Southern Illinois University Carbondale

OpenSIUC

9-1-2020

CONTENT VARIATION IN JURY INSTRUCTIONS FOR FATAL POLICE USE OF FORCE TRIALS DO NOT MODERATE THE EFFECT OF ATTITUDES TOWARD POLICE ON VERDICTS

Chasity Lynn Ratliff
Southern Illinois University Carbondale, chasityratliff@gmail.com

Follow this and additional works at: https://opensiuc.lib.siu.edu/dissertations

CONTENT VARIATION IN JURY INSTRUCTIONS FOR FATAL POLICE USE OF FORCE
TRIALS DOES NOT MODERATE THE EFFECT OF ATTITUDES TOWARD POLICE ON
VERDICTS

by

Chasity L. Ratliff

B.S., Southeast Missouri State University, 2008
M.A., Southern Illinois University, 2018

A Dissertation
Submitted in Partial Fulfillment of the Requirements for the
Doctor of Philosophy Degree

School of Psychological and Behavioral Sciences
in the Graduate School
Southern Illinois University Carbondale
August 2020

DISSERTATION APPROVAL

CONTENT VARIATION IN JURY INSTRUCTIONS FOR FATAL POLICE USE OF FORCE
TRIALS MODERATE THE EFFECT OF ATTITUDES TOWARD POLICE ON VERDICTS

by

Chasity L. Ratliff

A Dissertation Submitted in Partial

Fulfillment of the Requirements

for the Degree of

Doctor of Philosophy

in the field of Psychology

Approved by:

Eric Jacobs, PhD, Chair

Liana Peter-Hagene, PhD

Scott Comparato, PhD

Randall Davis, PhD

Tammy Kochel, PhD

Graduate School
Southern Illinois University Carbondale
July 1, 2020

AN ABSTRACT OF THE DISSERTATION OF

Chasity Ratliff, for the Doctor of Philosophy degree in Psychology, presented on June 22, 2020, at Southern Illinois University Carbondale.

TITLE: CONTENT VARIATION IN JURY INSTRUCTIONS FOR FATAL POLICE USE OF FORCE TRIALS DO NOT MODERATE THE EFFECT OF ATTITUDES TOWARD POLICE ON VERDICTS

MAJOR PROFESSOR: Dr. Eric Jacobs

When police officers are charged with illegal use of force, jurors' pre-existing attitudes toward the police can shape how jurors interpret trial evidence: Was the officer just doing his job under high amounts of pressure while fearing for his life? Or did the officer abuse his power with disregard for the victim's life? The language in jury instructions, however, might reduce or exacerbate the effect of jurors' attitudes toward police on their verdict decisions. In an experimental mock-jury study, the content of jury instructions was manipulated to be consistent with an objective standard of reasonableness (i.e., *Tennessee v. Garner*, 1985) or a subjective standard of reasonableness (*Graham v. Connor*, 1989), along with a control condition with no police-specific language. I predicted that, compared to control instructions, objective standards would weaken, and subjective standards would strengthen, the influence of attitudes on verdicts. Attitudes toward police were measured as a continuous predictor and were counterbalanced before and after the trial. An online sample of individual mock-jurors ($N = 539$) viewed a trial presentation in which a police officer was charged with first-degree murder for illegal use of force. The importance of prosecution evidence and the extent to which they took the officer's perspective were potential mediators of the relationship between attitudes and verdicts. As predicted, jurors' negative (versus positive) attitudes toward police predicted the importance of prosecution evidence, and perspective-taking. In turn, the importance of prosecution evidence

and perspective-taking predicted juror's perceptions of officer guilt. Instruction content was not a successful moderator of the relationship between attitudes and verdicts. The effect of attitudes on verdicts in fatal police use of force trials has important implications for the psychological study of jury decision-making, and for the criminal justice system as a whole.

Key Words: fatal police use of force; attitudes; attitudes toward police; juror verdict decisions; jury instructions; subjective and objective standards.

ACKNOWLEDGEMENTS

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

CHAPTER 1

INTRODUCTION

In recent years, public trust in the police has continually decreased as high-profile police killings of unarmed Black men came to the forefront of public discourse and media coverage (McLaughlin, 2015; Park, 2018). Many community members believe the legal system does not hold police officers accountable, as prosecutors rarely bring charges against police officers in fatal use of force cases (Stinson, 2019). However, when police officers are brought to trial for unjustified use of fatal force and the issue is put back in the hands of the public (i.e., jurors), outcomes do not reflect a clear bias in favor of police officers. Archival analysis of actual jury trials of police officers criminally charged for fatal on-duty shootings since 2005 showed verdicts to be nearly evenly split down the middle (Ratliff, Peter-Hagene, Davis, & Rajayah, unpublished manuscript). Given the divided nature of public reactions, it is important to learn how important jurors' attitudes toward the police are to their verdict decisions, regardless of case facts. Jurors in fatal use of force trials might be susceptible to the influence of their own pre-existing attitudes about police. Can the potential influence of jurors' attitudes be minimized or exacerbated by the legal instructions jurors are given when determining their verdicts? Furthermore, do specific types of jury instructions influence the relationship between jurors' pre-existing attitudes toward police and verdicts by distorting their interpretation of the evidence, or by encouraging them to consider the events from the officer's perspective?

Although the strength of the evidence is generally the best predictor of verdicts in most trials (Devine, Buddenbaum, Houp, Studebaker, & Stolle, 2009), jurors' attitudes toward police (i.e., their general trust or distrust of police) might influence verdicts in fatal use of force trials. According to the story model of jury decision making, jurors naturally organize evidence in

terms of a cause and effect narrative, filling in any ambiguous gaps on their own (Pennington &

Hastie, 1981; 1988; 1993). For example, Carlson & Russo (2001) found that jurors in a mock

civil negligence trial selectively attended to and evaluated new information according to their

pre-trial attitudes toward "typical" plaintiffs and defendants in such cases. Jurors who had

positive (versus negative) attitudes toward typical civil defendants distorted the evidence in favor

of the defense, while jurors with positive (versus negative) attitudes toward plaintiffs distorted

evidence in favor of the prosecution. Because pre-existing beliefs tend to provide the narrative

framework for how jurors interpret evidence and instructions (Pennington & Hastie, 1981;

Ellsworth, 1993), jurors' pre-trial attitudes toward police might similarly influence judgments

and decision-making in fatal police use of force trials.

Language and phrasing variations in jury instructions might influence verdicts directly, or

by reducing or enhancing the effect of pre-trial attitudes. Two Supreme Court rulings

recommend very different types of instructions, yet neither of them has been tested empirically

to assess their effects, if any, on verdicts. In *Tennessee v. Garner* (1985) and *Graham v. Connor*

(1989), the Supreme Court defined the "*reasonableness standard*" by which the behavior of

police officers charged with excessive or fatal use of force should be judged. The 1985 Garner

decision provided a specific list of factors to consider in determining whether the *totality of*

circumstances justified a particular use of force (e.g., crime is for a felony, risk to innocent

persons from officer behavior, presence/absence of deadly weapon, whether warning was given,

etc.). Four years later, the 1989 Graham ruling brought into focus the *superseding moment*, or the

very narrow point in time during which an officer decides to use deadly force (e.g., "…police

officers are often forced to make split-second judgments - in circumstances that are tense,

uncertain, and rapidly evolving..."). Thus, the Justice System is compelled to comply with

Supreme Court precedent, and as such, must incorporate the language provided in Connor and Graham into jury instructions in fatal use of force trials. However, jury instructions in actual police use of force trials are ultimately left to the discretion of presiding judges and, as a result, incorporation of the language from Connor and Graham has varied drastically across jurisdictions.

A review of jury pattern instructions—available online from all US Appellate Courts, except the Second and Fourth Circuits—uncovered substantial inconsistencies in how the guidelines for evaluating excessive and fatal police use of force have been explained to jurors. Specifically, some pattern instructions incorporated language from Graham, others incorporated language from Garner, and others contained a combination of language from both. These inconsistencies have significant implications for the uniform and unbiased administration of justice because the language in these instructions might have psychological implications for how jurors process evidence in cases involving police officers as defendants. Importantly, research illustrates that jury instructions might increase the predictive power of attitudes for verdicts in some situations (Peter-Hagene & Bottoms, 2017) and decrease the predictive power in other situations (Pfeifer & Ogloff, 1991). Although it is not easy to change people's attitudes about police, it is possible to influence the *mindset* (i.e., a way of thinking about or approaching a task) with which jurors approach evaluating evidence (O'Brien & Oyserman, 2008). Furthermore, instructing or encouraging participants to think in specific ways can affect behavioral outcomes (Yeager & Dweck, 2012).

Jury instructions adapted from the Graham ruling (i.e., superseding moment) guide jurors to adopt a subjective standard of reasonableness in their decision-making process. Subjective reasonableness standards lead to greater reliance on existing attitudes and shallow information

processing (Epstein, 1994), which might lead jurors to focus on attitude-congruent evidence (i.e., defense evidence for pro-police jurors and prosecution evidence for anti-police jurors). Importantly, instructing jurors to adopt subjective (versus objective) standards of reasonableness leads to fewer guilty verdicts (Terrance, Matheson, & Spanos, 2000). Additionally, superseding moment instructions (Graham, 1989) guide jurors to view the shooting event from the officer's perspective. Given that jurors who engage in such perspective-taking are more likely to express empathy for defendants and less likely to find them guilty (Haegerich & Bottoms, 2000; Skorinko, Laurent, Bountress, Nyein, & Kuckuck, 2014), this type of instruction might shift verdicts in favor of police officers. Moreover, it is also possible that Graham-based instructions could influence verdicts by focusing juror's attention on the very narrow moment in which force was used rather than the entirety of circumstance.

In contrast to superseding moment instructions, instructions adapted from the 1985 Garner decision (i.e., totality of circumstance) advise jurors to consider several relatively objective factors when determining whether an officer's use of force was reasonable. The list of specific factors in totality of circumstance instructions might induce an objective mindset, and thus, prompt jurors to engage in a more deliberate and unbiased evaluation of the evidence. Furthermore, unlike the split-second focus of the superseding moment instructions, totality of circumstance instructions guide jurors to consider the entire chain of events before, during, and after the shooting incident. Hence, the goal of the present research was to empirically test whether common language variations in jury instruction content resulted in disparate verdict outcomes across conditions in which jurors with positive or negative attitudes toward police evaluated evidence from a fatal police shooting trial.

CHAPTER 2

LITERATURE REVIEW

The Influence of Attitudes on Jurors' Decision Making

Attitudes and jurors' judgments. To understand jurors' judgments in fatal use of force cases, it is first necessary to consider the influence of jurors' pre-existing attitudes on the way they make judgments and decisions. Juror's decisions are generally consistent with that of judges (Kalven & Zeisel, 1966; Eisenberg et al., 2005) and their verdicts are generally best predicted by the strength of the evidence. However, jurors do not come into the courtroom as blank slates, free of any preconceived notions about various types of "good" or "bad" people that inhabit the social world around them. Rather, people's cumulative history of positive or negative experiences with various social groups are likely to shape their attitudes. For example, people's prior experience with police and the justice system are likely to shape their attitudes toward police (Rosenbaum, et al., 2005).

Attitudes can affect behavior like decision-making spontaneously, or the process can be more deliberative. According to Fazio (2007) the process occurs through an automatic sequence in which attitudes are activated by situational factors and then come to promote selective processing of attitude-congruent information. Hence, a person's attitude about any given social object is likely to shape how they process new information related to that object, and to prepare people to perceive events that are consistent with their beliefs (Roskos-Ewoldwon & Fazio, 1992; Fazio, Roskos-Ewoldwon, & Owell, 1994). When a person encounters the attitude object, the attitude becomes activated to a level of accessibility that increases the likelihood that the attitude will affect how subsequent information is interpreted. For example, when people encounter a police officer defendant, their general attitudes toward police are likely to become

more readily accessible in memory.

Furthermore, when attitudes are based on direct personal experience, they are more easily accessible, and thus, more likely to influence behavior (Regan & Fazio, 1977). Therefore, when people have highly accessible attitudes toward a social object or category (e.g., police officers), the object is more likely to attract their attention and to provide the framework for how they perceive and process new information related to that object (e.g., police officer-hero versus police officer-villain). Alternatively, attitudes can influence behavior through a more deliberate process. For example, reasoned action approaches (Ajzen, 1991, 2012; Fishbein & Ajzen, 1975) suggest that attitudes toward a given behavior, perceived social norms, and perceived behavioral control all contribute to the development of a person's intentions. In turn, a person's intentions are predictive of their behavior. Attitudes are more likely to influence behavior when individuals have stable (Jonas, Broemer, & Diehl, 2000) and well-rehearsed (Erber, Hodges, & Wilson, 1995; Wyer & Srull, 1989) attitudes.

