experiment groups were provided training and education related to the judicial system and the control groups were not. The training or lack thereof allowed me to observe the impact of training on the occurrence of juror misconduct and the occurrence of Type 1 and Type 2 errors.

The role of researcher was mostly in observation and recording the tallies of occurrences of juror misconduct as well as the occurrences of Type 1 and Type 2 errors. Though I could have also facilitated the role of teacher for the training and education sessions for the experimental groups, it was my intent to obtain a neutral individual to facilitate the training sessions as to eliminate any biases these sessions may create for me. For instance, if during the training sessions, I observed a lack of participation and attention, this could have caused me to pay more attention to those individuals during the observations. If I failed to equally divide attention given to each participant, this could have resulted in the inaccurate tallying of occurrences.

The population in this study was a part of the metropolitan area of Valdosta, Georgia. The population for Lowndes County, Georgia was 82,263 and Lanier County was 7,310, as recorded by the 2010 Georgia Census. The number of active registered voters, as of November 2010, was 48,615 in Lowndes County and 3,959 in Lanier County. The sample for the research study was pulled from the actual registered voter listing.

The study was held in a mutual, non-impactful location (i.e. public library). It was important that the location not have any impact on the research participants. The sample was drawn directly from voter registration as actual juror members are selected.

I used random and convenience techniques to recruit participants for this study. Invitations were mailed to 500 eligible registered voters as well as distributed in person at public venues. The method used to determine who received a mailed invitation was a randomized selection process. As invitations to participate in the research study were returned, a convenience method was employed. I used a convenience technique to finalize the participants based upon first come principle. The first participants to respond with acceptance were included in the study, up to the number of the sample size. The first 144 acceptances received were allowed to participate in the study. In determining which jury panel each participant was assigned, the convenience technique was used once again. The first 12 invitations received were assigned as the jury chairpersons for each of the 12-jury panels. Subsequently, the following acceptances received were assigned based upon the order they were received. The first of the subsequent acceptances were assigned to Panel 1, and the second assigned to Panel 2 and so forth.

Data collection for the research study consisted of logging information for participants who received training and education, tallying the number of occurrences of juror misconduct and tallying the number of occurrences of Type 1 and Type 2 errors. The data for training identified the specific individuals as well as jury panels who received the juror training and those individuals who did not receive the training. Each jury panel-scoring instrument listed the individual jurors and provided a tallying section for calculating the number of misconduct occurrences. Each jury panel-scoring instrument included a section to annotate the verdict and whether it demonstrated a verdict error.

For this study, there was not an abundance of archival data used. I used the Georgia census to obtain citizen population data within the two-county area and the inquiry of the circuit court administrator in determining the number of criminal (jury) trials that occurred in Lowndes County annually. Otherwise, there was no use of archival data within this research study.

The instrumentation used for this quantitative observational study was a researcher modified tallying instrument, which tallied the occurrences of juror misconduct as well as the occurrences of Type 1 and Type 2 errors. I used data collected solely on observational data calculations. Each juror mock trial session had an individual research tally instrument, which listed each juror by their provided identifier. Each occurrence of misconduct was counted towards the specific mock jury member who engaged in the behavior. Each mock trial session was numbered and identified as a

verdict error (Type 1 or Type 2) or no verdict error. A second tally instrument was used to calculate the number of verdict error occurrences.

Type 1/Type 2 errors were tallied for participants in the control as well as the experiment groups for the specific mock trial sessions. For the research study, SPSS 21.0 was used to perform the data analysis. The statistical tests used in the research study aided in determining the existence of a relationship between training and the occurrence of juror misconduct, the occurrence of misconduct and the occurrence of verdict errors, and training and the occurrence of verdict errors.

For the purpose of this study, multiple regressions were used to assess the relationship predictor variables, training and juror misconduct, and the dependent variable occurrence of verdict error. A multiple regression model was used to make predictions and analyze data. Because two of the variables (training and occurrence of verdict error) are categorical variables, I also included a multiple correspondence analysis. Multiple regression analysis tests the connections of the dependent variable and the independent variables (Hair, Anderson, Tatham, & Black, 1998). A multiple correspondence analysis was resourceful in that it aided in identifying underlying patterns.

One method that I used to promote the trustworthiness of the study was to appropriately distance myself from the participants, as to ensure that I did not impact the participants and vice versa. External validity was also used to determine trustworthiness by an examination of the situation, time, intervention, and measure to maintain generalizability. The assumption of the impact of the treatment on the mock jury



members was drawn from the concepts of theoretical framework based on the social cognitive/social learning theory as well as the concept of reciprocal determinism. Social cognitive/social learning theory directed the possible impact in that it posited that behaviors are learned. Reciprocal determinism detailed a possible relationship between the jury, the training, and the subsequent behavior by demonstrating the interaction between the person, the behavior, and the environment.

Throughout the research study, protecting the participant's rights was greatly valued and of the uttermost importance. I conducted the research with the protection of the participants in mind and carried it out with the highest standards of ethics.

I ensured that voluntary consent of all human subjects was received and that the experiment was intended to yield fruitful results for the good of society as well as avoid all unnecessary physical and mental suffering and injury. As required by the IRB, I ensured that all necessary consent forms, letters of cooperation, and data use agreement forms were received and accurately completed. I maintained no applicable or minimum potential risk for the participants. In order to protect the rights of all participants in the research study, I removed all direct identifiers by assigning all participants a number used to denote the specific mock juror. All data collected are electronically stored in a password-protected document for a minimum of five years.

The primary research questions and hypotheses for this study are as follows:

1. Does juror training have an impact on the occurrence of juror misconduct?

H<sub>0</sub>1: There is a no relationship between juror training and the occurrence of juror misconduct.

H<sub>a1</sub>: There is a relationship between juror training and the occurrence of juror misconduct.

2. Is there a relationship between the occurrence of juror misconduct and the occurrence of Type 1 errors?

H<sub>02</sub>: There is no relationship between the occurrence of juror misconduct and the occurrence of Type 1 errors.

H<sub>a2</sub>: There is a relationship between the occurrences of juror misconduct and the occurrences of Type 1 errors.

3. Is there a relationship between the occurrence of juror misconduct and the occurrence of Type 2 errors?

H<sub>03</sub>: There is no relationship between the occurrence of juror misconduct and the occurrence of Type 2 errors.

H<sub>a3</sub>: There is a relationship between the occurrence of juror misconduct and the occurrence of Type 2 errors.

4. Is there a relationship between juror training and the occurrence of a verdict error?

H<sub>04</sub>: There is no relationship between juror training and the occurrence of a verdict error.

H<sub>a4</sub>: There is a relationship between juror training and the occurrence of a verdict error.

For the research study, I used SPSS to perform the data analysis. The statistical tests used in the research study aided in determining the existence of a relationship

between training and the occurrence of juror misconduct, the occurrence of misconduct and the occurrence of verdict errors, and training and the occurrence of verdict errors.

Training was an independent categorical variable, and the occurrence of verdict error was a dependent categorical variable. The training variable noted if the given juror/jury panel received training prior to participation, and was described as *training* or *no training*. Juror misconduct was considered an independent and dependent interval variable. I included two independent and two dependent variables. Though juror misconduct was analyzed as an independent variable, it also functioned as a dependent variable. Methods of juror misconduct were tallied only on observable actions.

This study was a quantitative quasi-experimental design in which I examined the impact of juror training and juror misconduct on the occurrence of Type 1 and Type 2 errors within the judicial system. The quasi-experimental design was employed, as the intent of this type of design was to mimic a true experiment as much as possible (SERVE Center, 2007). Type 1 and Type 2 errors as previously discussed are erroneous convictions and erroneous acquittals, respectively. The quantitative approach was selected as the research method as it aided in demonstrating a positive or negative relationship between the variables. Only with quantitative data could I demonstrate the change that has occurred and how much of a change has taken place. Quantitative methods have the greatest reliance on representing development numerically (Gelo et al., 2008).

Therefore, for the purpose of this research study, a quantitative quasi-experimental design was deemed the best fit for the study. The quantitative, quasi-

experimental design was used to assess the impact of juror training and juror misconduct on the occurrence of Type 1 and Type 2 errors. As aforementioned, the quasi-experimental design allowed me to investigate the cause and effect relationship, and I sought to explore the relationship between training, misconduct, and the occurrence of Type 1 or Type 2 errors (Van De Valk & Conostas, 2011). The data obtained from the treatment and control groups were compared to determine if differences existed between the two groups as well as if there was a cause and effect relationship. The treatment groups consisted of juror eligible citizens from the Lowndes and Lanier County area and were provided training and detailed instruction prior to participating in the mock trial. The control groups consisted of juror eligible citizens from the Lowndes and Lanier County areas but did not receive juror training or instruction prior to participating in the mock trial.

There were no identified resource constraints for the selected design. There were some timing hurdles which were rectified. There were 12 sets of 12 jurors who were able to devote a three to four hour period to training and the deliberations; therefore, there could have been issues with timing that were important to be addressed. It was the plan of the researcher to make the time of the scheduled deliberations at times which all participants could attend without the need for the researcher to obtain other participants. In order to ensure that the researcher was able to appropriately coordinate the scheduling, the mock jury panels were conducted on 12 different days, one for each panel. Prior to establishing the schedule, I inquired of each participant what his or her best availability was and schedule the panels accordingly.

The research design selected for this study was consistent with designs necessary to advance knowledge base in this discipline. This study took a real life approach to understanding what occurs during jury trials and jury deliberations. The Public Policy Research Institute of Texas A & M University (PPRI) utilized several “state of the art” methods in their research design and data analysis, which included statistical and econometric analyses, focus groups, listening sessions (Public Policy Research Institute, 2012). The designs and analyses deployed by PPRI advanced public understanding of essential local, state, and national matters.

The research design used in this study was a mock trial which could be viewed as a focus group. Trial Behavior Consulting (TBC), a firm of senior and junior consultants with graduate education in an array of disciplines, stated that mock trials are ideal for testing areas involving strategy, themes, arguments, reactions, and comprehension (Trial Behavior Consulting, 2014). The mock trial research design was one of the most effective and cost effective research designs in the advancement of knowledge within the public policy arena.