Prior evidence suggests that jurors' pre-existing attitudes toward police might have a substantial influence on the way jurors perceive and interpret evidence and jury instructions during trials with police officer defendants (Carlson & Russo, 2001; Ellsworth, 1993; Pennington & Hastie, 1981; 1988; 1993). For instance, Carlson & Russo (2001) found that mock jurors in a civil negligence trial selectively attended to and evaluated new information according to their pre-trial attitudes. More specifically, jurors who had positive (versus negative) attitudes toward "typical" civil defendants distorted the evidence in favor of the defense. In contrast, jurors with positive (versus negative) attitudes toward prosecutors distorted the evidence in favor of the prosecution. Therefore, in a complex trial, where both sides offer evidence to support their claims and where the "correct" verdict is not immediately obvious, jurors with positive attitudes

toward police might be likely to focus on evidence from the defense and jurors with negative attitudes toward police might be likely to focus on evidence from the prosecution.

      Attitudes toward police. In general, people have at least somewhat positive views of the police. Specifically, the Pew Research Center (Fingerhut, 2017) found that two-thirds of the public (64%) rated officers warmly, 16% gave a neutral rating, and just 18% gave a cold rating. Gallup polls have similarly demonstrated that Americans rank the police as the third highest institution in which they have confidence, with a majority (54%) reporting a "great deal" of confidence in police, 31% endorsing "some" confidence, and only 15% reporting "very little or none" (Saad, 2018). For police to be effective administrators of justice, they must be seen as legitimate authority figures who are deserving of deference and obedience. The procedural justice perspective suggests that police gain legitimacy when the processes through which authority is exercised and decisions are made are perceived to be fair. When people have trust and confidence in police legitimacy, they are more likely to cooperate with police and to support policies that empower police (Sunshine & Tyler, 2003). In a recent international review, Jackson (2018) found that procedural justice continues to be the strongest predictor of people's subjective belief about whether an institution is entitled to power and obedience (i.e., police legitimacy). However, a perceived failure to hold police accountable for wrongful instances of fatal force has led to poorer assessments of police fairness and legitimacy (Park, 2018), particularly among communities of color (e.g., for a review, see Peck, 2015).

      Several demographic and social characteristics have a robust relationship with attitudes toward police: race (Park, 2018), social context (Braga, Winship, & Tyler, 2014), neighborhood context (Maxson, Hennigan, & Sloane, 2003; Nix, Wolfe, Rojek, & Kaminski, 2015), and direct and vicarious contact with the police (Augustyn, 2016; Fine, Cavanagh, Steinberg, Frick, &

Cauffman, 2016). Some research has shown significant effects of age (Jefferis, et al., 1997; McLean, Wolfe, & Pratt, 2019), political ideology (e.g., for a review, see Brown & Benedict, 2002), and level of education (Weitzer & Tuch, 1999; for a review, see Brown & Benedict, 2002)—with highly educated young people being more skeptical of police legitimacy. Rosenbaum and colleagues (2005) found that, although direct contact with police in the year prior did not influence attitudes, learning about another person's positive or negative experience with police accordingly shifted attitudes toward police in positive or negative directions.

In contrast to jurors with more skeptical or negative attitudes toward police (e.g., Black Americans, Weitzer, Tuch, & Skogan, 2008; liberals, Ekins, 2016), jurors with positive attitudes toward police are more likely to view police officers as guardians—the good guys who are trained and trusted to carry weapons in defense of the general public. Indeed, the mere presence of a police officer in uniform seems to have a powerful impact, making people more likely to accept and comply with orders, no matter how strange (e.g. give a dime to a stranger, Bickman, 1974). Evidence has also shown that police officers wearing traditional (versus more civilian-styled) uniforms are perceived as more competent, honest, helpful, good, more valuable, and possessing better judgment (Mauro, 1984; Nickels, 2008).

Attitudes toward police use of force. Most studies on perceptions of police use of force have focused on general attitudes. For example, evidence has shown that a majority of the general public (60%) believes that fatal police use of force against Black individuals in recent years is a sign of a broader problem (Morin, Parker, Stepler, Mercer, 2017). Unsurprisingly, Black Americans (73%) are more likely than White (35%) or Hispanic (54%) Americans to say that police officers are too quick to use fatal force (Ekins, 2016). However, some social groups are more supportive of police use of force. For example, political conservatives endorse more

positive attitudes toward police use of force than do liberals (Ekins, 2016; Gerber & Jackson, 2017; Haider-Markel & Joslyn, 2017; Seron, Pereira, & Kovath, 2004; Stack & Cao, 1998).

Studies investigating people's reactions to specific use-of-force incidents have increased over time (Bradford, Milani, & Jackson, 2017; Celestin & Kruschke, 2018; Gerber & Jackson, 2017; Jefferis, Butcher, & Hanley, 2011; Weitzer, 2002). Predictably, people who have positive attitudes toward police legitimacy are more likely to accept specific instances of fatal use of force by police (Celestin & Kruschke, 2018). People who identify strongly with certain social groups (i.e., law-abiding citizens) are also more likely to accept instances of police use of force than people who do not identify strongly with those social groups, regardless of whether the force seemed justified or not (Bradford, Milani, & Jackson, 2017). Law enforcement agencies use decision rules for determining the appropriate level of force police officers should use in response to various types of dangerous citizen conflict (i.e., force continuum). Celestin and Kruschke (2019) found that, although police officers are taught to subdue dangerous suspects with a higher level of force than that which confronts them, the public actually expects police officers to respond at a level of force that is lower than the threat exhibited by the suspect. Similarly, Jefferis and colleagues (2011) found that most people believed police officers use too much force in relation to the level of resistance demonstrated by suspects. Furthermore, results from a recent analysis of reactions to specific use of force instances from 1990 to 2018 demonstrated that, over time, people have become more disapproving of legally reasonable, justifiable use of fatal force by police (Mourtgos & Adams, 2019). In the following sections, I will discuss some theoretical models of how jurors' pre-existing attitudes can ultimately come to shape their verdict decisions.

Story model of juror decision making. According to the story model of jury decision-

making (Pennington & Hastie, 1981; 1988; Ellsworth, 1993), jurors' beliefs about police might provide the narrative framework for how jurors interpret evidence and instructions in fatal use of force cases. Importantly, the cause and effect narrative jurors construct in cases where police officers used fatal force against a suspect might be shaped by their pre-existing attitudes toward police. The story model holds that jurors organize trial information (e.g., evidence, attorney statements, witness statements, etc.) into a narrative account and construct a cause and effect story to explain what happened. Creating a narrative story enables individual jurors to better understand the evidence and to decide their initial, pre-deliberation verdict choice. However, in addition to the evidence presented at trial, jurors rely on their existing knowledge of similar cases or crimes, and their own general expectations and experiences with case-related issues when constructing a narrative story of the trial events (Pennington & Hastie, 1993). Indeed, Ellsworth (1993) reported that jurors existing beliefs guide them to construct general "stereotyped themes" to summarize the trial events. For example, "Hero cop fatally shoots dangerous criminal," versus "Reckless cop fatally shoots petty thief." Jurors with positive (versus negative) attitudes toward police are more likely to view police officers as the "good guys" (Weitzer, et al., 2008; Ekins, 2016). As such, jurors with positive attitudes toward police who are evaluating a fatal use of force case would construct a narrative in which the police officer is a hero, doing his duty to stop a dangerous criminal. In contrast, jurors with negative attitudes toward police would create a narrative in which the police officer was reckless in shooting a harmless victim.

Cognitive consistency theory of juror decision making. According to cognitive consistency theories (Festinger, 1957; Heider, 1946; Osgood & Tannenbaum, 1955; Simon, et al., 2004) people are motivated to seek coherent and consistent attitudes, thoughts, beliefs, values, feelings, and behaviors. When inconsistencies arise, this produces a state of tension (i.e.,

dissonance) and motivates the person to reduce the cognitive discomfort. To reduce the tension, people will work to make their relevant case-related cognitions consistent with their pre-existing beliefs. Thus, it might be difficult for jurors with positive attitudes toward police to cast police officers in the role of aggressor in fatal use of force trials. Jurors trying to reconcile long-held beliefs that a trusted and respected police officer could be guilty of intentionally hurting a citizen while serving in the line of duty are likely to experience the discomfort of cognitive dissonance. Similarly, jurors with negative attitudes toward police might have an equally difficult time reconciling their belief that police officers are not to be trusted with evidence that the officer responded reasonably in the face of a serious threat.

In line with the story model, cognitive consistency theories hold that jurors have a propensity to build stories that are coherent and consistent with their prior beliefs and knowledge. As such, the way they interpret information and reason about their decisions is susceptible to judgment biases (Holyoak & Simon, 1999; Simon et al., 2004). Specifically, jurors engage in a process by which they attend more closely to one perspective of the evidence and dismiss alternative perspectives (Simon et al., 2004). Engaging in such a process makes difficult judgments more palatable to jurors and allows them to achieve cognitive consistency while constructing a coherent story to explain the evidence presented to them at trial.

Thus, jurors' attitudes toward police are likely to provide the framework for how jurors attend to and interpret evidence in fatal police use of force cases (Carlson & Russo, 2001). Particularly, jurors with negative attitudes toward police would be more likely to notice and pay attention to evidence that supports guilt (i.e., prosecution evidence) and to be more critical and/or dismissive of evidence that supports the police officer's need to use deadly force (i.e., defense evidence). In contrast, jurors with positive attitudes toward police would be more likely to attend

11

to evidence that exonerates the officer (i.e., defense evidence) and to discount or disregard any evidence that suggests guilt (i.e., prosecution evidence).

Jury Instructions in Fatal Use of Force Trials

Jury instructions for criminal trials of police officers are adapted almost exclusively from civil, rather than criminal, pattern instructions. Specifically, First Circuit criminal pattern instructions state that police officers should be treated the same as other defendants, and the Fifth Circuit criminal pattern instructions indicate that police use of force claims should be evaluated under the Fourth Amendment according to Graham (1989). Otherwise, criminal pattern instructions do not mention or provide specific guidance on judging police officers who have been accused of unlawful use of deadly force.

In the 1985 case of *Tennessee v. Garner* (1985), police officers shot and killed Edward Garner—who the officers acknowledged did not appear to be armed—with hollow-point bullets as he tried to escape capture by jumping over a fence. Garner's family filed a wrongful death suit, but the district court sided with the officers in saying that Garner assumed the risk of being shot during his reckless escape attempt. On appeal to the U.S. Court of Appeals for the Sixth Circuit, however, that decision was reversed on grounds that killing a fleeing suspect is a "seizure" under the Fourth Amendment. As such, a seizure is only reasonable when the suspect poses a threat to the safety of police officers or the community at large. The U.S. Supreme Court upheld this decision and established new precedent for legally defining the '*objective reasonableness standard'* of police officer behavior according to Fourth Amendment standards for reasonable search and seizure. In the written opinion, the Justices provided a specific list of factors to consider in determining whether the *totality of circumstances* justified a particular use of force (e.g., crime is for a felony, risk to innocent persons from officer behavior considered,

12

presence/absence of deadly weapon, attempts to temper/limit force, whether warning was given, etc.). Although the list of relatively objective factors seemed to be a promising start in establishing guidelines for determining the reasonableness of a police officer's use of deadly force, the details of this ruling often fade to the background of a well-known case that followed.

In 1989, the Supreme Court ruling in *Graham v. Connor* cemented the legal requirement that claims of excessive police use of force should be analyzed according to the Fourth Amendment's prohibition against unreasonable seizures of the person. Dethorne Graham, who was diabetic, entered a store to purchase orange juice to counter an insulin reaction. Graham quickly exited after seeing a long line at the counter. A police officer found Graham's unusually quick entrance and exit from the store suspicious and pulled him over. Due to the worsening insulin reaction, Graham was uncooperative, he exhibited strange behavior, and he was unable to communicate his condition. Additional officers arrived on the scene and violently subdued Graham. The officers eventually learned that no crime had taken place at the convenience store and returned Graham to his home. As a result of the incident, Graham suffered cuts on his wrist, a bruised forehead, a broken bone in his foot, an injured shoulder, and persistent ringing in his ears. He subsequently filed suit against the officers for unlawful excessive use of force.

District and appellate courts both denied Graham's claim based on previous Eighth Amendment standards requiring a '*subjective inquiry*' into whether the officers acted with malicious and sadistic intent. The Supreme Court, however, expanded the precedent set in *Tennessee v. Garner* (1985) and unanimously ruled that Graham's claim—as well as all other claims of excessive force—are properly analyzed under the Fourth Amendment's "objective reasonableness" standard. The ruling in *Graham v. Connor* (1989) validated the precedent set in the 1985 Connor case and outlined additional factors to consider when evaluating the

reasonableness of force that stressed the importance of balancing citizens' right to be free of unreasonable seizure with police officers' right to safely perform their duties. Specifically, the ruling focused legal actor's attention to the *superseding moment*, or the very narrow point in time during which an officer decides to use deadly force (e.g., "…police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving..."). Hence, the justice system was compelled to institute policies and practices that are consistent with Supreme Court precedent, and as such, has slowly—and inconsistently— incorporated the language provided in *Tennessee v. Garner* (1985) and *Graham v. Connor* (1989) in the instructions given to jurors in excessive and/or fatal use of force trials.

Once established in *Graham v. Connor* (1989), the new 'reasonableness standard' was expected to increase the likelihood that police officers would be held accountable for excessive use of force (MacDonald, 1990). However, it is possible that the language adapted from these Supreme Court rulings and used to instruct jurors in unlawful use of force trials might have unintended consequences on how jurors perceive and process information when determining police officer guilt. Indeed, some legal scholars have argued that Graham-based instructions tend to be inconsistent and favorable to police, allowing officers to make "exaggerated claims regarding the dangerousness of police work," to justify the use of fatal force (Gross, 2016). Indeed, it is possible that the language in Graham (1989) might lead jurors to engage in perspective-taking behavior and to give greater consideration to the officer's subjective experience in the moment (e.g. "reasonableness must be judged from the perspective of a reasonable officer on the scene…the standard of reasonableness at the moment applies."). In contrast, providing jurors with the list of relatively objective factors (e.g., crime is for a felony, presence/absence of deadly weapon, attempts to temper/limit force, warning was given, etc.)

14

from *Tennessee v. Garner* (1989) might prompt a more deliberate and objective mindset.

My review of published US Appellate Circuit Court jury pattern instructions—available online from all US Appellate Courts, except the Second and Fourth Circuits—uncovered substantial inconsistencies in how courts instruct jurors about evaluating fatal police use of force. Specifically, some instructions incorporated language from Graham (First, Third, and Fifth Circuit), others incorporated language from Garner (Seventh Circuit), and still yet, others contained limited (Sixth, Eighth, and Eleventh Circuit) or detailed (Ninth Circuit) language from both.

The Effect of Jury Instructions on Jurors' Decision Making

In an effort to establish professional standards for acceptable jury decision-making research practices, Lieberman, Krauss, Heen, and Sakiyama (2016) sampled authors of jury decision-making studies, editorial board members, and journal editors over a 5-year period. The inclusion of jury instructions was rated as the most important specific trial element required for acceptable jury-decision making research. This is not surprising, given that the content of jury instructions is the only direct information jurors are given about the legal standards they are to apply when evaluating the evidence presented to them at trial.

There are several reasons to expect that superseding moment instructions would lead to more lenient verdicts than totality of circumstance instructions. First, although jurors with positive attitudes toward police are already expected to convict at lower rates regardless of instruction type, superseding moment instructions might exacerbate the influence of attitudes on verdicts by a.) instructing jurors to adopt a subjective standard of reasonableness and b.) by encouraging jurors to engage in perspective-taking. Specifically, cognitive experiential self-theory (Epstein, 1994) suggests that inducing a subjective standard of reasonableness leads to

15

shallow experiential information processing and a greater reliance on existing attitudes and beliefs. Superseding moment instructions might encourage jurors to adopt such a subjective standard of reasonableness, which would lead to shallow information processing and might lead jurors to focus on attitude-congruent evidence (i.e., defense evidence for pro-police jurors and prosecution evidence for anti-police jurors). Moreover, perspective-taking increases empathy for defendants (Haegerich & Bottoms, 2000; Skorinko, et al., 2014) and has also been shown to decrease stereotyping and ingroup favoritism (Galinsky & Ku, 2004). Perhaps superseding moment instructions would encourage not only jurors with positive attitudes toward police, but also those with negative attitudes, to have more empathy toward the officer, and to render fewer convictions.

Second, totality of circumstance instructions might promote an objective reasonableness standard by providing a list of specific factors for jurors to consider (e.g., crime is for a felony, risk to innocent persons from officer behavior, substantial risk of death or serious bodily harm if suspect not apprehended, warning given when feasible), which is absent from superseding moment instructions. Research has shown that jurors who are guided to think objectively and rationally tend to render more impartial verdicts than jurors who are guided to think subjectively and experientially (Krauss et al., 2004; Lieberman et al., 2007; Terrance et al., 2006). Hence, jurors who read totality of circumstance instructions might be less susceptible to the influence of existing attitudes and make more objective evaluations of the evidence, which would lead to higher conviction rates when the officer did not act in accordance with the standards outlined in the instructions.

Third, superseding moment language might also influence verdicts by focusing juror's attention on the very narrow point in time when the officer decided to use force (i.e., "…the

16

standard of reasonableness *at the moment* applies… *split-second judgments*—in circumstances that are tense, uncertain, and rapidly evolving…”). Focusing juror's attention on this small moment may lead jurors—particularly those with positive attitudes toward the police—to rely more heavily on prosecution (versus defense) evidence and to render fewer guilty verdicts. In contrast, totality of circumstance instructions might guide jurors to take a more global focus by instructing them to consider all the contextual factors (e.g., “…reasonableness…depends on the particular facts and circumstances of each case. Factors you may consider…”). Regardless of their pre-trial attitudes toward police, jurors who read totality of circumstance instructions would render more convictions than jurors who read superseding moment or control instructions.

   The moderating effect of jury instructions on juror's attitudes. Jury instructions might decrease the biasing influence of attitudes in some situations (Pfeifer & Ogloff, 1991) and increase the influence of attitudes in other situations (Meissner, Brigham, & Pfeifer, 2003; Peter-Hagene and Bottoms, 2017). For example, Pfiefer and Ogloff (1991) demonstrated that, although participants tend to overwhelmingly rate Black (versus White) defendants as more guilty, the effect disappears when participants receive instructions to not let prejudice or bias influence their verdicts. In contrast, jury instructions can also increase the biasing effect of pre-existing attitudes and beliefs on verdicts (Peter-Hagene & Bottoms, 2017; Peter-Hagene & Ratliff, 2020). Specifically, jury nullification occurs when—despite clear evidence of guilt—a jury finds a defendant not guilty because rendering a guilty verdict would violate their own sense of moral justice. Jury nullification is especially likely in cases with morally ambiguous crimes (e.g., euthanasia, marijuana possession) when instructions explicitly allow jurors to follow their own beliefs rather than the strict rule of law. In such cases, jurors render verdicts that are consistent with their pre-existing attitudes. For example, Peter-Hagene and Ratliff (2020) had participants

evaluate a mock euthanasia trial in which a defendant was accused of committing a mercy killing. Jurors with pro-euthanasia (versus anti-euthanasia) attitudes were overall less likely to render convictions, but particularly when the instructions informed jurors of their legal right to follow their own conscience rather than the law. Nullification instructions bolstered the effect of attitudes on verdicts by encouraging jurors to rely on their feelings of moral outrage toward the law.

Totality of circumstance instructions adapted from the Garner (1985) ruling are written in plain language and provide a relatively objective list of factors for jurors to consider when determining whether the use of lethal force was justified (e.g., crime is for a felony, risk to innocent persons from officer behavior, substantial risk of death or serious bodily harm if suspect not apprehended, warning given when feasible). Thus, perhaps totality of circumstance instructions would prompt a more careful and rational evaluation of the officer's behavior. As a result, totality of circumstance instructions would lead to an increased likelihood that jurors would be more sensitive to the specific factors that determine the reasonableness of an officer's actions. As such, jurors who read totality of circumstance instructions would render verdicts consistent with the evidence, rather than their personal beliefs and attitudes.

The effect of jury instructions on juror's approach to evaluating evidence. Although changing jurors' attitudes about police to ensure impartial verdicts is unlikely, jury instructions can induce the *mindset* (i.e., way of thinking about/approaching tasks) with which jurors approach their task (O'Brien & Oyserman, 2008). For example, seeing a police officer defendant might prime jurors with the concept of police officers, which would then activate related concepts such as badge, gun, or crime fighting in memory. Jury instructions, however, induce certain mindsets in jurors by advising them of the legal guidelines and criteria they are to follow

in making their determinations.

Research on mindset priming investigates how instructing or encouraging participants to think in specific ways can affect behavioral outcomes (Gollwitzer & Kinney, 1989; Gollwitzer, Heckhausen, & Steller, 1990; Bargh et al., 2001; Yeager & Dweck, 2012). For example, Gollwitzer and Kinney (1989) found that people who were primed with a deliberative mindset (i.e., instructed to make a decision) developed a different way of approaching tasks than people who were primed with an implemental mindset (i.e., instructed to implement a specific goal). According to cognitive experiential self-theory (Epstein, 1994), mindsets, or information processing modes, are either experiential or rational. Experiential reasoning tends to be the default processing mode because it is efficient and requires less effort by relying on existing attitudes and beliefs. Rational processing, however, is more analytic and effortful. For example, Krauss and colleagues (2004) primed participants in a death penalty trial with a mindset to think experientially (i.e., draw picture of current emotional state) or rationally (complete a math worksheet) and then exposed participants to expert witness testimony about the dangerousness of the defendant. Jurors primed with a rational mindset considered fact-based (versus emotional) testimony and jurors primed with an experiential mindset were more influenced by emotional (versus fact-based) testimony.

Results from studies into the effects of inducing rational (versus experiential) mindsets in jurors through the use of jury instructions (e.g., Lieberman et al., 2007) parallel findings from research investigating the effects of directing jurors to adopt objective versus subjective standards of reasonableness when determining guilt. For example, in a mock murder trial of a wife who murdered her abusive husband, Terrance and colleagues (2006) instructed jurors to adopt either an objective (e.g., "must consider how an ordinary person, operating reasonably

19

under the circumstances…would have responded.") or a subjective (e.g., "not to be judged by what an average person might consider reasonable…instead by what the defendant honestly believed…") standard of reasonableness when determining guilt. Jurors who received objective (versus subjective) instructions were more likely to convict. Therefore, jurors who are guided to think objectively and rationally tend to render more impartial verdicts while jurors who are guided to think subjectively and experientially tend to render verdicts that are more consistent with pre-existing attitudes and beliefs.

Similarly, superseding moment instructions adapted from the Graham ruling (1989) encourage jurors evaluating instances of fatal police use of force to consider the officer's subjective experience in the moment force was used (e.g., "the standard of reasonableness at the moment applies…police officers are often forced to make split-second judgments…"). Thus, superseding moment instructions guide jurors to adopt a subjective standard of reasonableness and, in turn, might lead to an increased chance that pre-existing attitudes would influence verdicts. According to cognitive experiential self-theory (Epstein, 1994), this is because inducing a subjective standard of reasonableness leads to a reliance on existing attitudes and beliefs, with shallow, experiential information processing. Therefore, jurors with positive attitudes toward police who read superseding moment instructions might give greater consideration to prosecution (versus defense) evidence.

In contrast, totality of circumstance instructions outline an objective standard of reasonableness and provide impartial information to consider when determining officer guilt (e.g., crime was for a felony, efforts to temper or limit force, warning was given, etc.). Hence, totality of circumstance instructions might prompt a more rational approach and lead jurors to render more objective verdicts based on equal consideration of both prosecution and defense

evidence. Specifically, jurors who read totality of circumstance instructions should be more willing to render guilty verdicts if an officer's behavior does not satisfy the objective standard requirements outlined in the jury instructions.