The intervention used within this study was the administration of the juror training and education prior to the jurors’ participation in the mock trial sessions. Within SCT, behavioral, personal, and environmental factors influence people’s thoughts and behaviors in a reciprocal fashion (Bandura, 1978). Therefore, it was reasonable to assume that jurors that were administered training on pertinent topics prior to jury deliberations demonstrated a reduction in adverse actions which result in juror misconduct, and errors in verdicts rendered.

The training provided to the treatment group included various tenets of the law, and juror instruction, the concepts of juror misconduct, definition of reasonable doubt, role, responsibilities and duties of jury, as well as the Petit Jury Handbook. The Petit Jury Handbook is a resource actually provided online via the US Court. As with any behavior, teacher led instruction along with other social stimuli, the administration of juror training could possibly minimize or eliminate juror misconduct and/or the occurrence of Type 1 and Type 2 errors. The argument for this intervention rests in the fact that, it is imperative to determine if training impacts the occurrences of misconduct, and Type 1 and Type 2 errors. If the research demonstrates that the intervention is effective, it can prove beneficial in influencing public policy.

The rationale behind a decision to implement juror training and certification is critical and may be impactful on the belief that such a program could decrease the occurrence of juror misconduct as well as the occurrence of Type 1 and Type 2 errors. The main goal of quasi-experimental design was to investigate the cause and effect relationship between specific variables (Van De Valk and Constas, 2011).

This study was a quantitative quasi-experimental design which examined the impact of juror training and juror misconduct on the occurrence of Type 1 and Type 2 errors within the judicial system. The quasi-experimental design was employed as this type of design mimics a true experiment (SERVE Center, 2007). Type 1 and Type 2 errors as previously discussed are erroneous convictions and erroneous acquittals, respectively. Quantitative methods have the greatest reliance on representing development numerically (Gelo et al, 2008).

The independent variables in the study were juror training and the occurrence of juror misconduct. The dependent variables were the occurrence of juror misconduct and the occurrence of Type 1 and/or Type 2 errors. Juror misconduct was treated as both an independent and dependent variable as it could be examined as a cause or an effect.

For the purpose of this study, multiple regressions were to be used to assess the relationship predictor variables, training and juror misconduct, and the dependent variable occurrence of verdict error. A multiple regression model was used to serve the major purpose of the study, which was to determine the relationship between training and occurrence of verdict error, and juror misconduct and occurrence of verdict error. Multiple regression analysis tests the connections of the dependent variable and the independent variables (Hair, Anderson, Tatham, & Black, 1998). This study sought to determine whether a positive, negative or no relationship exists between the abovementioned variables. These statistical tests will allow the researcher to determine the difference between the control/treatment groups, and variability among the variables. Correlation was also utilized to determine if a relationship exists, and if so, what the characteristics of the relationship were. This statistical test was used as descriptive as well as inferential.

### **Research Design and Approach**

For this study, qualitative as well as quantitative designs were examined in order to determine which research methodology would best suit the study. A qualitative research study would require more personal interaction with the research subjects, and the qualitative approach does not allow for the numerical statistical analysis as with

quantitative approaches (Patton, 2005). This increased personal interaction with research subjects could impact the researcher's objectivity. The lack of statistical analysis can stifle the ability to generalize the findings to the larger population as well.

Therefore, for the purpose of this research study, a quantitative quasi-experimental design was deemed the best fit for the study. This study sought to establish the initial demonstration of relationship from a statistical perspective, and upon establishing a relationship, opens the window for further inquiry into a more qualitative nature. The quantitative, quasi-experimental design was used to assess the impact of juror training and juror misconduct on the occurrence of Type 1 and Type 2 errors. As stated earlier, the quasi-experimental design investigated the cause and effect relationship, and this research explored the relationship between training, misconduct and the occurrence Type 1 or Type 2 errors (Van De Valk and Constat, 2011). The data obtained from the treatment and control groups was compared to determine if differences exist between the two groups as well as if there was a cause and effect relationship. The treatment groups consisted of juror eligible citizens from the Lowndes and Lanier County areas, and were provided training and detailed instruction prior to participating in the mock trial. The control groups consisted of juror eligible citizens from the Lowndes and Lanier County areas, but did not receive juror training or instruction prior to participating in the mock trial.

According to Creswell (2009), the concurrent transformative approach shares many of the benefits of the concurrent triangulation approach and therefore, its use can provide benefits of confirming, and cross validation within a solitary study (Creswell,



2009). The theoretical framework of the SCT and behaviorism was studied by the analysis of the quantitative data, descriptive statistical findings.

Statisticians Neyman and Pearson's writings always designated that  $H_0$  or null hypothesis represents "the hypothesis to be tested" (Neyman and Pearson, 1967c, p. 186). Therefore, within the criminal justice system, the hypothesis being tested is the defendant's innocence, since the defendant is presumed innocent until proven guilty. As within the area of statistics, a Type 1 error occurs when the null hypothesis is true and is inaccurately rejected, therefore, within the justice system, a Type 1 error occurs when the presumption of innocence is rejected, and an innocent person is found guilty of a criminal offense. Likewise, within the area of statistics, a Type 2 error occurs when the researcher fails to reject the null hypothesis when the alternative hypothesis is true. Therefore, within the justice system, the occurrence of a Type 2 error is consistent with the failure to reject the presumption of innocence or rendering a not guilty verdict when the defendant is truly guilty (Neubauer and Fradella, 2010).

Within the justice system, the alternative hypothesis is the purpose for which an individual is arrested, i.e. a criminal offense has occurred, and we seek to determine if the defendant is guilty of the offense. In statistics, the alternative hypothesis is the hypothesis to be tested, if the null is rejected. The alternative hypothesis is, therefore, the assumption that the defendant did engage in said criminal activity. In the event that the null hypothesis is rejected, the alternative hypothesis is accepted as factual. The null hypothesis within the criminal justice system is the presumption of innocence. As in research, the criminal justice system does not accept the null hypothesis any time, rather

rejects or fails to reject the null hypothesis; hence, why a defendant is never found or proven innocent, but rather not guilty. Within both the justice system and statistics, the null hypothesis indicates that the arrestee or treatment respectively, did not do anything. Lastly, the standard of judgment within the justice system as well as statistics was set for the purpose of being able to reject the null hypothesis considering the impossibility of providing absolute proof. The standard within the justice system is a reasonable doubt. The null hypothesis or the presumption of innocence, in this case, has to be rejected beyond a reasonable doubt.

### **Role of the Researcher**

The role of the researcher within this study was one of an observer. The participants functioned independently of the researcher. The researcher obtained data information from observations during the mock trial sessions. This level of participation was described as non-participatory, otherwise called the observer role. The non-participating observer focused fully on his or her role and as a researching observer, taking little or no part in the exchanges to be studied.

As a non-participatory observer, the researcher fully devoted attention to her own role. Non-participatory observations were relatively unobtrusive strategy for data acquisition without direct contact or influence on the participants. Observations included a calculation of occurrences of misconduct, methods/types of misconduct occurring, and the number of occurrences of Type 1 or Type 2 errors.

For the purpose of this research study, a researcher completed tally sheet utilized to record the occurrences of Type 1 errors, Type 2 errors and juror misconduct. As

previously stated, the researcher functioned as a non-participatory observer and merely maintained an official tally of the number of occurrences in regards to Type 1 errors, Type 2 errors, and juror misconduct. Considering the fact that this study was a qualitative study, the researcher did not focus on qualifying each type of juror misconduct, as there are dozens of methods in which a juror could engage in misconduct. Therefore, the researcher based the study solely on the quantitative calculation or tallying of occurrences.

Each participant was assigned a juror number to identify them which aided the researcher in keeping a score of occurrences per juror. After the completion of each mock trial, the juries provided a verdict, and the researcher maintained a tally of the occurrences of a verdict of error among each jury panel. The research scored the verdicts as either: no error, Type 1 error, or a Type 2 error. A total number of each type of occurrences was compiled.

In regards to any personal and/or professional relationships between the participants and the researcher, there were no relationships in any capacity. The researcher had virtually no contact with the research participants during the actual data collection process. The intervention or training was be facilitated by a neutral party that was not involved in the data collection, analysis process or the deliberation process.

The target population for this research study was individuals that were eligible to sit on a jury panel. The judicial system has established specific requirements for a person to participate in a jury panel. In order for an individual to be called for jury duty, he or she must first be registered to vote. There are several legal requirements that must be met

in order to be eligible for jury service, which include being a U.S. citizen; being at least 18 years of age; residing primarily in the judicial district for one year; being adequately proficient in English to satisfactorily complete the juror qualification form; having no disqualifying mental or physical condition; not currently being subject to felony charges punishable by imprisonment for more than one year; and never having been convicted of a felony (unless civil rights have been legally restored) (United States Courts).

Since the research study sought to impact public policy on a national scale, this study could state that the target population size would include any individual within the United States that meets the requirements. Considering the magnitude of such, this research minimized the target groups to the judicial districts which are part of the metropolitan area of Valdosta, Georgia. This area was conveniently selected for the purpose of this research study, due in fact, to the researcher's location of residence. Per a personal telephone conversation with Beth Greene of the Lowndes County Clerk's office, there were on average ten to 20 jury trials in their court within a given year (B. Greene, personal communication, December 16, 2014). Taking into consideration the average number of jury trials, calculated using ten and 20, there were approximately 15 trials. In order to calculate the number of jurors required to facilitate these 15 trials, the product of 12 jurors per trial was calculated resulted in 180. Per a personal conversation with Deborah Clark of the Lanier County Clerk's office, there were no more than five criminal jury trials conducted in any given year (personal communication, December 16, 2014). Using the same calculation as used for calculating the number of jurors for Lowndes

County, the product of 12 jurors per trial was calculated resulted in 60. Thus, the total jurors or population size is 240.

### **Setting and Sample**

Random and convenience sampling techniques were utilized in order to select participants for the study. The study included jury eligible individuals from the Lowndes and Lanier County, Georgia areas. Random sampling was a manner of selecting a sample from a statistical population so that each sample has a predetermined probability of being selected. Convenience sampling was a statistical method of drawing representative data by selecting people because of the ease of their volunteering or selecting units because of their availability or easy access.

As previously stated, the sampling techniques used for the purpose of this study were random and convenience sampling. Both techniques were used in an effort to maximize diversity of the participants. The researcher randomly selected voters from the list of registered voters and mailed and/or hand delivered each an invitation to participate in the research study. The convenience sampling technique was then utilized to select the final participants. The first agreement forms returned, up to the sample size, will be accepted into the research study.

Jury pools were pulled from databases of registered voters, therefore, in an effort to ensure the greatest accuracy, this research only pulled participants from registered voters. Additionally, pulling from this source will ensure that all of eligibility parameters are met without the researcher having to engage in verification of eligibility requirements, such as age, felon status, and citizenship. Voter registration information is

public data, and the researcher obtained this information for the purpose of selecting individuals to send research invitations.

The researcher mailed 500 invitations to potential participants, and continued accepting participants until which time the number of acceptance responses required to meet the sample size was obtained. The invitations mailed were based on randomized selection. The actual participants were identified by using convenience sampling. Essentially, the first eligible participants to accept the invitations (up to the sample size) were allowed to participate in the study.

By state law, a jury eligible person is an individual that is registered to vote in the judicial district; a US citizen; at least 18 years of age; fluency in English; be mentally and physical capable; and has not been convicted of a felony, unless rights have been restored. Even though an individual received an invitation, it is important to understand that he or she may not be fully eligible to sit on a jury panel. Therefore, there was a possibility that some individuals who accepted the invitations could be excluded from participation.

Inclusion in and exclusion from participation in the study was based solely on the demographics required to engage in jury service. Each invitation entailed a request for self-qualification. Each recipient will be asked to verify his or her status in relation to the jury service requirements.

The population for Lowndes County, Georgia is 82,263 and Lanier County is 7,310 as recorded by the 2010 Georgia Census. The number of active registered voters, as of November 2010 is 48,615 in Lowndes County and 3,959 in Lanier County, for a

total of 52,574 (Georgia Statistics System, 2013). The sample for the research study was pulled from the actual registered voter listing, demonstrated by the aforementioned values. The sample size was calculated using the Sample Size Calculator from Creative Research Systems (Creative Research System, 2013). The sample size was determined with a confidence level of 95% and confidence interval of 5.00, when considering the population of average juror members engaged in jury trials is 240, for a sample size of 148.

### **Data Collection**

The researcher obtained information from public data resources, such as voter registration list. The researcher randomly selected 500 voters from the list of registered voters and mailed each an invitation to participate in the research study as well as distributed in-person invitations at public venues. The convenience sampling technique was utilized to select the final participants. The first agreement forms returned, up to the sample size required, were accepted into the research study.

All invitations included a detailed description of eligibility requirements, which were the requirements consistent with juror eligibility requirements. Invitations were mailed to randomly selected jury eligible registered voters, which outlined the general overview and purpose of the research study (Appendix B). Only juror eligible participants were invited and approved to participate in the study.

The researcher ensured that all participants were conscious and aware of the purpose, nature and scope of the research study. The study guaranteed that all

participants were able to make an informed decision in their consent to participate in the study.

The consent forms were written in a lay language, as to make certain that the participants in the study fully understood its purpose. Items detailed in the consent form included general information, purpose of the study, procedures, risks, benefits, compensation, cost/reimbursement, withdrawal/termination from study, confidentiality, contact information, and voluntary participation.

The data obtained in this research study was collected by observing participants during the mock trial sessions. Data based on observable juror misconduct actions was collected as observed by the researcher. Data collection for the research study included logging information for participants that received training and education, tallying the number of occurrences of juror misconduct, and tallying the number of occurrences of Type 1 and Type 2 errors.

For the purpose of this research study, an event recording tally sheet was utilized to record the occurrences of Type 1 errors, Type 2 errors and juror misconduct. The researcher obtained data information from observations during the mock trial sessions. Observations included a calculation of occurrences of misconduct, methods/types of misconduct occurring, and the number of occurrences of Type 1 or Type 2 errors.

Participants exited the study with the following debriefing procedures which addressed the nature of the study, answering any questions, contact information if he/she has concerns regarding the study, and a statement that he/she is free to withdraw his/her data without penalty after being debriefed. Due in fact that this research study required



the non-disclosure of the full purpose of the study, the debriefing also included a clarification of any deception or incomplete disclosure. Due to the quantitative nature and design of the study, there were no requirements for follow up interviews or treatment. The data collected was obtained only during the time of the scheduled sessions. The current research study did not utilize a pilot study. The treatment group and control group consisted of citizens registered and eligible for the year 2013. Unlike the control group, the treatment group was provided juror training covering the rules and regulations of the juror system as well as the roles, responsibilities and limitations of the jurors. Materials used for the purpose of training and education reviewed topics such as, the definition of reasonable doubt, role, responsibilities and duties of jury, as well as the Jury Handbook. In order to minimize the researcher's impact on the participants and the participants' impact on the researcher, the training sessions were administered by a neutral party. The researcher recruited an individual knowledgeable of the judicial system to administer the training sessions.

In order to obtain the required voter registration information, requests were made of the board of elections for the appropriate counties. Voter registration information is public data and is also accessible online from Nation-builder. In order to ensure the most accurate information, the researcher obtained the data directly from the board of elections.

Upon receipt of the necessary information, the researcher randomly selected individuals to which invitations to participate were mailed. As recipients accepted the

invitations, they were assigned to a specific mock jury trial panel as well as provided with an identifying individualized juror number.

In terms of their participation, mock jurors were provided basic training and education on their roles, rights, responsibilities and limitations. Mock jurors were presented with a mock juror trial case and immediately engaged in deliberation after viewing the case. Each jury panel rendered a verdict of guilty or not guilty. The process of data collection consisted of observing the actions of each participant and a tally of observable misconduct was collected. The verdict for each jury was also collected.

The process of gaining access of the necessary voter registration records included a visit to the county board of elections office. For Lowndes County, the county pages allows for individuals requesting information to obtain the county's open records request form. Upon submission of the form, the clerk provided a timetable of the time needed to retrieve the information. Upon completion of the request, the researcher was notified of the availability of these records.

There were no specific permission letters necessary to gain access to the data as the information is public data, but the researcher was required to submit a request to the county board of elections in order to obtain that information. Though voter registration is public data, the official records are maintained by a legal entity, namely the board of elections, and are disseminated upon request by varied agencies and/or individuals. As previously described, the voter registration information can be obtained from various online sources, such as Nation-builder; it is the intent and purpose of the researcher to ensure the most accurate and up to date information. The board of elections was

therefore the best sources of acquisition as this agency is the body through which voters must register to vote.

This study used an adapted version of the instrument, Observation System for Classroom Behavior (2003), developed by researchers K.S. Sutherland, N. Alder, and P.L. Gunter. The system was developed for a study examining the frequency of classroom behavior. The instrument was published in the Journal of Emotional and Behavioral Disorders in 2003 (Sutherland, K. S., Alder, N., & Gunter, P. L., 2003).

This instrument was appropriate for this study as it allowed the researcher to rate the frequency of juror misconduct as well as the occurrence of verdict errors. Essentially, this instrument was an event-frequency recording device that allowed the researcher quantitatively tally these occurrences. This form of instrumentation and data collection was an excellent method to use as it was easily implemented and it could be completed without the researcher's interference with the participants during the observation period.

In order to obtain permission to utilize a modified version of the event recording instrument, the researcher submitted a formal request letter to the corresponding author of the instrument as listed on the citation. The contact method provided for the author was via email; the permission letter submitted is attached as an Appendix E.

Per the author of the instrument to be utilized, "as an observational tool we didn't have validity data for this, but collected inter-observer agreement, which I would expect you would" (K.S. Sutherland, personal communication, December 15, 2014).

The Observational System for Classroom Behavior (Sutherland et al, 2003) was developed for the purpose of event recording of specific behaviors for the given students.

The instrument detailed and used in the study is titled, *The Effect of Varying Rates of Opportunities to Respond to Academic Requests on the Classroom Behavior of Students with EBD*. The reliability and validity were established in the study through the use of inter-observer agreement.

The training material, *Handbook for trial jurors serving in the United States District Courts*, was used to provide training information to the mock jury members. The handbook included a review of the importance of jury service, the courts, criminal cases, civil cases, voir dire, jurors' oath, stages of trial, arguments of counsel, jury's charge, verdict, courtroom etiquette and conduct as well as jury deliberation.

The jury handbook was prepared under the supervision of the Judicial Conference of the United States, and published by the Administrative Office of the United States Courts.

The *Handbook for trial jurors serving in the United States District Courts* was published by the Administrative Office of the U.S. Courts in Washington, D.C. (HB100 (Rev. 8/12)).

### **Data Analysis**

All variables were measured quantitatively by tallying the number of occurrences. Juror misconduct were measured and collected per juror member. Each occurrence of misconduct was documented and detailed. The occurrence of Type 1 and Type 2 errors were also calculated. The occurrence of Type 1 and Type 2 errors was calculated per jury panel, as only 13 verdict decisions were made. The verdict classifications that are included are no verdict errors, Type 1 error, and Type 2 errors.

Based on a process of observation, occurrences of juror misconduct were tallied numerically per each observable occurrence. It is important to note, that there were possibly methods of misconduct that are not observable, and thus, the observer was not able to calculate those occurrences for inclusion. Examples of observable misconduct included introduction and reliance on irrelevant information or evidence, discussion with non-jury panel participants, conducting individual research (such as googling information), intimidation or persuasion.

In reference to the calculation of the occurrence of Type 1 and Type 2 errors, the researcher scored their occurrences once verdicts decisions were made. If the verdict decision was consistent with the factual verdict of the case, the observer notated “no verdict error”. When the verdict decision was not consistent with the factual verdict, the decision was scored and classified by its status. If the verdict was a wrongful conviction, it was classified and counted as a Type 1 error occurrence. If the verdict was a wrongful acquittal, it was classified and counted as a Type 2 error occurrence.