   The effect of jury instructions on perspective-taking. When people engage in perspective-taking by making a deliberate effort to imagine themselves in another person's position, they are more likely to feel empathy with that person (Chambers & Davis, 2012; Davis, 1983). In some cases, perspective-taking has been shown to decrease stereotyping and ingroup favoritism (Galinsky & Ku, 2004). Furthermore, when jury instructions encourage jurors to take the defendant's perspective, jurors are more likely to express empathy for, and to ultimately acquit, the defendant (Haegerich & Bottoms, 2000; Skorinko, et al., 2014). For example, Haegerich and Bottoms (2000) found that having mock jurors engage in perspective-taking when evaluating a 15-year old defendant charged with patricide for killing her sexually abusive father led to increased empathy for the defendant and fewer guilty verdicts. Similarly, Skorinko and colleagues (2014) embedded perspective-taking language in jury instructions in a mock vehicular manslaughter trial. The authors found that perspective-taking led jurors to perceive the defendant as less culpable, which, in turn, indirectly resulted in seeing the defendant as less guilty. The language in superseding moment instructions explicitly encourages jurors to engage in perspective-taking (e.g., "…must be judged from the perspective of a reasonable officer…forced to make split-second judgments…"). Thus, jurors who read superseding moment (versus totality of circumstance or control) instructions would be expected to imagine themselves in the officer's position during a fatal use of force incident, which may increase juror empathy for the officer, and, in turn, lead to higher rates of acquittal.

Design

  In an experimental mock-jury study, the content of jury instructions for first-degree murder were manipulated to be consistent with either totality of circumstance language (*Tennessee v. Garner*, 1985) or superseding moment language (*Graham v. Connor*, 1989), along with a control condition that did not contain any police-specific language and instead consisted of pattern jury instructions for first-degree murder in general. All participants provided informed consent. Attitudes toward police were measured as a continuous predictor and were counterbalanced before and after the trial. Participants were asked to provide ratings of prosecution evidence importance, indicate the extent to which they engaged in perspective-taking, complete a memory for case facts questionnaire, manipulation checks, and a suspicion item, as well as provide demographic information. The importance of prosecution evidence and perspective-taking were measured as potential mediators. The dependent measures were verdicts.

Hypotheses

H1: The content of jury instructions and attitudes toward police would predict guilty verdicts.

  H1.a: **I hypothesized a main effect of instructions.** Jurors who read totality instructions were expected to convict at higher rates than jurors who read superseding moment instructions or control instructions. Jurors who read superseding moment instructions were expected to convict at lower rates than participants in the control condition. See Figure 1.

  H1.b: I hypothesized a main effect of positive attitudes toward police. Jurors with more positive (versus more negative) attitudes toward police were expected to convict at lower rates. See Figure 1.

  H1.c: I hypothesized an interaction between instruction content and positive

attitudes toward the police. The predictive power of attitudes for verdicts would vary, depending on the type of instruction. Because existing beliefs are likely to influence jurors' perceptions of evidence, attitudes toward police would predict verdicts for jurors who read control instructions, which contained no specific guidance on evaluating police officer defendants. Specifically, jurors in the control condition with positive (versus negative) attitudes toward police would convict more often than jurors who read superseding moment instructions, but less often than jurors who read totality of circumstance instructions. Moreover, several factors (i.e., attitude-consistent information, lack of objective instruction, perspective-taking, narrow focus) suggested that attitudes would predict verdicts for jurors who read superseding moment instructions. Jurors with positive (versus negative) attitudes toward police who read superseding moment instructions would be significantly less likely to convict than similar jurors who read totality of circumstance or control instructions. Finally, because jurors who read totality instructions are guided to make a more objective evaluation of the evidence, the predictive power of attitudes was not expected to be significant for them. See Figure 1.

H2: I hypothesized that the importance of prosecution evidence and perspective-taking would mediate the relationship between positive attitudes and verdicts, with mediation being moderated by instruction type. Jurors' attitudes might influence verdicts by guiding jurors to attend more closely to pieces of evidence that are consistent (versus inconsistent) with their pre-existing attitudes (Ellsworth, 1993; Holyoak & Simon, 1999; Pennington & Hastie, 1993; Simon et al., 2004), Therefore, jurors with positive (versus negative) attitudes toward police would attribute greater importance to defense evidence while jurors with more negative (versus positive) attitudes toward police would attribute more importance to prosecution evidence. In turn, the importance of prosecution evidence would influence verdicts, such that

jurors who attributed greater importance to prosecution evidence would be expected to convict the officer most often.

However, this mediation would depend on the moderating effect of instruction type. Specifically, jurors who read totality of circumstance (versus superseding moment) instructions would give equal consideration to prosecution and defense evidence, and, in turn, render verdicts that were consistent with the evidence, rather than their personal beliefs. In contrast, superseding moment instructions would guide jurors to adopt a subjective (versus objective) standard of reasonableness and to rely more heavily on their own attitudes and beliefs when rendering their verdicts. Therefore, the attitudes of jurors who read superseding moment (versus totality of circumstance) instructions were expected to predict the importance of prosecution evidence, and ultimately, guilty verdicts. Positive attitudes toward police would predict the importance of prosecution evidence and guilty verdicts in the control condition to a lesser degree than superseding moment instructions and to a greater degree than the totality of circumstance instructions. See Figure 2.

Perspective-taking has been shown to lead to increased empathy (Chambers & Davis, 2012) and ultimately fewer guilty verdicts (Haegerich & Bottoms, 2000; Skorinko, et al., 2014). Thus, I hypothesized that, for jurors who read superseding moment instructions and were told to take the perspective of the officer in the moment, jurors with positive (versus negative) attitudes toward police would be significantly more likely to engage in perspective taking and, in turn, to acquit the officer. Because jurors who read totality instructions are guided to make a more objective evaluation of the evidence, the effect of perspective-taking on verdicts would not be significant. For jurors who read control instructions, jurors with positive (versus negative) attitudes toward police would be significantly more likely to engage in perspective-taking, and to

subsequently acquit the officer. See Figure 2.

CHAPTER 3

METHOD

Participants

I employed a community sample of Mechanical Turk (MTurk) workers in order to obtain a reasonably diverse sample (Buhrmester, Kwang, & Gosling, 2011). Workers received payment of $2.00 for their participation. A minimum sample of $N = 158$ was necessary for detecting a main effect of moderate effect size ($f = .25$) for the main effect of instruction content on verdicts with 80% power. To ensure adequate power for testing interaction effects, I recruited more than four times as many participants (Maxwell, 2004). Participants were $N = 645$ jury eligible U.S. citizens recruited from Amazon's Mechanical Turk (MTurk). Due to failed manipulation checks ($N = 34$) checks and poor memory for case facts ($N = 75$), 106 participants were excluded from analysis. Two items testing memory for case facts (i.e., "Mike Smith, the defendant, testified that he repeatedly instructed Shawn Davis to "drop the knife and get down on the ground before I shoot." ; Nathan Miller, a defense witness, testified that Shawn Davis appeared to be walking toward the officers.") were deemed faulty and excluded from analysis after nearly half of all participants failed both items.

Of the final sample of $N = 539$, most participants were women (55%). The majority of participants were White (79.8%); participants also identified as Black (9.3%), Hispanic (3.9%), Asian (4.8%), Other (1.3%), and American Indian or Alaska Native (.9%). I conducted comparative analyses to determine if there were any significant differences between the participants who were excluded from analyses and those who were retained. An independent samples t-test revealed significant differences in age between excluded participants and those retained for the analysis ($t(633) = -3.09$, $p = .002$). Participants who failed the memory and

manipulation checks tended to be younger ($M = 38.49$, $SD = 12.73$) than participants who passed the memory and manipulation checks ($M = 43.13$, $SD = 13.96$). Chi-squared analyses revealed no differences between the excluded participants and those retained for the sample on the following demographic variables: gender (χ^2 ($N = 635$) = 3.58, $p = .167$), level of education (χ^2 ($N = 635$) = 1.19, $p = .881$), living environment (χ^2 ($N = 635$) = 4.84, $p = .089$), and recent interactions with police (χ^2 ($N = 635$) = 3.24, $p = .072$).

Participants were recruited via Amazon's Mechanical Turk (MTurk). Data collection took place between March 14, 2020 and March 18, 2020. Because Mechanical Turk samples are known to be more politically liberal, with 34 - 46% of participants indicating they are democrats and only 15 - 22% indicating they are republicans (Levay et al., 2016), I oversampled conservatives to obtain a more politically balanced sample. Specifically, because liberal Mechanical Turk participants are likely to outnumber conservative participants by an average of 14%, I purposefully recruited 90 participants who identified as political moderates or conservatives in order to increase the number of conservatives in the full sample by 14%. In the final sample, 48.8% of participants identified as liberal, 16.4% identified as moderate, and 34.9% identified as conservative. Participants were relatively well-educated with 13.7% having a graduate or professional degree, 44% having a bachelor's degree, 29.3% reporting some college, 11.5% having a high school diploma or GED, and only 0.7% reporting less than a high school degree. Additionally, most participants (52.3%) reported living in suburban areas, while 25.6% reporting living in urban areas and another 22.1% reporting living in rural areas. Four participants did not report their living environment. Because removal of these participants did not significantly alter any findings, their data was not excluded.

Materials

Materials and measures are listed here in the order in which they were presented to the participants.

Consent and eligibility (Appendix A). Participants responded to two yes/no items to verify their eligibility to participate in the study (i.e., over 18-years old, U.S. citizen) and verified their informed consent.

Positive attitudes toward police questionnaire (Appendix B). Participants completed a 9-item measure of positive attitudes toward police adapted from Jackson and colleagues (2018). Although items from the scale have been widely used in similar research on juror's reactions to specific incidents of police use of force (e.g., Bradford, et al., 2017; Gerber & Jackson, 2017), the updated scale was selected for its ability to better characterize various dimensions of personal beliefs about police officers. Specifically, participants rated their level of *disagreement /agreement* (1 = *Strongly disagree*, 5 = *Strongly agree*) with statements regarding bounded authority (3-items; e.g., "When the police deal with people they almost always behave according to the law."), police legitimacy and normative alignment (3-items; e.g., "Police stand up for values that are important to me."), and police officers' neutral decision making (3-items; e.g., "Police give people the opportunity to tell their side of the story before making any decisions."). The positive attitudes toward police measure was counterbalanced such that half of participants completed the measure before viewing trial-related materials and the other half completed the measure after viewing the trial materials, rendering their verdicts, indicating the extent to which they found the officer guilty, and completed measures of the importance of prosecution evidence and perspective-taking. Pre- versus post administration of the positive attitudes toward police measure was used to create the counterbalancing variable (pre-trial = 0, post-trial = 1).

28

There was no missing data. The scale was created by averaging item responses and was found to be highly reliable (Cronbach's alpha = .93). Responses indicated overall positive attitudes toward police ($M = 3.47$, $SD = .90$) Table 1 contains descriptive statistics for the attitudes toward police measure for the overall sample.

Pre-trial jury instructions (Appendix C). Pre-trial instructions informed all jurors that the defendant had pleaded not guilty to the charge of first-degree murder and reminded them of the presumption of innocence and of their duty to render impartial verdicts. Pre-trial instructions also included the experimental manipulation: totality instructions (adapted from *Tennessee v. Garner*,1985), superseding moment instructions (adapted from *Graham v. Connor*, 1989), or control instructions with no additional police-specific language.

Participants in the superseding moment condition received pre-trial instructions with the following additional language:

> "The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. With respect to a claim of excessive force, the standard of reasonableness in the moment applies. Not every push or shove, even if it may later seem unnecessary, violates the Fourth Amendment. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation."

Participants in the totality of circumstance condition received pre-trial instructions with the following additional language:

> "Reasonableness depends on the particular facts and circumstances of each case. Factors you may consider in deciding whether the defendant's use of force was unreasonable include, without limitation: The need for the force used; The relationship between the need for the use of force and the amount of force used; The extent of the victim's injury; Any efforts made by the defendant to temper or limit the amount of force; The severity of the crime at issue; The threat reasonably perceived by the officer; Whether the victim was actively resisting arrest or was attempting to evade arrest by fleeing, if the victim was attempting to escape or evade arrest by use of a deadly weapon or if it reasonably

appeared that he was posing a risk of death or great bodily harm to another person."

Trial stimulus (Appendix D). The trial summary was adapted from the 2018 trial of Chicago police officer Jason VanDyke, who was convicted in the shooting death of 17-year old Laquan McDonald (State of Illinois vs. Jason VanDyke). All names were replaced with fictitious names. For example, Jason VanDyke was replaced with "Mike Smith" and Laquan McDonald was replaced with "Shawn Davis." Participants viewed a presentation of 12 slides, which consisted of opening and closing statements from the prosecution and defense, evidence, and witness testimony. On the first slide of the trial presentation, participants read the prosecutor's opening statement, in which she argued the officer was guilty of murder because a Taser unit was in route, other officers on the scene did not feel the need to fire their weapons, and the victim appeared to be walking away from officers at the time of the shooting, as revealed in screenshots from a poor quality dashcam video. On the second slide, participants read the defense attorney's opening statements, in which he argued the victim had been stealing and terrorizing people with a knife and that the officer acted according to his training in response to a reasonable fear for his life, and the life of others.