The study utilized one independent variable and two dependent variables. Note that the occurrence of juror misconduct was examined as an independent as well as a dependent variable. Participants not receiving training (categorical variable) were coded as “0” and individuals that receive training will be coded as “1”. Only the participants in the experimental group received the training. The variable ‘occurrence of juror misconduct’ was not given a specific coding as it was represented by the numerical (continuous variable) value of the occurrences. The variable ‘occurrence of verdict error’

(categorical variable) was coded with '0' meaning no error occurred; '1' means a Type 1 error occurred, and '2' means a Type 2 error occurred.

This research study utilized the Statistical Package for the Social Sciences statistics software or SPSS statistics. SPSS statistics is a statistical software package used in the analysis of statistical data.

In preparation for the analysis of the data, the researcher ensured that the data was properly cleaned and screened. The process included the definition and/or determination of the various types of errors, search and identification, correction, and modification of data entry in order to minimize future errors. In some instance, the SPSS software was used to identify errors, such as checking for duplicate cases. The researcher ensured that dichotomous variables were properly coded as well. This process also included a verification of all variables and value labels, and ensuring that missing data was properly coded.

1. Does juror training have an impact on the occurrence of juror misconduct?

H<sub>0</sub>1: There is a no relationship between juror training and the occurrence of juror misconduct.

H<sub>a</sub>1: There is a relationship between juror training and the occurrence of juror misconduct.

2. Is there a relationship between the occurrence of juror misconduct and the occurrence of Type 1 errors?

H<sub>0</sub>2: There is no relationship between the occurrence of juror misconduct and the occurrence of Type 1 errors.

H<sub>a2</sub>: There is a relationship between the occurrences of juror misconduct and the occurrences of Type 1 errors.

3. Is there a relationship between the occurrence of juror misconduct and the occurrence of Type 2 errors?

H<sub>03</sub>: There is no relationship between the occurrence of juror misconduct and the occurrence of Type 2 errors.

H<sub>a3</sub>: There is a relationship between the occurrence of juror misconduct and the occurrence of Type 2 errors.

4. Is there a relationship between juror training and the occurrence of a verdict error?

H<sub>04</sub>: There is no relationship between juror training and the occurrence of a verdict error.

H<sub>a4</sub>: There is a relationship between juror training and the occurrence of a verdict error

The analysis plan for this study consisted of a total of five statistical tests. In an examination of the relationship between variables, training and occurrences of juror misconduct, a *t-test*, correlation and linear regression analysis will be conducted. In an examination of the relationship between variables, occurrences of juror misconduct and verdict error, a correlation test was completed. Lastly, in an examination of the relationship between the variables, training and verdict error, a chi square test was conducted.

All statistical test results were evaluated using a general significance value of  $p < .05$ , and 95% confidence intervals. As represented in the following Table 2, the following combination of continuous and categorical variables was used to evaluate the research question and the hypotheses.

In order to promote and maintain trustworthiness of the research, objectivity was performed through methodological procedures such as instrumentation and randomization. The facts were the focus of quantitative research, and it made references to the distance appropriate between the participants and the researcher. External validity was also used to determine trustworthiness by an examination of the situation, time, intervention and measure to maintain generalizability. One threat to validity that was considered is extraneous effects; have participants been previously exposed to factors that will impact the independent variables? Unfortunately, it was difficult to minimize the impact of those unknown factors, but one assumption that the research held was that the treatment did impact or minimize the impact of those variables. In general, a readily identified weakness of an experimental design was the lack of randomized assignment, but this study effectively utilized the quasi-experimental design and randomization (Reichardt, 2009).

### **Protection of Participant's Rights**

Throughout the research study, protecting the participant's rights was of the uttermost importance and was extremely valued. The research practiced within the study was conducted with the protection of the participants in mind and carried out with the



highest standards of ethics. The Nuremberg Code was utilized to establish the foundation for the ethical standards of the research study.

The researcher ensured that voluntary consent of all human subjects were received and that the experiment intended to yield fruitful results for the good of society as well as avoid all unnecessary physical and mental suffering and injury. As required by the IRB, the research ensured that all necessary consent forms, letters of cooperation and data use agreements forms were received and accurately completed. The research maintained no applicable or minimum potential risk for the participants.

In order to protect the rights of all participants in the research study, the research removed all direct identifiers by assigning all participants a number used to denote the specific mock juror. All data collected will be electronically stored in a password-protected document for a minimum of five years.

In regards to threats to internal validity, the researcher addressed issues surrounding confounding variables, history of the juror, and compensatory rivalry/resentful demoralization. Confounding variables were variables that correlated directly or indirectly to both the independent and dependent variables. Changes in the dependent variable could be credited to variations in a third variable. The only way to ensure that all sources of unmeasured confounding were controlled in research was to randomly assign cases to “treatment” levels (Schafer & Kang, 2008).

The history of the individual jurors presented a threat to internal validity in that the mock jurors may have predispositions or experiences that may impact their behavior in the mock jury. With an actual trial, jury members must complete the voir dire process,

which allows counsels to eliminate those jurors with a history or disposition that impact the case. For the purpose of this study, the researcher was not be able to complete voir dire and drew the assumption that there were no extraneous or historical factors that impacted the juror's behavior.

Potential threats to construct or statistical conclusion validity included low statistical power (LSP) and random irrelevancies in the experimental setting. LSP occurs when sample sizes are too small or when alpha is set low. The LSP accelerated the likelihood of the occurrence of a Type II error (statistical error). Irrelevance in the setting occurs when irrelevant non-treatment features impacted the values of the dependent variable. These irrelevant features could be a variety of things, such as noise or temperature differences between the different groups.

The participation information and data obtained for the purpose of identifying potential participants are public data/voter registration records, so no permissions were required.

The ethical treatment of human participants was critical and the informed consent/institutional permissions were elements that demonstrated the ethical nature. The researcher provided participants with an informed consent agreement, which included basic consent elements such as explanation of purpose of research, expected duration, description of potential discomforts/risks/benefits, confidentiality of identifying data maintenance, instructions noting voluntary participation and right to withdraw consent.

In regards to the treatment of the human participants, throughout the recruitment and study process, the researcher ensured that all participants were provided a mock juror

number which identified the specific juror. No personal identifiers were collected from the participants.

As detailed by Emanuel, Abdoler, and Stunkel, there were principles that should be met for a research study to be ethical (Emanuel, Abdoler, &Stunkel, 2006). The seven principles are social value, scientific validity, fair subject selection, favorable risk-benefit ratio, independent review, informed consent, and respect for enrolled subject.

Social value refers to the value the study has on the well being of society. Scientific validity means that the research is expected to produce useful results. Fair subject selection means to ensure the recruitment and selection methods are fair. Favorable risk-benefit ratio means the risks presented by the study are outweighed by the benefits of the study. Independent review involved the IRB's review of the study to improve the study as well as ensure ethical standards are met. Informed consent is the permission or consent from the participants themselves to engage in the study and to acknowledge that they understand their roles in the study. Respect for enrolled subjects involved ensuring the participants well being and allowing them to resign at any time they see fit (Emanuel et al, 2006).

As previously detailed, this study maintained the seven principles of research, in order to ensure ethical standards. Participants were provided an informed consent agreement which detailed their roles, responsibilities, and rights. Participants reserved the right to withdraw from the study at any time. Research participants were assigned a participant number which identified each juror. The provision of the participant numbers provided a degree of anonymity.

The information obtained from the voter registration files, which provided information required to send invitations, will be saved on a password protected electronic document for a minimum of seven years. The electronic documents will be housed on a portal USB drive, and the research will also provide a secondary backup copy on a separate drive. These USB drives will be housed within a locked filing cabinet and no one, except those with an expressed need to know, will be provided access to the documents. The data collected from the mock trial deliberation observations will be tallied on an electronic Excel document, which will also be password-protected. After the required number of years has lapsed, the documents will be adequately purged from the USB drives.

The data that was obtained from voter registration files are public data records, and will include their names and address information for the expressed purpose. No personal/confidential information will be solicited from the research participants. The data collected was attached to the participant number. A separate file was used to identify the specific participants and their identifying participant numbers.

To this point, there were no other applicable ethical issues or concerns to be explained or addressed within this research study. All ethical concerns have already been identified and addressed.

### **Summary**

In this proposed quantitative study, the collected data was evaluated to determine if there was a relationship between juror training, the occurrence of juror misconduct, and the occurrence of Type 1 and Type 2 errors. Mock jurors were observed during mock

deliberation, with only half receiving the juror training and education prior to the mock court proceedings. The raw data entered into the statistical analysis software (SPSS) included number of Type 1/Type 2 errors occurring, number of occurrences of juror misconduct. Data indicating the issuance of juror training to each participant in the experimental/control group was entered as well.

Chapter four of this study includes a detailed narrative of the descriptive statistics and actively utilizes charts and graphs to demonstrate the rate of occurrences following the treatment and to analyze the variations in rate between the control groups and experimental groups. Quantitative data from the mock trial participants was analyzed and themes were acknowledged as they relate to the theoretical framework social cognitive learning and behaviorism, in an effort to promote positive social change within the judicial environment.

## Chapter 4: Results

### Introduction

The purpose of the research was to demonstrate the necessity for educating and training jury panel participants prior to their fulfilling of the civil responsibility as well as to determine the relationship between training, juror misconduct, and the occurrence of verdict errors. The research questions guided the study in assessing these directions and/or strength of the relationships between training and misconduct, misconduct and verdict errors, and training and verdict error. Verdict errors were classified as *Type 1 error*, *Type 2 error*, or *no error*. The variable and training was classified as *training* or *no training*. The variable juror misconduct was a quantitative assessment of occurrence.