Next, participants read summaries of trial testimony from four prosecution witnesses, each presented on separate slides. Prosecution evidence included a map of the area where the incident started to where it finished, the coroner's report, and two still photos from a dashcam video. Images of evidence accompanied the witness testimony to which they were related. For instance, one prosecution witness testified to having followed the victim for several blocks and not having felt that his life was in danger; that testimony was accompanied by the map of the area. Then, participants read trial testimony from four defense witnesses, again with each presented on separate slides. Defense evidence included photos of a damaged police cruiser, a

map showing the proximity to nearby restaurants, and a transcript of the 911 audio call. In line with the presentation of prosecution evidence, defense evidence was presented to participants within slides containing related witness testimony. Finally, participants viewed one slide featuring the prosecutor's closing statement and one slide featuring the defense attorney's closing statement.

Post-trial jury instructions (Appendix E). Post-trial instructions were adapted from Illinois pattern jury instructions but were truncated for ease of clarity for participants. These instructions advised jurors of their duties, advised against the influence of sympathy or prejudice, and reminded jurors that the defendant was presumed innocent until proven guilty. Much like the pre-trial instructions, post-trial instructions contained the same added manipulation of instruction type (i.e., totality, superseding moment, control). Additionally, post-trial instructions included the following definition of first-degree murder:

> A person commits the offense of first degree murder when he kills an individual [without lawful justification] if, in performing the acts which cause the death, [1] he intends to kill or do great bodily harm to that individual [or another]; [or] [2] he knows that such acts will cause death to that individual [or another]; [or] [3] he knows that such acts create a strong probability of death or great bodily harm to that individual [or another]; [or] [4] he [(is attempting to commit) (is committing)] the offense of ____. If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, then you should go on with your deliberations to decide whether a mitigating factor has been proved so that the defendant is guilty of the lesser offense of second-degree murder instead of first-degree murder.

Dependent Measures

Individual verdicts (Appendix F). Participants provided verdict decisions (guilty/not-guilty) and the degree to which they found the defendant guilty (7-point scale: *definitely not guilty* to *definitely guilty*). Although jurors are never asked to provide such ratings of guilt in actual trial decisions, the measure is valuable in jury decision-making research, as it provides

information about juror's level of certainty in their verdict, and also allows for additional analyses that are not possible with dichotomous verdicts. A majority of jurors rendered guilty verdicts ($N = 223$, 58.6%) and overall, jurors were somewhat confident that the officer was guilty ($M = 4.46$, $SD = 2.07$). Table 1 contains descriptive statistics on the continuous guilt measure for the overall sample. Table 3 contains a correlation matrix for dependent measures, mediators, and the moderator.

The Importance of Prosecution Evidence (Appendix G). An initial measure of 10 items, including 5 defense items and 5 prosecution items, tested participant's evaluations of evidence importance. The items measuring importance of defense evidence were dropped due to poor model fit, the final scale was created based on the items that more directly assessed the conceptual variable of interest: importance assigned to incriminating prosecution evidence. In order to determine the extent to which participants valued prosecution evidence, participants rated the importance of 5 elements of prosecution evidence to their verdict decision (i.e., "Officer Joseph Collins followed Shawn Davis on foot for blocks and did not feel his life was in danger." ; "Every officer knew that a Taser unit was on the way." ; "Shawn Davis was shot 16 times." ; "The dashcam photos appeared to show Shawn Davis walking away from the officer." ; "According to a law enforcement educator, Officer Mike Smith should have tried to de-escalate the situation."). This was a 5-point scale (1 = *Extremely important, 5 = Not at all important).* Items were recoded such that higher scores indicated the importance of prosecution evidence and responses to the scale were averaged. There was no missing data. The scale produced adequate reliability (Cronbach's alpha = .87) and indicated high ratings of prosecution evidence importance ($M = 3.70$, $SD = .97$). Table 1 contains descriptive statistics for the importance of prosecution evidence for the overall sample.

Perspective-taking (Appendix H). On a 7-point scale (1 = *Strongly agree*, 7 = *Strongly disagree*), participants rated their level of *disagreement/agreement* with three items regarding the extent to which they tried to imagine how the officer felt, what the officer thought, and how things looked from the officer's perspective (e.g., "I tried to imagine how I would feel if I were in the officer's place."). The three items were adapted from the 7-item Perspective-taking subscale of the 28-item Interpersonal Reactivity Index (IRI; Davis, 1980). Items were recoded such that higher scores indicated higher levels of perspective taking and responses to the scale were averaged. There was no missing data. The perspective-taking scale was highly reliable in the current sample (Cronbach's alpha = .93) and indicated high levels of perspective-taking (M = 5.98, SD = 1.14). Table 1 contains descriptive statistics for the perspective-taking measure for the overall sample. Table 3 contains a correlation matrix for dependent measures, mediators, and the moderator.

Memory for case facts (Appendix I). An 8-item true (e.g. "Shawn Davis popped a tire on a police cruiser with a knife.") and false (e.g., "The coroner's report identified 13 entry wounds.") questionnaire measured participant's recognition of case facts. Participants had to reach at least 60% accuracy to be included in the study.

Manipulation check (Appendix J). Participants responded to two yes/no items in order to verify whether the instructions contained a.) superseding moment language (e.g., "…*calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving…")* or b.) totality of circumstance language (e.g., …"*The need for the force used; The relationship between the need for the use of force and the amount of force used; The extent of the victim's injury; Any efforts made by the defendant to temper or limit the amount of force*.

Participants had to answer this item correctly to be included in the study.

Conceptual manipulation checks (Appendix K). Four conceptual manipulation check questions assessed whether the manipulations had the intended theoretical effect on participants (e.g., "The jury instructions encouraged me to rely on my own attitudes and beliefs," ; "The jury instructions guided me to focus on the very split-second when the officer used fatal force."). On a 5-pont scale, participants rated their level of *agreement/disagreement* (1 = *Strongly agree,* 5 = *Strongly disagree).* To avoid an acquiescence response bias, lower scores indicated higher agreement with each of the statements.

Suspicion item (Appendix L). Due to the notoriety of the original case, a suspicion item allowed for the identification and exclusion of any participants who might have understood the manipulation or been familiar with the actual case.

Demographics

Demographics (Appendix M). To measure age, participants entered a number expressing their age in years. To measure gender, participants responded to the following options: Male, Female, Other. To measure race, participants responded to the following options: American Indian or Alaska Native, Asian, African American, Hispanic, Native Hawaiian or Other Pacific Islander, White, or Other. One item measured political orientation from 1 (*extremely liberal*) to 7 (*extremely conservative*). Living environment was measured by having participants respond to the following options: Urban, Suburban, or Rural. One yes/no item asked participants if they had interacted with an on-duty police officer in the last 12 months.

Confirmatory factor analysis. I used Mplus software (Muthen & Muthen, 1998) to conduct confirmatory factor analyses (CFA) to evaluate the overall fit of my model to the data. The items measuring importance of defense evidence were dropped due to poor model fit, the

final scale was created based on the items that more directly assessed the conceptual variable of interest: importance assigned to incriminating prosecution evidence. The CFA results indicated that my model adequately fit the data (χ^2 (72, $N = 539$) = 498.07, $p < .001$; root mean square error approximation (RMSEA) = .048(.043, .054); comparative fit index (CFI) = .961; (non-normed fit indexes [NNFI]; Tucker–Lewis index [TLI]) = .953; standardized root mean square residual (SRMR) = .030). All factor loadings on each latent construct (positive attitudes toward police, the importance of prosecution evidence, and perspective-taking) exceeded the recommended factor loadings of .400 (e.g., Hair, Anderson, Babin, & Black, 2010). Hence, the scales employed to measure the constructs were deemed appropriate for use. See Figure 3 for the fully standardized estimates from the CFA model.

Procedure

After completing consent and eligibility, participants read general instructions informing them they would play the role of mock jurors, read a presentation of the evidence, and render a verdict decision. Participants then read standard pre-trial instructions (e.g., charges, jurors' duty, etc.), including the experimental manipulation: Some participants were randomly assigned to read totality of circumstance instructions, others to read superseding moment instructions, and others to a control condition with no police-specific language. Next, participants viewed a presentation of the trial summary. After reading the trial summary, participants read post-trial jury instructions, indicated their verdict decisions (guilty/not-guilty), and indicated the degree to which they found the defendant guilty (Definitely not guilty-Definitely guilty). After verdicts, participants rated the importance of prosecution evidence and the degree to which they viewed the incident from the officer's perspective.

To avoid order effects, the measure of positive attitudes toward police was

counterbalanced with the trial stimulus and dependent variables: Half of participants completed

the attitudes measure prior to reading the pre-trial instructions, the other half after providing

verdict decisions and completing the other outcome variables. Participants then completed

attention and manipulation checks. To determine if the instructions had the hypothesized effect,

participants completed four conceptual manipulation check items. Finally, participants reported

their demographics and were debriefed (Appendix N). Average completion time was 24 minutes.

CHAPTER 4

RESULTS

Preliminary Analyses

Six participants had missing data: three participants did not answer either manipulation

check item; four participants did not answer the conceptual manipulation check items; four

participants did not provide their age; and five participants did not provide their political

orientation. Participants who did not provide their age or political orientation were included in

each analysis for which they provided data. Given that no significant differences were found

between analyses conducted with and without the four participants who did not answer the

conceptual and manipulation check items, they were not excluded from analysis. Furthermore,

on the suspicion item, one participant reported familiarity with the original case on which the

study was based. However, removal of this participant did not significantly alter any findings and

the datum were not excluded. The cutoff value for significance in all preliminary analyses and

primary hypothesis testing was $p < .05$.

The effect of instruction content on dependent variables and mediators. Chi-squared

analysis revealed no significant differences in the likelihood of guilty verdicts across

experimental conditions (χ^2 ($N = 539$) $= 2.35$, $p = .308$). Furthermore, analysis of variance testing

revealed that the experimental effect of instruction content did not significantly influence juror's

ratings of officer guilt ($F = .01$, $p = .992$), the importance of prosecution evidence ($F = .56$, $p =$

.570), or perspective-taking ($F = .16$, $p = .849$).

The relationship of demographic and control variables with verdicts and case

judgments. Verdict was coded $1 =$ Guilty, $0 =$ Not Guilty. Guilt was measured as a continuous

variable and was averaged, with higher scores indicating higher confidence in guilt. Gender was

coded 1 = Men, 0 = Women. Age was measured as a continuous variable and was averaged. Participant race was dummy coded with White participants serving as the reference group. Political orientation was measured as a continuous variable and was averaged, with higher scores indicating more conservative viewpoints. Education was measured as a continuous variable and averaged with higher scores indicating higher levels of education. Living environment was dummy coded with participants in the Suburban category serving as the reference group. Recent interactions with police were coded 1 = Yes, 0 = No. Attitudes toward police, importance of prosecution evidence, and perspective-taking were measured as continuous variables and averaged with higher scores indicating a higher presence of the construct.

Spearman rank correlation analysis showed age to be negatively associated with the likelihood of rendering a guilty verdict (r = -.117, p = .007), meaning that younger individuals were more likely to render guilty verdicts. Race was significantly associated with guilty verdicts: 82.0% of Black jurors convicted the officer, followed by 57.1% of Hispanic jurors, and 55.8% of White jurors, χ^2 (N = 539) = 16.39, p = .006. Living environment was also predictive of guilty verdicts: Jurors who lived in urban areas rendered the highest rates of conviction (68.0%), followed by jurors who lived in suburban (56.7%) and rural (53.4%) areas, χ^2 (N = 539) = 8.27, p = .016. Political orientation was significantly associated with the likelihood of convicting the officer: the more conservative the juror, the less likely they were to convict, r = -.235, p < .001. Gender, level of education, and recent interactions with police were not significantly associated with verdicts (all p's > .05).