In terms of the actual flow process of the research method, the process was fairly consistent with the process as planned within the proposal of the study. During the initial weeks of the data collection, several hundred invitations were mailed to eligible participants, from which there was a significant response rate. One aspect of the recruitment or solicitation process that was adjusted involved the use of public venues to recruitment possible participants. Participants were recruited during marketing activities outside of the local courthouse as well as by distributing invitations at convenient locations at random.

Additionally, another aspect of the research method that was adjusted involved the manner in which sessions were conducted. Originally, the outlined plan was to wait until all participants had been identified and confirmed, and then the sessions would begin but it was found to be more time effective to conduct the sessions as the minimum

number of panel participants was obtained. Therefore, sessions were conducted on a weekly basis after the minimum number of 12 participants had been confirmed.

A pilot study was not used within this research study. The purpose for which a pilot study is needed involves the lack of adequate literature to estimate the parameters needed for the calculation of sample size and the estimation of power. Since I was able to determine these values without the use of a pilot study, this was not needed.

The data collection for this study involved the observation of juror panel participants and their engagement in activities of juror misconduct as well as the occurrence of verdict errors. An interobserver and I separately scored the occurrence of misconduct for each individual participating in the study. The occurrence of verdict error was tallied by counting the number of Type 1 error, Type 2 error, and no error verdicts. The observers ensured not to communicate during the observation periods as to make certain that observations were as accurate as possible.

As aforementioned, the results of the study demonstrated a relationship between the variables training and misconduct, misconduct and verdict error as well as training and verdict error. The results of the study demonstrated that jurors who received training were less likely to engage in Type 2 errors as well as were more likely to have no verdict error. Training did not appear to have an impact on the occurrence of Type 1 errors, however.

The treatment employed with the experimental groups of the study included the presentation of materials provided within the juror handbook as published by the U.S. Courts and a review of the rights, roles, and responsibilities of the jury. The information

provided within the juror handbook is considered to be trustworthy as it is a composition or published worked of the governmental entity of which the requirements, roles, and responsibilities of the juror and jury are founded.

After considering the observations and levels of significance for the four research questions, the results suggest a relationship between juror training and the occurrence of juror misconduct. Individuals receiving training engaged in few occurrences of misconduct. The results did not suggest a relationship between the occurrence of juror misconduct and the occurrence of a Type 1 error; therefore, I cannot conclude that misconduct is a predictor of Type 1 error occurrence. The results did, however, suggest a relationship between the occurrence of misconduct and the occurrence of a Type 2 error. Lastly, the results suggest a significant relationship between the administration of juror training and the occurrence of either type of verdict error. Consequently, individuals receiving the training made fewer errors in verdict than those who did not receive the training.

The figures and tables below provide context and illustrate a reflection of the negative or positive directional relationships between the researched variables. A narrative assessment of the evidence was also rendered in order to provide detailed descriptive statistical information. I will discuss each research question in detail with the provision of statistical evidence to support a rejection or failure to reject a given hypothesis.

As determined by the research study, I can conclude that a relationship exists between the administration of training and the occurrence of juror misconduct. Those



groups in which the training was provided engaged in fewer acts of misconduct. The results also suggest a relationship between juror misconduct and the occurrence of verdict error. The level of juror misconduct occurrence and the occurrence of verdict error are such that when juror misconduct is low, the occurrence of a verdict error is less likely. Lastly, the results of the study suggest a relationship between training and the occurrence of verdict errors. For those experimental groups, the rate of verdict was less than those of the control group.

### **Data Collection**

Recruitment methods included the mailing of invitations to 500 eligible parties as well as soliciting participation by distributing invitations at local/public venues, such as the exterior of the local courthouse, local businesses, and/or organizations. The study required a minimum of 156 participants, and I was able to recruit at an average rate of two complete panels per week for a six-week period. Of the 500 invitations that were mailed, there were 45 individuals who confirmed and participated in the study. In addition, there were several participants who were referred to the study from someone else who had received an invitation or solicited in a public venue; so 92 additional participants were recruited in this manner. A subsequent second mailing yielded the additional 19 needed to attain the 156-sample size. Once the required number of participants was achieved, recruitment and solicitation procedures were ceased.

With exception to the additional mailing, data collection protocols presented in Chapter three were directly followed with no alterations in procedure. Of the participants within the study, all 156 participants were registered voters as required in order to be

called for juror duty. The following descriptive and demographic characteristics were not used in analyzing the data and were collected via my general observation. Of the 156 participants, 108 were Lowndes County residents and 47 were Lanier County residents. There were 89 female participants and 67 male participants. In regards to ethnic or racial background, there were 64 participants who self-classified as black, 80 participants self-classified as white, and 18 participants self-classified as other.

The mean and standard deviations of the independent variable, juror misconduct, were calculated for the control as well as experimental group. For the control group, the mean was 5.58 with a standard deviation of 3.00. For the experimental group, the mean was 3.45 with a standard deviation of 2.65. With a confidence interval of 95%, the values were 4.93, 6.24 and 4.05, 2.84, respectively.

### **Treatment**

The experimental group was administered training before beginning the mock trial session. The treatment was an examination of the juror trial handbooks, and the rules, rights, and responsibilities of the jury. Participants were attentive during the training sessions and further engaged in discourse that served to enhance their understanding of the material. The treatment that was provided to the experimental groups did not have any challenges or occurrences that were adverse or administered differently than originally planned.

### **Results**

Presented in this section are the results of the statistical analyses conducted to test the hypotheses that follow from each of the research questions. As stated in McNabb's

(2008) work, an ideal method of summarizing quantitative data and conversion is through the use of descriptive statistics. For this study, measure of central tendency and standard deviations were used in order to provide a more accurate and/or detailed dispersion estimate. Statistical graphs in the form of bar charts or graphs were also used in order to demonstrate comparisons among the categories.

As recommended by Sutherland (2014), assessing the correlation between the Observation System for Classroom Behavior (OSCB) tally obtained from my own observations and the OSCB tally obtained by an independent observer was needed as a measure of the validity of the scores obtained using this measure. A Pearson correlation analysis of the covariation of the scores obtained from the two observers found a very high level of interobserver agreement ( $r = .963, n = 156, p < .001$ ). This indicated that the level of juror misconduct tallied by each observer was nearly identical. As a result, the average of the two observers' tallies was used as the measure of juror error throughout.

### **Research Question 1**

An independent sample  $t$  test of the mean differences between the training and no-training conditions was conducted for OSCB average (OSCBA). Because Levene's Test of Equality of Variances was not significant ( $F = 2.51, p = .115$ ),  $t$  values based on the assumption of equal variance in each condition were used. As summarized in Table 1, significantly less juror misconduct was observed among participants who were provided juror training than among those who did not receive training,  $t_{154} = -4.72, p < .001$ . This supports the rejection of  $H_01$ : There is no relationship between juror training and the occurrence of juror misconduct. Considering the rejection of  $H_10$ , the results support that

there is a relationship between training and the occurrence of juror misconduct. This result supports and is supported by SCT's concept of reciprocal determinism, in which behavior is impacted by people and the environment. The behavior of juror misconduct was influenced by the administration of training.

An  $R^2$  of .13 was obtained for this effect. On the basis of Cohen's (1988) effect size thresholds, this is considered a small-sized effect. Approximately 13% of the variance in juror misconduct scores is accounted for by training conditions. Essentially, the  $R^2$  speaks to the percentage of deviation that can be explained by this relationship, and provides a more concrete number of how likely it is to predict the outcomes.

Table 1

*Level of Juror Misconduct Among Participants in Each Training Condition*

Training provided			No training provided			$t$ (154)	$p$	$R^2$
$n$	$M$ ( $SD$ )	95% CI	$n$	$M$ ( $SD$ )	95% CI			
84	3.45 (2.65)	[2.84, 4.05]	72	5.58 (3.00)	[4.93, 6.24]	-4.72	<.001	.13

*Note.* CI = confidence interval.

### **Research Question 2**

A Pearson correlation test was conducted to determine if occurrence of juror misconduct operationalized as OSCBA was correlated with the occurrence of Type 1 errors. Taking into consideration the significance level of  $p \leq .05$ , a statistically significant correlation was not obtained,  $r = .15$ ,  $n = 156$ ,  $p = .070$ . Based on this finding, data do not support rejection of  $H_02$ : There is no relationship between the occurrence of juror misconduct and the occurrence of Type 1 errors. Based on the findings, it is not

possible to conclude that juror misconduct impact the occurrence of erroneous convictions.

### **Research Question 3**

A Pearson correlation test was conducted to determine if occurrence of juror misconduct when operationalized as OSCBA was correlated with the occurrence of Type 2 errors. A statistically significant correlation between the two variables was obtained,  $r = .24$ ,  $n = 156$ ,  $p = .003$ . The  $r^2$  for this correlation is .06, which indicates that 6% of the variance in Type 2 error presence is accounted for by variations in OSCA scores, meaning that 6% of the erroneous convictions were the result of deviations in scores tallied by the interobserver and me. Using Cohen's (1988) effect size thresholds, this would be considered a small effect. This indicates that data supports rejection of  $H_03$ : There is no relationship between the occurrence of juror misconduct and the occurrence of Type 2 errors; therefore, statistically, there is a correlation between the occurrence of juror misconduct and the occurrence of an erroneous acquittal error.

### **Research Question 4**

Three separate chi square analyses were conducted to address this research question. The first examined the relationship between juror training and the presence of either a Type 1 or a Type 2 error, the second between juror training and Type 1 error presence, and the third between juror training and Type 2 error presence.