The relationship of demographic and control variables with positive attitudes toward police. Pearson product moment correlation analyses revealed a significant relationship between positive attitudes toward police and age (r = .271, p = .001). Specifically, younger

(versus older) individuals reported more negative attitudes toward police. One-way analysis of variance revealed a significant relationship between juror race and positive attitudes toward police ($F = 5.61$, $p < .001$). Post-hoc Tukey testing showed that Black jurors ($M = 2.89$, $SD = .90$) had more negative attitudes toward police than White jurors ($M = 3.55$, $SD = .89$). One-way ANOVA testing showed living environment to be predictive of positive attitudes toward police ($F = 4.22$, $p < .015$). Post-hoc Tukey HSD testing revealed that people in urban living environments ($M = 3.33$, $SD = .89$) had more negative attitudes toward police than those living in rural environments ($M = 3.66$, $SD = .88$). No other comparisons were significant. Political ideology shared a significant relationship with positive attitudes toward police: conservative jurors endorsed more positive police attitudes than liberal jurors, $r = .169$, $p < .001$. Gender, level of education, and recent interactions with police were not significantly related to the focal predictor variable (all p's $> .05$).

The effect of counterbalancing order of attitudes and trial stimulus. First, I tested whether the trial stimulus could have influenced jurors' responses on the attitudes scale. Jurors who completed the pre-trial attitude measure had more positive attitudes toward police ($M = 3.59$, $SD = .85$) than jurors who completed the post-trial attitude measure ($M = 3.35$, $SD = .93$), $t(537) = 3.03$, $p = .002$, $d = .26$. This was unsurprising, given that people report more negative views of police after learning of police misconduct (e.g., media attention to police misconduct; Weitzer & Tuch, 2004; Weitzer, 2002; Kochel, 2015).

Possible order effects of positive attitudes toward police on dependent measures of interest were tested with four independent samples t-tests. Pre-trial versus post-trial administration of the attitude measure did not result in any significant differences in the likelihood of guilt ($p = .788$) or the importance of prosecution evidence ($p = .952$). However, the

comparison revealed significant differences in ratings of perspective-taking, $t(537) = -2.23$, $p = .026$, $d = .193$. Jurors who completed the pre-trial attitude measure reported higher levels of perspective-taking behavior ($M = 2.05$, $SD = 1.08$) than jurors who completed the post-trial attitude measure ($M = 2.27$, $SD = 1.19$). This finding is consistent with prior evidence showing that perspective-taking influences attitudes (Aberson & Haag, 2007). Pre- and post-trial administration of the attitude measure was named counterbalancing, coded as 0 (pre-trial) and 1 (post-trial), and was accounted for as a covariate in all subsequent analyses.

Correlations among focal and outcome variables. Participants' positive attitudes toward police were negatively associated with the likelihood of rendering a guilty verdict ($r = -.257$, $p < .001$), meaning that more negative (versus positive) attitudes toward police predicted guilty verdicts. Additionally, jurors' negative (versus positive) attitudes toward police predicted the importance of prosecution evidence ($r = -.285$, $p < .001$). Perspective-taking was positively associated with positive attitudes toward police ($r = .306$, $p < .001$), suggesting that jurors with positive (versus negative) attitudes were more likely to engage in perspective-taking. The importance of prosecution evidence was predictive of perceived degree of guilt ($r = .626$, $p < .001$), meaning that the importance of prosecution (versus defense) evidence was associated with higher guilt ratings. Perspective-taking was also predictive of perceived degree of guilt ($r = -.168$, $p = .001$), with higher levels of perspective-taking predicting less perceived guilt. See Table 3 for all coefficients.

Conceptual manipulation check. Four One-way ANOVAs tested whether the *superseding moment* or *totality of circumstance* jury instructions had the theorized effect on jurors across each condition (i.e., that *superseding moment* instructions would lead jurors to rely on their own attitudes and to focus on the split-second in which the shooting occurred, while

totality of circumstance instructions would lead jurors to rely on objective standards and to focus on all facts and circumstances before and after the shooting). The effect of experimental condition on jurors' perceptions that the jury instructions encouraged them to rely on their own attitudes was significant, $F(2, 532) = 3.35$, $p = .036$, $\eta^2 = .01$. Post-hoc Tukey HSD testing revealed that jurors in the *totality of circumstance* condition ($M = 3.76$, $SD = 1.30$) felt less encouraged to rely on their own attitudes compared to jurors in the *control* condition ($M = 3.40$, $SD = 1.47$, $d = .26$), but jurors in the *superseding moment* condition ($M = 3.68$, $SD = 1.38$) did not differ from either the *control* ($d = .20$) or *totality of circumstance* ($d = .06$) conditions.

The effect of instruction content was also significant on jurors' perceptions that the jury instructions encouraged them to rely on objective standards, $F(2,532) = 4.19$, $p = .016$, , $\eta^2 = .02$. Post-hoc testing revealed that jurors in the *totality of circumstance* condition ($M = 1.58$, $SD = .77$) reported that the instructions encouraged them to rely on objective standards more often than participants in the *control* ($M = 1.86$, $SD = 1.10$, $d = .29$), or *superseding moment* ($M = 1.84$, $SD = 1.10$, $d = .27$) conditions. Participants in the *superseding moment* and *control* conditions did not differ from each other ($d = .02$).

Next, instruction content significantly influenced jurors' reports of whether the instructions encouraged them to focus on the split second before the officer used fatal force $F(2, 532) = 39.93$, $p < .001$, , $\eta^2 = .13$). Post-hoc testing showed that participants in the *superseding moment* condition ($M = 2.30$, $SD = 1.24$) were more likely to report that the instructions encouraged them to focus on the split-second the officer used force than were participants in the *control* ($M = 3.35$, $SD = 1.41$, $d = .79$) or *totality of circumstance* ($M = 3.38$, SD 1.18, $d = .81$) conditions, neither of which differed from each other ($d = .02$).

Finally, the effect of experimental condition also significantly influenced jurors' reports

of whether the jury instructions guided them to focus on all facts and circumstances before and after the shooting, $F(2, 532) = 9.45$, $p < .001$, $\eta^2 = .04$. According to post-hoc testing, jurors in the *superseding moment* condition ($M = 2.08$, $SD = 1.14$) were less likely to report that the instructions guided them to focus on all of the facts and circumstances than were participants in the *control* ($M = 1.78$, $SD = .99$, $d = .28$) or *totality of circumstance* ($M = 1.62$, $SD = .84$, $d = .46$) conditions, which did not differ from each other ($d = .17$).

Primary Hypothesis Testing

The main effects of attitudes and instructions on dichotomous verdicts. Hierarchical logistic regression analyses tested whether the content of jury instructions and positive attitudes toward police explained a significant amount of variance in juror's perceptions of officer guilt after controlling for age, gender, race, education, political ideology, living environment, recent interactions with police officers, and counterbalancing (H1; Figure 1). The current study met the major assumption of logistic regression: the dependent variable (verdict) was dichotomous, there was no multicollinearity among the independent variables, there were no outliers, and there was not a linear relationship between the odds ratio and the independent variable.

The continuous moderator (positive attitudes toward police) was centered at the mean. Instruction content was dummy coded with the *control* group serving as the initial reference group. Participant race was dummy coded with White participants serving as the initial reference group. Living environment was dummy coded with participants from suburban environments serving as the initial reference group. After demographic variables and counterbalancing were entered as controls at Step 1, Step 2 of the hierarchical regression tested the main effects of positive attitudes toward police and jury instructions (i.e., *superseding moment* and *totality of circumstance*) on the likelihood of conviction. The interaction terms were added at Step 3 (i.e.,

42

superseding moment X attitudes and *totality of circumstance* X attitudes) in order to determine

whether the relationship between positive attitudes toward police and guilty verdicts was

moderated by the content of jury instructions. See Table 3 for all coefficients.

The Step 1 model was significant, $\chi^2(9) = 47.66$, $p < .00$, Nagelkerke $R^2 = .12$.

Specifically, there was a main effect of race ($B = 1.02$, *Wald*, 6.66, $OR = 2.78$, $p = .010$) such

that Black participants were more likely to convict the officer than White participants. There

were no differences in guilty verdicts between White and Hispanic participants. There was also a

main effect of political orientation ($B = -.27$, *Wald* $= 22.81$, $OR = .78$, $p < .001$). The more liberal

the juror, the more likely they were to convict the officer. Counterbalancing and other control

variables had no significant effect. As predicted, there was a significant main effect of positive

attitudes toward police at Step 2, $B = -0.43$, *Wald* $= 12.08$, $OR = 0.65$, $p = .001$, such that

negative (versus positive) attitudes toward police predicted guilty verdicts. The main effects of

superseding moment and *totality of circumstance* compared to *control* instructions were not

significant at Step 2 ($p > .05$). Adding the interaction terms at Step 3 did not increase the amount

of variance explained ($p > .05$). See Table 3 for all coefficients. See Figure 3 for a line graph.

A similar logistic regression analysis compared the *totality of circumstance* condition

with the *superseding moment* condition by using the *superseding moment* group as the reference

group. After demographic variables and counterbalancing were entered as controls at Step 1,

Step 2 of the hierarchical regression tested the main effects of positive attitudes toward police

and jury instructions (i.e., *control* and *totality of circumstance*) on the likelihood of conviction.

The interaction terms were added at Step 3 (i.e., *control* X attitudes and *totality of circumstance*

X attitudes). The main effect of *totality of circumstance* versus *superseding moment* instructions

was not significant at Step 2, $B = .42$ *Wald* $= 3.13$, $OR = 1.53$, $p = .077$. See Table 4 for all

coefficients.

The main effects of attitudes and instructions on continuous guilt ratings.

Hierarchical linear regression analyses tested whether the content of jury instructions explained a significant amount of variance in juror's ratings of officer guilt. All assumptions for analysis were met. First, the assumption of no multicollinearity was met, as no VIF values were greater than 5.0 and no Tolerance values were below 0.10. Next, the assumption of no autocorrelation of residuals was met, as Durbin-Watson results fell within the expected range. Finally, the assumptions of linearity and homoscedasticity were also met, as the scatterplot of standardized residuals on standardized predicted values did not funnel out or curve. Positive attitudes toward police were mean centered. Counterbalancing and all demographic variables were entered as controls at Step 1. Step 2 of the hierarchical regression tested the main effects of positive attitudes toward police and jury instructions (i.e., *superseding moment* and *totality of circumstance*) on continuous guilt ratings. The interaction terms were added at Step 3 (i.e., *superseding moment* X attitudes and *totality of circumstance* X attitudes) in order to determine whether the relationship between positive attitudes toward police and guilt ratings was moderated by the content of jury instructions.

The Step 1 model was significant, $F(4, 429) = 5.97$, $p < .00$, $R^2 = .10$, indicating that demographic variables accounted for significant amounts of variance in ratings of guilt. Specifically, there was a main effect of participant race, $B = 1.03$, $p = .001$, 95% CI = [.43, 1.63], such that Black participants were more likely than White participants to find the officer guilty. There was also a main effect of political orientation, $B = -.28$, $p < .001$, 95% CI = -.38, -.18]. The more liberal the juror, the more certain they were of the officer's guilt. Adding the predictor and moderator at Step 2 accounted for additional variance in guilt ratings, $F = 8.84$, $p < .001$, $\Delta R^2 =$

.07. As predicted, there was a significant main effect of positive attitudes toward police at Step 2, $B = -.67$, $p < .001$, 95% CI = [-.88, -.48], such that such that positive (versus negative) attitudes toward police predicted lower confidence in guilty verdicts. The effect of instruction content was not significant: *superseding moment*, $B = .02$, $p = .905$, 95% CI = [-.38, .42], and *totality of circumstance*, $B = .03$, $p = .874$, 95% CI = [-.37, .43], instructions were not significantly different from the control condition. Adding the interaction terms did not improve the model. See Table 3 for all coefficients. See Table 5 for all coefficients.

A similar linear regression analysis compared the *totality of circumstance* condition with the *superseding moment* condition by using the *superseding moment* group as the reference group. After counterbalancing and demographic variables were entered as controls at Step 1, Step 2 of the hierarchical regression tested the main effects of positive attitudes toward police and jury instructions (i.e., *control* and *totality of circumstance*) on continuous guilt ratings. The interaction terms were added at Step 3 (i.e., *control* X attitudes and *totality of circumstance* X attitudes). The main effect of *totality of circumstance* versus *superseding moment* instructions was not significant at Step 2, $B = .01$, $p = .970$, 95% CI = [-.40, .42], and there were no significant interactions (all p's < .05). See Table 6 for all coefficients.

Moderated Mediation Analyses

Version 3.4 of Hayes's Process Macro (Hayes, 2017) tested whether the effect of attitudes on dichotomous verdicts was mediated the importance of prosecution evidence or perspective-taking behavior—and whether those relationships were moderated by instruction type. The model relies on OLS regression in estimating coefficients in log-odds metric but allows for dichotomous outcomes. Model 8 tested the moderated mediation hypotheses that the importance of prosecution evidence and perspective-taking mediated the relationship between

positive attitudes toward police and verdicts, with *a-paths* being moderated by instruction type

(H2; Figure 2.). Specifically, I tested if there was a direct effect of positive attitudes toward

police (X) on perceived degree of guilt (Y), and whether there was an indirect effect of positive

attitudes toward police on perceived degree of guilt through the importance of prosecution

evidence (M1) and perspective-taking (M2). Hayes PROCESS macro Model 8 accommodates

multiple mediators acting in parallel, as well as multi-categorical moderator variables. Positive

attitudes toward police, the importance of prosecution evidence, and perspective-taking were

mean-centered. Counterbalancing and demographic variables were controlled as covariates and

predicted attitudes toward police, importance of prosecution evidence, perspective-taking, and

guilty verdicts. The number of bootstrap samples for percentile bootstrap intervals was 5000.

The dummy variables for *totality of circumstance* and *superseding moment* instructions were

included in the model, with the *control* instructions serving as the initial reference group. The

same process was then repeated with the *superseding instructions* serving as the reference group.

Positive attitudes toward police significantly predicted the importance of prosecution

evidence, $B = -.27$, $p = .005$, 95% CI = [-.46, -.09]. Specifically, jurors with more positive

(versus more negative) attitudes toward police tended to attribute less importance to prosecution

evidence. As predicted, positive attitudes toward police also significantly predicted perspective-

taking, $B = .42$, $p = .001$, 95% CI = [.20, .65]. Jurors with more positive (versus negative)

attitudes toward the police reported higher levels of perspective-taking. In turn, attributions of

importance to prosecution evidence significantly predicted verdict outcomes, $B = 1.96$, $p < .001$,

95% CI = [1.55, 2.38]. Jurors who attributed more importance to prosecution evidence were

more likely to render guilty verdicts. Perspective-taking was also a significant predictor of

verdicts, $B = -.39$, $p = .008$, 95% CI = [-.69, -.10] indicating that jurors who reported higher

levels of perspective-taking were less likely to convict the officer. Instruction content did not

significantly moderate the effect of attitudes on the importance of prosecution evidence or on

perspective-taking and there were no significant interactions. The conditional indirect effect of

attitudes on verdicts through the importance of prosecution evidence was significant in the

control (95% CI = [-.97, -.18]) and *totality* (95% CI = [-.92, -.10]) conditions, but was not

significant in the *superseding moment* (95% CI = [-.66, .05]) condition. The index of moderated

mediation was not significant, 95% CI = [-.23, .76]. The conditional indirect effect through

perspective-taking was significant in the *control* (95% CI = [-.50, -.01]) and *superseding moment*

(95% CI = [-.38, -.00]) conditions, but was not significant in the *totality of circumstance* (95%

CI = [-.08, .01]) condition. The index of moderated mediation was not significant, 95% CI – [-

.25, .03]).

Participants with higher levels of education attributed less importance to prosecution

evidence, B = -.13, p = .013, 95% CI [-.22, -.04], and engaged in less perspective-taking, B =

.13, p = .021, 95% CI = [.02, .23]. More conservative (versus more liberal) jurors attributed more

importance to prosecution evidence B = -.07, p = .003, 95% CI = [-.12, -.03]. No other control

variables were significantly related to focal variables.

Thus, the results indicated that the relationship between jurors' positive attitudes toward

police and their verdict choices was mediated through the importance of prosecution evidence,

and through perspective-taking, but was not influenced by jury instruction content. When

compared to the *control* condition, neither *superseding moment* nor *totality of circumstance*

instructions significantly moderated the effect of attitudes on the importance of prosecution

evidence or perspective-taking. Figure 4 is a path diagram depicting the results of the moderated

mediation model (Hayes, 2012) with the *control* group serving as the reference.

To test any significant differences between the *superseding moment* and *totality of circumstance* conditions, the same analysis was repeated with the *superseding moment* condition serving as the reference group. The pattern of results was similar to that seen in the first model. Positive attitudes toward police predicted the importance of prosecution evidence (B = -.19, p = .024, 95% CI = [-.33, -.02]) and perspective-taking (B = .33, p < .001, 95% CI = [-.51, -.16]). In turn, the importance of prosecution evidence (B = 1.96, p < .001, 95% CI = [1.55, 2.38]) and perspective-taking (B = .-.39, p = .008, 95% CI [-.69, -.10] both predicted verdict outcomes. Instruction content did not significantly moderate the effect of attitudes on the importance of prosecution evidence or on perspective-taking and there were no significant interactions. The conditional indirect effect of attitudes through the importance of prosecution evidence was significant across the *control* (95% CI = [-.99, -.16]), *superseding moment* (95% CI = [-.66, -.04]), and *totality of circumstance* (95% CI = [-.92, -.11]) conditions. The index of moderated mediation was not significant when comparing the *superseding moment* to the *totality of circumstance* (95% CI = [-.69, .29]) or *control* (95% CI = [-.77, .26] conditions. Figure 5 is a path diagram depicting the results of the moderated mediation model (Hayes, 2012) with the *superseding moment* group serving as the reference. Overall, moderated mediation analysis showed that the relationship between jurors' positive attitudes toward police and their verdicts was mediated through the importance of prosecution evidence and through perspective-taking, but was not influenced directly, or indirectly, by jury instruction content.

CHAPTER 5

DISCUSSION

As expected, juror's attitudes toward the police were predictive of their verdicts. Jurors with negative (versus positive) attitudes toward police were more likely to convict the officer. Across three experimental conditions in a mock fatal police use of force trial, I manipulated the content of jury instructions to be consistent with totality of circumstance language (*Tennessee v. Garner*, 1985), superseding moment language (*Graham v. Connor*, 1989), or a control condition with no police-specific language. Testing the mediating effects of the importance of prosecution evidence and the extent to which they engaged in perspective-taking further contextualized the effects of jurors existing attitudes toward police on their verdict decisions. Specifically, jurors' negative (versus positive) attitudes toward police predicted the importance of prosecution evidence and, in turn, the importance of prosecution evidence influenced verdict outcomes. Additionally, positive attitudes toward police predicted perspective-taking and perspective-taking predicted verdict outcomes. Jurors who reported higher levels of perspective-taking were less likely to convict the officer. The content of jury instructions did not successfully moderate the effect of attitudes on the importance of prosecution evidence or perspective-taking. In other words, the relationship between jurors' attitudes toward police and their verdicts was mediated through the importance of prosecution evidence and through perspective-taking, but was not influenced by jury instruction content.

The Relationship between Attitudes and Verdicts

The present study provided further evidence in support of the powerful effect jurors' attitudes on their legal judgments. Similarly, Carlson and Russo (2001) demonstrated that jurors' pre-trial attitudes toward typical civil defendants predicted verdict preferences. My findings were

more specifically in line with evidence from studies investigating the effect of juror's attitudes on their judgments of specific use of force incidents (e.g., Celestin & Kruschke, 2018; Gerber & Jackson, 2017; Jefferis, Butcher, & Hanley, 2011; Weitzer, 2002). As expected, jurors with positive attitudes toward police were more likely to acquit the police officer of illegal use of fatal force and those with negative attitudes toward police were more likely to convict the officer. According to Eagly and Chaiken (1993), attitudes tend to develop in favor of, or against, persons, places, or things, and once formed, they allow individuals to make rapid judgments in social situations without expending much cognitive effort. As such, the attitude that a person has developed toward police over the course of their life—through their own experiences and learning about the experiences of others—come to influence how that person would perceive and process information presented to them in a fatal police use of force trial.

Consistent with public polling data (e.g., Pew Research Center; Fingerhut, 2017), jurors in the present study reported generally positive attitudes toward police. However, there were several indications that overall attitudes toward police have continued to shift downward among some groups of individuals. For example, finding that non-White participants were more likely to have somewhat negative attitudes toward the police, and to render more convictions, was not surprising in light of the poor relationship between police and communities of color (Wheelock, Stroshine, & O'Hear, 2018). Black Americans make up 13% of the total population, yet they account for 27% of the total victims of police shootings, and 38% of the unarmed civilians killed by police each year (U.S. Census Data, July 2017; Washington Post, 2018). Consequently, Black Americans report feeling targeted and abused by law enforcement (Weitzer, Tuch, & Skogan, 2008) and do not believe police officers are held accountable for faulty judgment in use of force cases. Furthermore, verdicts in the present study were consistent with other studies showing that

younger (Jefferis, et al., 1997; McLean, Wolfe, & Pratt, 2019), non-White (Weitzer, et al., 2008), and/or liberal (Gerber & Jackson, 2017) jurors, and those who live in urban areas (Ekins, 2016), are the least likely to have positive attitudes toward police. These findings are consistent with research investigating how strongly held public or peer attitudes about police shootings can lead to stronger individual attitudes (i.e., the "bandwagon effect," Huff, Alvarez, & Miller, 2018).

Jurors in the present study who completed the pre-trial (versus post-trial) attitude measure reported more positive attitudes toward police, which is consistent with evidence showing that exposure to negative information about social groups leads to more negative attitudes toward those groups (e.g., Weitzer & Tuch, 2004; Weitzer, 2002; Kochel, 2015),. Specifically, media coverage of police shootings has increased over time (McLaughlin, 2015) and, in line with present findings, people report more negative views of police following recent exposure to news coverage of police misconduct (Weitzer & Tuch, 2004; Weitzer, 2002; Kochel, 2015). For example, Kochel (2015) demonstrated that negative views of police increased with exposure to the shooting death of Michael Brown in Ferguson, MO but, perhaps due to increased fear, willingness to cooperate with police also increased overall.

Although pre-trial versus post-trial administration of the attitude measure did not result in any significant differences in the likelihood of rendering a guilty verdict or the importance of prosecution evidence, the timing of the attitude measure did influence the extent to which participants attempted to view the incident from the officer's perspective. In line with prior evidence showing that perspective-taking influences attitudes (Aberson & Haag, 2007), jurors in the present study who completed the pre-trial attitude measure reported higher levels of perspective-taking behavior than participants who completed the post-trial attitude measure.

Superseding moment instructions encouraged jurors to consider the officer's subjective

experience in the moment force was used (e.g., "the standard of reasonableness at the moment applies…police officers are often forced to make split-second judgments…"). According to cognitive experiential self-theory (Epstein, 1994), inducing such a subjective standard of reasonableness should have led jurors in the superseding moment condition to more heavily consider defense (versus prosecution) evidence and, in turn, to acquit the officer. However, this hypothesis was not supported by the evidence. Although juror's perceptions of officer guilt were technically trending in the predicted direction, the effect of attitudes toward police on guilty verdicts in the superseding moment condition was essentially indistinguishable from the control condition.

The Effect of Instruction Content on Verdicts

My hypothesis that juror's verdicts would be influenced by the content of jury instructions was not supported by the findings. Thus, the findings are inconsistent with prior evidence that guiding or instructing participants to think in specific ways can affect behavioral outcomes (Gollwitzer & Kinney, 1989; Gollwitzer, Heckhausen, & Steller, 1990; Bargh et al., 2001; Yeager & Dweck, 2012). Specifically, when the totality of circumstance instructions guided jurors to consider a list of specific factors (e.g., crime is for a felony, risk to innocent persons from officer behavior, substantial risk of death or serious bodily harm if suspect not apprehended, warning given when feasible), jurors were expected to be more likely to convict the officer than jurors in the superseding moment or control conditions, but that was not the case.

Information processing. Although evidence has shown that jurors take jury instructions seriously and work hard to understand them, they often fall short (Ellsworth, 1989). Jurors frequently misunderstand the instructions given to them and fail to grasp how the instructions relate to fundamental principles in the justice system (Ellsworth, 2003; Saxton, 1989). Indeed,

evidence has shown that jurors understand less than half of the instructions they receive (Reifman, et al., 1992). Serious consequences can follow when jurors fail to comprehend the legal instructions they are given. For example, evidence has shown that jurors who experienced substantial confusion over jury instructions were more willing to impose the death penalty than jurors who had a better understanding of the instructions (Weiner, Pritchard, & Weston, 1995). However, when jurors are reminded of the importance of careful analysis, they will put forth the effort (Bornstein & Greene, 2011). Although jurors in the present study seemed to grasp the content of the instructions, their understanding of the content did not significantly influence their decision-making.