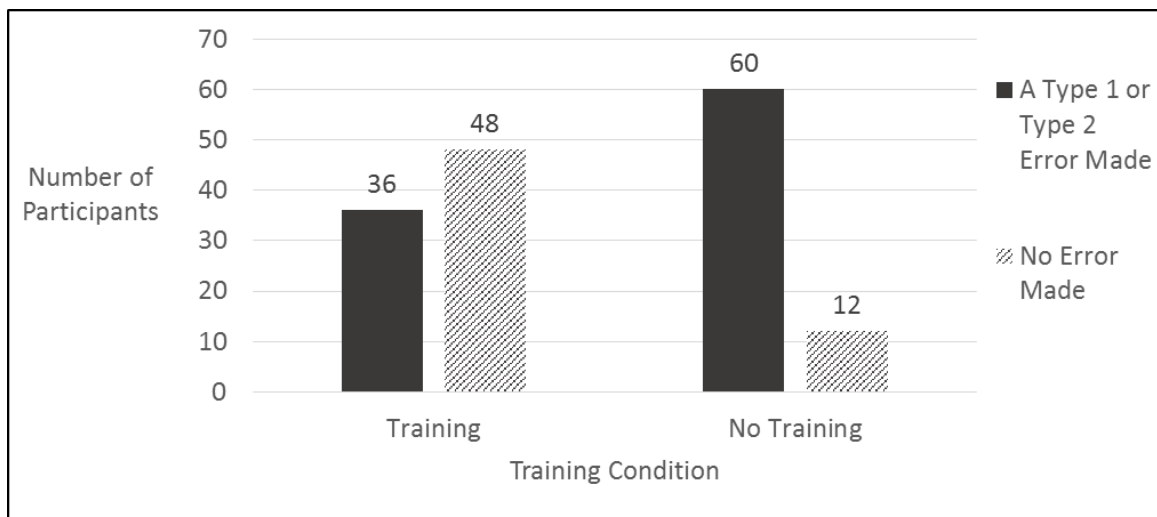
A highly significant chi square value was obtained for the relationship between juror training and the presence of either type of error, Pearson chi square = 27.84,  $n = 156$ ,  $p < .001$ . An  $R^2$  of .17 was obtained for this relationship, which indicates that

approximately 17% of the variance in the presence of an error can be accounted for by training condition. Using Cohen's (1988) effect size categorization, this would be considered a small effect. A small effect means that if two groups' means do not differ by at least a 0.2 standard deviations, the difference is inconsequential, even if it is statistically significant. The frequencies of participants who did or did not make an error in each training condition are shown in Figure 1. As illustrated in the figure, 60 of the 72 (83.33%) participants who did not receive training made either a Type 1 or a Type 2 error, but only 36 of the 84 (42.86%) who received training made an error.

### Presentation of the Results

*Figure 1.*

*Frequency of either a Type 1 or Type 2 error for each training condition.*

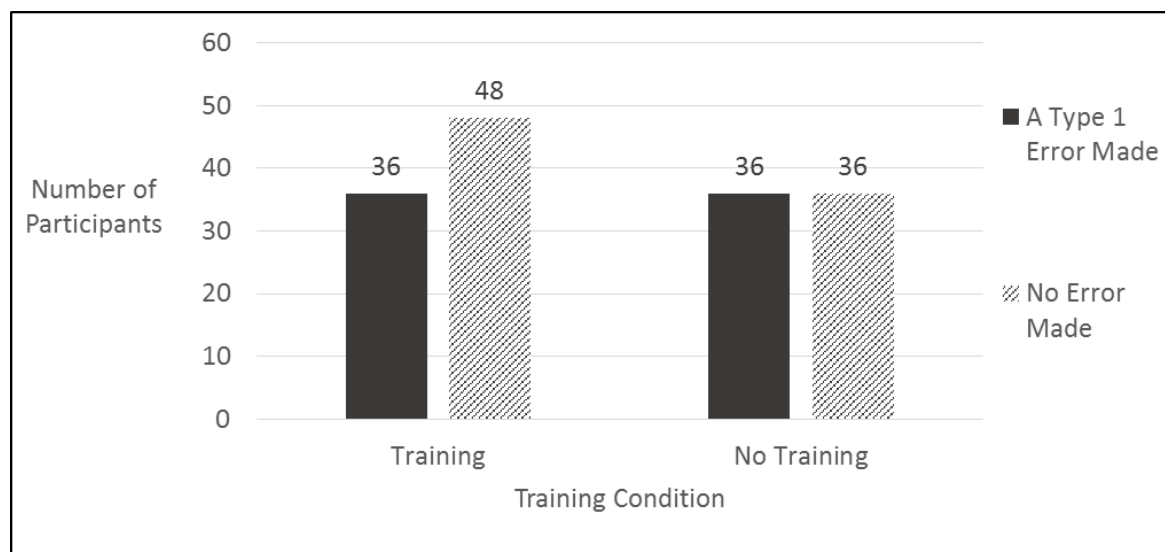


The Pearson chi square value for the relationship between juror training and the presence of a Type 1 error, Pearson chi square = .80,  $n = 156$ ,  $p = .372$ , indicates that there is no evidence that providing juror training reduces the frequency of Type 1 errors. As illustrated in Figure 1, those in the training condition were slightly less likely to make

a Type 1 error than to be error-free, and those in the no-training condition were equally likely to make an error as to be error-free.

*Figure 2.*

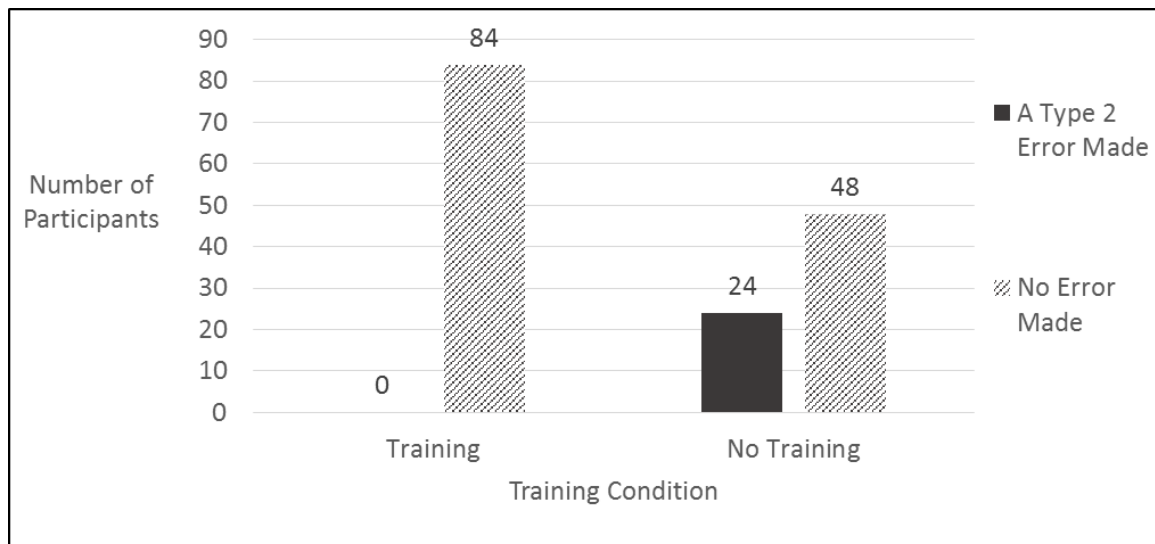
*Frequency of a Type 1 error for in each training condition.*



As was the case for the chi-square conducted for either type of error, a highly significant chi square value was obtained for the relationship between juror training and the presence of a Type 2, Pearson chi square = 33.09,  $n = 156$ ,  $p < .001$ . An  $R^2$  of .21 was obtained for this relationship, which indicates that approximately 21% of the variance in the presence of an error can be accounted for by training condition. Using Cohen's (1988) effect size categorization, this would be considered a small effect. The frequencies of participants who did or did not make a Type 2 error in each training condition are shown in Figure 2. One-third of those who did not receive training made a Type 2 error, but none of those who received training made this type of error.

Figure 3.

*Frequency of a Type 2 error for each training condition.*



On the basis of the three chi square analyses conducted to assess the relationship between juror training and verdict error, data supports rejecting  $H_0$ : There is no relationship between juror training and the occurrence of a verdict error. However, the findings support this rejection only for Type 2 errors. Training did result in a significant reduction of Type 2 errors, but its effect on the prevalence of Type 1 errors was not significant.

### Summary

The findings of the study based on observations of training versus no training conditions, individuals receiving training engaged in fewer occurrences of juror misconduct than those who did not receive pre-deliberation training,  $t_{154} = -4.72$ ,  $p < .001$ . Given the observations, and level of significance, the data supports a rejection of the  $H_0$ : There is a no relationship between juror training and the occurrence of juror



misconduct; and conclude, that there is a relationship between the administration of training and the occurrence of juror misconduct.

Based on this finding, it is not possible to reject  $H_{20}$ : There is no relationship between the occurrence of juror misconduct and the occurrence of Type 1 errors. It is not possible to state that there is a relationship between the occurrences of juror misconduct as the data does not suggest a relationship between the occurrence of misconduct and the occurrence of Type 1 errors.

Based on this finding, a statistically significant correlation between the variables was obtained,  $r = .24$ ,  $n = 156$ ,  $p = .003$ ; and as such lead to the conclusion that it is possible to reject  $H_{30}$ : There is no relationship between the occurrence of juror misconduct and the occurrence of Type 2 errors. Therefore, statistically, there is a correlation between the occurrence of juror misconduct and the occurrence of a Type 2 error.

Based on these finding, which demonstrated a highly significant chi square value for the relationship between juror training and the presence of either type of error, Pearson chi square = 27.84,  $n = 156$ ,  $p < .001$ . As depicted in Figure 1, jurors who received training made fewer verdict errors than those jurors who did not receive the pre-deliberation training. Therefore, it suggests that there is a relationship between the administration of training and the occurrence of verdict errors.

### **Conclusion**

The data collected did allow for a great examination of the research questions, and it is surprising to note that juror misconduct did not appear to impact the occurrence of

erroneous conviction or Type 1 errors, but did demonstrate a propensity to impact the occurrence of erroneous acquittals. As aforementioned, individuals who received training engaged in fewer incidences of misconduct than those who did not receive training. Lastly, in regards to the relationship between training and the occurrence of verdict error, individuals in the control group had a higher rate of verdict error occurrences than those of the experimental group.

Upon assessing the data and the hypotheses, it is striking to notice the relationship between the administration of training and the occurrence of juror misconduct; and the relationship between training and the occurrence of verdict errors, but the relationship between juror misconduct and verdict errors (Type 1 or Type 2) was profoundly significant.

Chapter five will include a reiteration of the purpose of the study and summarize key findings of the study as well as interpretation of findings, implications for public policy and positive social change, and recommendations for further inquiry. The chapter will also include a discussion of the limitations imposed on the study.

## Chapter 5: Discussion, Conclusions, and Recommendations

### **Introduction**

The purpose of the research was to illustrate the impact of juror misconduct but also to determine the need for jury training and education prior to their fulfillment of their civic responsibilities. It is critical to address the problems presented by this study, as failure to do so may result in detrimental impacts as well as loss of respect and confidence in the system. A system in which there is no respect for or confidence in will be rendered ineffective.

In terms of the nature of this study, it is a quantitative observational research design. The quantitative design focused more on calculating and categorizing features and fashioning statistical models and figures to expound upon the observations. This quantitative observational design was an empirical study, which allowed me to estimate the causal impact of an intervention on the target population. For this study, two groups were observed. The experimental group was provided training prior to deliberation, and the control group did not receive any training prior to their deliberation period.

This study was conducted in order to assess the extent of the impact of training and misconduct on the specific elements of the criminal justice system in order to better clarify and fill in the gap in regards to identifying the factors that result in system injustice. Continued injustice will render the system ineffective, and an ineffective justice system is detrimental and disastrous.

As previously noted, this study was guided by four research questions. The questions presented included the following: (a) Is there a relationship between training

and the occurrence of juror misconduct, (b) is there a relationship between juror misconduct and the occurrence of Type 1 error, (c) is there a relationship between juror misconduct and the occurrence of Type 2 error, and (d) is there a relationship between training and the occurrence of a verdict error? These research questions were best suited for the quantitative experimental design (frequency measuring) employed within this study.

I found that the alternative hypotheses for three of the four researched questions were supported. The data presented within study supports that training had an impact on the level of occurrence in regards to juror misconduct. This means that individuals who are provided training are less likely to engage in juror misconduct. In regards to the relationship between juror misconduct and the occurrence of verdict errors (Type 1 or Type 2), though the data do not support an impact of the occurrence of juror misconduct on the occurrence of a Type 1 error, they do support a minimally significant impact on the occurrence of Type 2 errors. Lastly, in terms of the impact of training on the occurrence of verdict errors, these data within this study additionally support that juries receiving training are significantly less likely to render a verdict error than those juries who do not receive training.

### **Interpretation of the Findings**

The findings presented in this study extend knowledge in the area concerning the role and/or impacts of training as well as the impacts of juror misconduct. As detailed in the literature review, there is a serious lack of research surrounding the scope of juror

misconduct. Little is known about the causes or the consequences of juror misconduct, and as a result, no evidence exists in the literature on how to reduce the occurrence.

In terms of Type 1 and Type 2 errors, an expansive amount of research has been done on the causes of Type 1 or Type 2 errors. A survey conducted by Huff (2004) concluded that 79% of respondents ranked witness error as the major cause of wrongful convictions. Additionally, 15 out of 62 post conviction DNA exonerations involved false confessions (Huff, 2004, p. 111). Even with such broad studies, none addressed the role or impact of the jury and the need to properly educate them.

This study extends the current knowledge base by providing evidence that training reduces the occurrence of juror misconduct. Juror misconduct, if detected, could result in a costly mistrial, but if undetected could, as evidenced as by this study, result in a verdict error. Also as evidenced in this study, training reduces the probability of the occurrence of a verdict error. Lieberman and Sales (1997) stated that only one-sixth of jurors are able to rephrase the presumption of innocence. Such incomprehension is a judicial concern, as their inability to understand basic tenants of the law that they are asked to apply speaks to their inefficiency. Lieberman and Sales expounded on how half of jurors believed that the defendant must present evidence of his or her innocence. The lack of understanding the rules, rights, duties, and responsibilities speak volumes and demonstrate the need for educating jurors. Subsequently, this research study provides the evidence and findings needed to demonstrate the impact of training and educating jurors.

The findings of the study, in terms of the theoretical framework, serve to support the SCT as well as are supported by the theory. Bandura (1978) wrote that reciprocal

determinism, observational learning, and reinforcements are three of the six major constructs of SCT. SCT was appropriately applied in this study and as has been demonstrated, skills or knowledge acquired as a result of juror training impacted the occurrence of juror misconduct and the occurrence of verdict errors.

The research questions in this study built upon the theory of SCT allowed me to determine if proponents and concepts of SCT are consistent with the reciprocal relationship between the jurors, trainings, misconduct, and verdicts errors. Cognitive psychology investigates human cognitive activity. Four critical areas of cognitive function are interpretation, learning, decision-making, and evaluating (Bandura, 1991). These four areas played a key role in why the administration of training demonstrated an impact on the occurrence of behaviors of misconduct as well as in the decision-making in rendering a verdict.

Overall, I sought to determine if the administration of juror training prior to the commission of their civic responsibilities would bear an impact on the other variables. Potentially, training jurors could have a negative or positive influence or no influence at all on juror misconduct or verdict errors. Subsequently, the research data support a probability that the occurrence of juror misconduct and/or verdict error would be reduced given the administration of training. Reducing the occurrence of juror misconduct as well as verdict errors is critical as these errors are not only costly to the system, but the victims, the community, and the defendant. These occurrences of serious injustice must be addressed because justice is the essential element of the criminal justice system.

### **Limitations of the Study**

I used a modified research instrument that unfortunately did not have any validity score but rather used an interobserver agreement. Likewise, I used an interobserver agreement in order to establish validity and reliability. The method used consisted of a second observer, other than me, to make independent observations and calculations of behavior frequencies. For the purpose of data analysis, my scores were analyzed; the interobserver's scores were analyzed, and subsequently, an average of both scores were obtained and analyzed.

The use of a relatively small sample size presents limitations within the interpretation of the results, in particular, the confidence intervals and  $p$  values. Therefore, considering since a small sample size was used, it was critical to pay careful attention to the results and be even the more careful within the interpretation the results. The research study employed the use of a convenience sample, which is unlike the random sample that can be generally applied to a larger population and can rather only be suggested. Due to the lack of substantial recent research, I used research material that was greater than five years old.

Considering the interaction or impact between the person, the behavior, and the environment, the location of the mock deliberations could have had an impact on the behavior. Therefore, as a means of addressing this limitation and minimizing the potential impact of the environment, the facility used was a nonbiased and mutual facility. The current societal climate in which the study was conducted also presented limitations, as the conditions and/or public or social issues of the day could have had an influence, such

as current court cases that have been highly publicized. Unfortunately, there were no methods available to ensure that these factors had no bearing on the participants' actions or decision-making.

I used both random and convenience sampling strategies. In regards to the selection process, one potential problem was in the reliance on convenience sampling for the selection process. Though the convenience sampling was a benefit as it ensured a degree of separation from the selection process, it still created a problem. I had to wait on responses to be received and could not guarantee a definitive time frame in the completion of the selection process.

### **Recommendations**

There are several recommendations for further research inquiry. An investigation into the full range of causes of juror misconduct as well as the consequences of juror misconduct will allow a researcher to devise tools, resources, and/or plans of how to reduce or eliminate such occurrences. Additionally, an exploration as to why juror misconduct impacts the occurrence of erroneous acquittals, while not demonstrating a relationship to the occurrence of wrongful convictions, is essential. It is my recommendation that further inquiry be made into the impact of erroneous convictions and acquittals on not only the system itself but also on the defendants, the victims, and society in general. It is important to note the impacts that these injustices have on society and the credibility as well as the confidence that people have in the system. The failure of the system to ensure its actions promote and encourage confidence is a potentially detrimental issue. The lack of confidence, respect, and credibility in the system will



result in even greater ills; thus, it is critical for promoters of social change to take the steps needed to rectify the flaws that result in these issues.

Understanding these relationships aids in clarifying the causes and consequences of juror misconduct. It is recommended that further inquiry be centered on the other variables that may impact the occurrence of juror misconduct. In this study, I focused on how training impacted the occurrence of juror misconduct or verdict errors, but there are other variables, such as socioeconomic status, race/ethnicity, or education level that could impact these occurrences. Understanding a greater scope of impact is essential in determining how to reduce or eliminate juror misconduct as well as verdict error. Lastly, further inquiry into the specifics of what training resources and information are most effective is necessary. Through this study, I demonstrated the positive impact of training on the occurrences of misconduct and verdict error, and in order to maximize these results, it is important to know what information is most useful.

In terms of entities or parties to which these results are of importance or with whom such should be shared, any governmental entity within the judicial system should pay attention to the findings of this study. Additionally, any defense or prosecuting attorney should pay attention to these findings as these factors could impact the results of their cases. Entities such as the Lawyers Association in the United States, American Bar Association, Association of Defense Trial Attorneys, and National Trial Lawyers are all viable options in regards to disseminating the findings of this study.

### **Implications for Social Change**

In order to effectively detail the implications of social change, it is important to clarify what exactly is meant by social change. Social change is a broad term used to summarize tools, activities, or concepts that build cognizance and understanding to attitudinal changes, to increased civic participation, and to impact policy changes that rectify injustice. The implications of social change impacted by the results of this study will impact various levels of the community and society, from the individual level to the societal/governmental level.

I seek to impact public policy, which is frequently exemplified "in constitutions, legislative acts, and judicial decisions" (Schuster, 2009). The public policy to be assessed and improved involves the eligibility and/or participation requirements of an individual engaging in the civic responsibility of jury service. Taking into consideration the results of the study, it is evident that education and training may impact and/or reduce the occurrence of injustice, otherwise called Type 1 and Type 2 errors.

As aforementioned, these errors have detrimental impacts ranging from the individual to the societal/governmental level. On the individual level, the victims and their families as well as the defendants and their families are negatively impacted by the occurrence of these errors. There are psychological, social, emotional, and financial implications that must be considered in assessing the far-reaching impacts of these areas.

For example, take a defendant who has been wrongfully convicted and served 20 years before being exonerated due to another individual confessing and confirming his or her guilt. After 20 years of false imprisonment, that individual may very well have issues

adjusting to normal life, he or she may have issues building relationships, his or her mental health could be severely impacted, and there could be a great financial burden on the family. Therefore, in this instance, the system has wasted hundreds of thousands of dollars housing and caring for an individual unjustly convicted and will likely have to monetarily compensate the individual for his or her incarceration. There is also the reverse to consider, in regards to the victim. After discovering the wrongful conviction, the victim and his family will be forced to relive the victimization under the knowledge that the actual guilty party was not justly tried and sentenced. This too will have psychological, social, emotional, and financial implications on the victim.

If the results of this study are properly used and applied, public policy will be impacted and forced to change in order to encourage the greatest system efficiency and avoidance of system errors and injustice related to the given issue. This study and its implications relate to positive social change through its potential impact on public policy or public policy issues. Kilpatrick wrote that “public policy can be generally defined as a system of laws, regulatory measures, courses of action, and funding priorities concerning a given topic promulgated by a governmental entity or its representatives” (Kilpatrick, 2002).

In terms of the judicial system, one law that directs certain actions taken by the system is the 6<sup>th</sup> amendment to the US Constitution. The 6<sup>th</sup> amendment guarantees a defendant the right to a trial by an impartial jury. The meaning of the word, impartial, is not partial or biased, but fair and just. As discussed in this research study, members of a jury are not required to have any knowledge or skills of the role, rights, duties or

responsibilities of the jury; nor are they required to have a high school education. Considering the delicate nature and intricate design or details of the law, it is a grave injustice to rely on the ill equipped to properly dissect and apply the law to a given situation. Such injustice should be deemed a violation of an individual's Constitutional right to a trial by an impartial jury.

As evidenced in this study, the administration of pretrial training reduces the probability of a verdict error occurring. Verdict errors are costly for the victims, the defendants, the judicial system and society as a whole. Anything that negatively impacts society is a cry for social change, therefore, impacting public policy by ensuring the upholding of the 6<sup>th</sup> amendment, and addressing said violations are critical.

### **Conclusion**

The Late Reverend Dr. Martin L. King, Jr. (1963) annotated in his world renowned letter from the Birmingham jail that "injustice anywhere is a threat to justice everywhere" (King, 1963).

We, unfortunately, live in a society where the factual definition of justice is "the maintenance or administration of what is just especially by the impartial adjustment of conflicting claims or the assignment of merited rewards or punishments", but we have become accepting of justice being achieved when anyone, whether guilty or not pays the cost for the criminal act. This is the epitome of injustice.

We live in a society of rules, rights, and responsibilities where due process and fair judgment are allegedly the basis of our court system, but accepting the erroneous convictions of an innocent person or the erroneous acquittal of a factually guilty

individual is a far cry from due process, fair judgment and justice. It is imperative that our court system operates as efficiently and effectively as possible, while upholding all of the tenants of the law and justice. The presented research study is just the tip of the iceberg and impetus for further exploration in the injustice of the criminal justice system.

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## Appendix A


**CONFIDENTIALITY AGREEMENT****Name of Signer:**

During the course of my activity in collecting data for this research: Quiana Barrett, I will have access to information, which is confidential and should not be disclosed. I acknowledge that the information must remain confidential, and that improper disclosure of confidential information can be damaging to the participant.

*By signing this Confidentiality Agreement I acknowledge and agree that:*

1. I will not disclose or discuss any confidential information with others, including friends or family.
2. I will not in any way divulge, copy, release, sell, loan, alter or destroy any confidential information except as properly authorized.
3. I will not discuss confidential information where others can overhear the conversation. I understand that it is not acceptable to discuss confidential information even if the participant's name is not used.
4. I will not make any unauthorized transmissions, inquiries, modification or purging of confidential information.
5. I agree that my obligations under this agreement will continue after termination of the job that I will perform.
6. I understand that violation of this agreement will have legal implications.
7. I will only access or use systems or devices I'm officially authorized to access and I will not demonstrate the operation or function of systems or devices to unauthorized individuals.

*Signing this document, I acknowledge that I have read the agreement and I agree to comply with all the terms and conditions stated above.*

**Signature:****Date:**

3/14/15

## Appendix B

### Invitation to Participate in Research Study

Dear Potential Research Participant

My name is Melinee Calhoun. I am a doctoral candidate in the PhD Public Policy & Administration program at Walden University. I am conducting a research study as part of the requirements of my degree, and I would like to invite you to participate in the study. The title of the study is “Uneducated Injustice: A Social Cognitive Approach to Understanding the Impact of Juror Misconduct on the Occurrence of Type 1 and Type 2 Errors”.

I am studying the relationship between juror actions and behaviors during trial/deliberation and the occurrence of verdict error. If you decide to participate in the study, you will be asked to observe a mock jury trial and participate in a deliberation group with 11 other mock jurors. Upon conclusion of the deliberation, each mock jury panel will be asked to render a verdict of guilty or not guilty.

Your participation in the study is optional and you can withdraw at any time. You will never be asked to provide any specific demographic or personal information. The results of the study may be published or presented at professional meetings, but your identity will not be revealed. Though there are no individual benefits or compensation, the study hopes to impact the community and society in general by exploring and identifying methods of minimizing and/or preventing errors in justice.

Participation in the study requires you to meet specific requirements as follows:

- be a United States citizen;
- be at least 18 years of age;
- reside primarily in the judicial district for one year;
- be adequately proficient in English to satisfactorily complete the juror qualification form;
- not currently be subject to felony charges punishable by imprisonment for more than one year; and
- never have been convicted of a felony (unless civil rights have been legally restored)

The researcher will be happy to answer any questions you have about the study. You may contact me at (229) 506-2692 or [melinee.calhoun@waldenu.edu](mailto:melinee.calhoun@waldenu.edu).

Thank you for your consideration. If you would like to participate, please call and provide your name and preferred contact method.

With kind regards,

Melinee Calhoun  
(229) 506-2692  
[Melinee.Calhoun@waldenu.edu](mailto:Melinee.Calhoun@waldenu.edu)

## Appendix C

## Participant Informed Consent Form

Dear Potential Research Participant

You are cordially invited to participate in a research study directed at the inquiry of jury trial. You were selected as a possible participant because you are a registered voter within the Lowndes and/or Lanier County area and are eligible for jury duty. Please read this form and ask any questions you may have before agreeing to be in the study.

The participants will be observed during the mock jury trials and deliberations, and the researcher will document the occurrence of juror behaviors. Juror misconduct occurs when the law of the court is violated by a member of the jury while a court case is in progression or after it has reached a verdict. Participants will observe a mock jury trial and will participate in deliberations with other mock jurors and formulate a verdict of guilty, or not guilty. This research will be conducted during the spring, summer and [potentially] fall of 2015. Your participation in the mock jury trial will require a maximum of 6 hours to complete the mock trial observation and mock jury deliberation.

The observation data collected for this study will be kept confidential and no demographic or personal information will be solicited. Any published report will not include personal information that will make it possible to identify any participants. Research data records will be maintained in a password protected electronic document and only the researcher will have access to the records.

This research study includes no direct or individual benefits, risks or compensation for participation in this study. The purpose of the study is to improve the provision of justice throughout the criminal justice system and identify methods of minimizing or eliminating the errors in justice that impact the victims, the defendant, the system as well as the community. Wrongful convictions and acquittals are an injustice that negatively impact society, and the study seeks to explore the causes and identify potential resolutions for these injustices.

The decision to participate in the study is left to the individual participant, and the participant can choose to withdraw from participation at any time with no repercussions or pressure to continue. You will be provided a copy of this form for your records. The researcher conducting this study is Melinee M. M. Calhoun. This study is being done for the partial fulfillment of a doctoral dissertation at Walden University. The researcher's adviser is Dr. Richard Worch. If you have any questions, you may contact the research at [melinee.calhoun@waldenu.edu](mailto:melinee.calhoun@waldenu.edu) or via phone at (229) 506-2692. If you have any questions about your rights as a participant of the study, you can contact the university's Research Participant Advocate at (612) 312-1210.

Sincerely,

Melinee M. M. Calhoun

I have reviewed the above information. I have no further questions at this time and I consent to participation in the study.

Print Name \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

## Appendix D

## Juror Misconduct Frequency Behavior

Juror Panel #  
Observer Name:

Date:

Juror ID #	During Trial Observations	During Deliberations	Comments

**NOTE: Each observable occurrence of juror misconduct is notated with a tally mark**

## Appendix E

## Permission to Use Modified Instrument

 **Melinee Calhoun** <melinee.calhoun@waldenu.edu> 12/15/14 ☆    
to kssuther 

Dear Dr. Sutherland,

My name is Melinee Calhoun and I am a student with Walden University. I am working on my proposal for my dissertation and am trying to identify a research instrument that I would be able to adapt to my specific study. I located an instrument referenced below, and would like to request permission to use an adapted version of the instrument for my study. My study is a quantitative study assessing the frequency of specific behaviors and I am in need of a event/frequency instrument that is already published with reliability/validity values. I would greatly appreciate your assistance in this matter and look forward to hearing from you.



Regards,

Melinee Calhoun  
[melinee.calhoun@waldenu.edu](mailto:melinee.calhoun@waldenu.edu)

RE: [Sutherland, K. S., Alder, N., Gunter, P. L., Sutherland, K. S., Alder, N., & Gunter, P. L. \(2003\). Observation System for Classroom Behavior. Journal Of Emotional And Behavioral Disorders, 11\(239-248\)](#)

You requested read receipts for this message.

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 **Kevin S Sutherland** <kssuther@vcu.edu> 12/15/14 ☆    
to me 

You're welcome to adapt this...as an observational tool we didn't have validity data for this but collected inter-observer agreement, which I would expect you would do. Good luck!

K

Kevin S. Sutherland, Ph.D.  
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Department of Special Education and Disability Policy  
Clark-Hill Institute for Positive Youth Development  
Virginia Commonwealth University  
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Fax: [804-225-3554](tel:804-225-3554)

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