In the present study, jurors demonstrated sensitivity to the content of the jury instructions by correctly identifying the guidance they had received. Specifically, jurors in the totality of circumstance condition reported feeling less encouraged to rely on their own attitudes than did participants in the control and superseding moment conditions. Furthermore, jurors in the totality of circumstance condition reported that the instructions encouraged them to rely on objective standards more often than participants in the control or superseding moment conditions. However, totality of circumstance instructions did not significantly influence verdicts directly and did not influence the relationship between attitudes and verdict decisions.

Participants in the superseding moment condition were more likely than participants in the control or totality of circumstance conditions to report that the instructions encouraged them to focus on the split-second the officer used force. Additionally, jurors in the superseding moment condition were less likely to report that the instructions guided them to focus on all the facts and circumstances than were participants in the control or totality of circumstance conditions. Despite juror's sensitivity to the content of superseding moment instructions, jurors'

grasp of the overall guidance they received from the instructions did not directly or indirectly influence their verdict decisions.

The Mediating Effect of the Importance of Prosecution Evidence

Jurors' attitudes toward police influenced their perceptions of the evidence presented to them during a mock criminal trial of a police officer defendant charged with first-degree murder for unlawful use of fatal force. Hence, my findings provided further support for the tenets of cognitive consistency theory (Holyoak & Simon, 1999; Simon et al., 2004) and extend prior research demonstrating that people's decision-making is distorted by their existing knowledge and beliefs (Carlson & Russo, 2001; Hope, Memon, & McGeorge, 2004; Russo, Carlson, Meloy, 2008). Specifically, attitudes toward police officers had a substantial influence on the way jurors perceived and interpreted the importance of evidence presented to them during a trial of a police officer. Consistent with theoretical expectations, jurors in the present study with more negative (versus positive) attitudes toward police tended to place higher value on prosecution evidence. In turn, placing greater importance on prosecution evidence was associated with a higher likelihood of rendering a guilty verdict. According to theory, this is because a person's social attitude influences how they process new information related to that attitude, and prepares them to perceive events that are consistent with their beliefs (Roskos-Ewoldwon & Fazio, 1992; Fazio, et al., 1994).

The Mediating Effect of Perspective-Taking

As predicted, the effect of jurors' positive attitudes toward police on their verdicts was mediated through perspective-taking behavior. Prior evidence has shown that perspective-taking increases empathy for defendants and decreases conviction rates (Haegerich & Bottoms, 2000; Skorinko, Laurent, Bountress, Nyein, & Kuckuck, 2014). Because superseding moment

instructions explicitly encouraged jurors to engage in perspective-taking (e.g., "…must be judged from the perspective of a reasonable officer…forced to make split-second judgments…"), jurors in the superseding moment (versus control or totality) condition were expected to feel increased empathy for the officer and, in turn, to acquit the officer at higher rates. However, this was not the observed pattern of results.

The superseding moment instructions had no significant effect on the extent to which jurors engaged in perspective-taking. Although juror's attitudes toward police influenced the extent to which jurors reported engaging in perspective-taking, the effect was in the opposite direction of that predicted. Specifically, people with negative (versus positive) attitudes toward police were less likely to engage in perspective-taking, and, in turn, more likely to convict the officer. Thus, the present findings contribute to the study of perspective-taking behavior by demonstrating that individual's relevant attitudes influence the extent to which they engage in perspective-taking behavior, which, in turn, comes to influence decision-making processes.

The Overall Moderated Mediation Model

As anticipated, results of the overall model revealed that jurors' positive attitudes toward police predicted the importance of prosecution evidence and perspective-taking behavior, in turn, these mediators predicted verdict outcomes. Specifically, negative attitudes toward police predicted the importance of prosecution evidence and, in turn, the importance of prosecution evidence predicted guilty verdicts. Similarly, negative attitudes toward police predicted low levels of perspective-taking and, in turn, higher convict rates. In contrast to my prediction, there were no direct effects of instruction content, instruction content did not significantly moderate the effect of attitudes on the importance of prosecution evidence, or on perspective-taking, and there were no significant interactions.

Psychological Implications

Results from the present study have important implications for the psychological study of jury decision-making. Importantly, my findings suggested that jurors' attitudes toward police are likely to influence verdicts in fatal police use of force trials. In support of the story model of jury decision making (Pennington & Hastie, 1992) and cognitive consistency theory (Holyoak & Simon, 1999; Simon et al., 2004), jurors' verdicts in this mock trial appear to have been shaped by their desire to make decisions that were consistent with their attitudes toward police.

Research applying cognitive experiential self-theory (Epstein, 1994) to the study of jury decision-making has demonstrated that inducing experiential or rational information processing can be accomplished in a multitude of ways across various legal contexts. Thus, the present study contributed to the literature on cognitive experiential self-theory by testing whether jury instructions in fatal use of force trials moderated the effect of existing attitudes toward police on verdict decisions. Contrary to expectations, instruction content did not moderate the effect of attitudes on verdicts. Hence, the jury instructions used in fatal police use of force cases do not appear to have been effective stimuli for inducing a rational versus experiential mode of information processing.

Practical Implications

When people perceive police procedures and courtroom adjudications as fair, they have increased trust in the justice system (Tyler & Huo, 2002; Tyler, 2003; Tyler, 2007). Yet public outrage has grown in response to a perceived lack of accountability for police officers who employ fatal use of force (Grinberg, 2018; McLaughlin, 2015; Stinson, 2019). Indeed, as I am in the final editing stages of this manuscript, protests and marches against police brutality toward Black Americans have erupted all over the world, sparked by the death of George Floyd in

Minneapolis, Minnesota. Considering increased public scrutiny of fatal police shooting incidents, the number of such trials is likely to increase. The present findings have important implications for the criminal justice system as a whole—and specifically for legal actors in fatal police use of force cases—as jurors' attitudes toward police are likely to shape how jurors view the evidence presented to them during fatal police use of force trials. Continuing to address procedural variations and potential shortcomings in the legal system ensures that justice is distributed evenly and without bias. In turn, this sends a message to the community that the legal process is representative of the community as a whole and that authorities within the legal system are willing to recognize and correct failures when there has been a miscarriage of justice.

Strengths and Limitations

The present study took an important first step towards understanding how the specific types of jury instructions that are given in fatal police use of force trials may come to influence the effects of jurors' attitudes toward police on their ultimate verdict decisions. Statistical conclusion validity was increased by ensuring an adequate sample size (Maxwell, 2004). Ecological validity was increased through the use of study materials that were adapted from actual trial materials, as well as jury instructions (i.e., superseding moment, totality of circumstance, or control), which are used in actual fatal police use of force trials. In practice, however, jury instructions sometimes contain a combination of superseding moment language and totality of circumstance language or may not contain language from either. However, to test other practical effects of interest within a single design, the present study compared only jury instructions containing superseding moment instructions with those containing totality of circumstance language or control instructions with no police-specific language. Furthermore, although the charges presented to jurors were directly quoted from Illinois criminal pattern

instructions, they are not fully representative of the inevitable variations found in actual charging instructions across different jurisdictions, states, and Circuits in the United States.

Despite the contributions of this study to advancing understanding of jury decision making in fatal police use of force trials, there were several notable limitations. First, a community sample of mock-jurors that deliberated in groups would have provided several advantages over the online sample of individual participants in the present study. Although many studies have demonstrated that individual, pre-deliberation verdicts are reliable predictors of final group verdicts (Kalven & Zeisel, 1972; Sandys & Dillehay, 1995), several studies have shown that deliberation has a powerful impact on trial outcomes. For example, studies have shown deliberation leads to discussion of more case facts (Ellsworth, 1989), fewer guilty verdicts (i.e., leniency bias; Kerr & MacCoun, 2012), and can reduce the effect of attitudes on verdicts in morally ambiguous cases (i.e., euthanasia; Meissner et al., 2003). Furthermore, deliberating vs non-deliberating jurors are less likely to be influenced by pre-trial publicity (Ruva & McEvoy, 2008; Ruva & Guenther, 2015) and are better able to disregard inadmissible evidence (Kerwin & Shaffer, 1994). Moreover, deliberation increases jurors' understanding of, and compliance with, jury instructions (Ellsworth, 1989). For instance, Devine et al., (2001) found that deliberating (versus non-deliberating) jurors demonstrated 17% stronger comprehension of standard instructions and 38% stronger comprehension of simplified instructions.

A representative community sample would also have been more ecologically valid than the online sample of participants employed in the present study. Although some evidence has suggested that MTurk participants are no more likely to engage in problematic behaviors (e.g., complete the same study multiple times, provide misleading information) than participants from campus or community samples (Necka, Cacioppo, Norman, & Cacioppo, 2016), other evidence

suggests otherwise (Wessling, Huber, & Netzer, 2017). For example, Wessler and colleagues found that a substantial proportion of MTurk workers misrepresented their character and identity to qualify for a study. Furthermore, given that MTurk workers are unsupervised and financially motivated to complete the study as quickly as possible, evidence suggests they may put forth insufficient effort (see Ford for a review, 2017).

Additionally, requiring participants to deliberate with other jurors would have strengthened the situational pressure to disregard any personal preferences and render verdicts that were more consistent with the evidence and legal guidelines. According to situational strength literature, deliberating jurors face more situational pressure to ignore the influence of their own individual differences, which reduces the strength of the relationship between individual personality differences and actual behavior (Snyder & Ickes, 1985). Hence, additional steps could have been taken to increase the situational strength when jurors rendered their verdicts. Specifically, the experimental design could have incorporated a virtual group deliberation via anonymous chatrooms. Indeed, mock-jury studies in which groups of jurors anonymously attended secure chat rooms and shared written responses with each other until they reached a decision have produced similar benefits to actual jury deliberations (Tabak, Klettke, & Knight, 2013). In support, Kuhn, Weinstock, and Flaton (1994) compared jurors who a.) answered reasoning questions after the trial, b.) answered reasoning questions after deliberating with others, or c.) answered reasoning questions after ruminating about the details of the trial, and found that jurors in the deliberation group demonstrated higher reasoning skills than participants in the other groups. Thus, it is possible that the use of individual verdict decisions underestimated participant's reasoning skills.

Furthermore, six participants failed to complete all the demographic and control

measures. Specifically, four of those participants did not provide their age and five did not provide their political orientation. This highlights a limitation in the present study, as age and political orientation were strongly associated with attitudes toward police and verdicts. Younger (versus older) and more liberal (versus more conservative) jurors reported more negative attitudes toward police and rendered guilty verdicts more often. Although the absence of data from these participants did not substantially alter any of the present findings, it is unknown what type of impact the presence of that information may have had. Lastly, other theoretical explanations and measures may offer better insights and predictions than those currently employed.

Future Directions

The next step would be to replicate the present study with a community sample of mock-jurors who deliberated in groups. Current evidence of juror's reactions to specific police use of force incidents remains somewhat sparse in the literature, but notable studies have examined the effects of political ideology (Gerber & Jackson, 2017), victim race (Huff, et al., 2018), eyewitness race (Saulnier, Burke, & Bottoms, 2019), justifiability of force (Huff, et al., 2018), severity of the victim's action relative to the officer's reaction (Celestin & Kruschke, 2019), and the effects of body-worn camera footage (Saulnier & Burke, 2019) on juror's judgments. Investigating whether jury instructions might strengthen or diminish the effect of attitudes on juror's judgments across such topics would serve the development of jury decision-making theories and would also increase ecological validity.

Finally, it is possible that verdict outcomes would have been different if jurors had been given additional, or different, charging options from first-degree murder. My findings were inconsistent with prior evidence that providing jurors with only "severe" punishment options lowered convictions (Kerr, 1978). Evidence has also shown that when "moderate" penalty

options are available, convictions increase (Vidmar, 1972), with the inclusion of manslaughter decreasing both guilty and not-guilty verdicts (Smithson, Deady, & Gracik, 2007). Further research is needed to address and resolve theoretical discrepancies related to the effects of charging severity.

CHAPTER 6

CONCLUSION

The present findings increased our understanding of the influence of jurors' attitudes on their decision-making process during fatal police use of force trials. Specifically, jurors' attitudes toward police shaped their evaluations of the prosecution evidence and the extent to which they engaged in perspective-taking behavior during a fatal police use of force trial. Jurors' with negative (versus positive) attitudes toward police attributed greater importance to prosecution evidence, which, in turn, lead jurors to convict the officer more often. Additionally, negative (versus positive) attitudes toward police predicted low levels of perspective-taking, and, in turn, low levels of perspective-taking predicted higher rates of conviction. Finally, the content of jury instructions was not a successful moderator of the relationship between attitudes and verdicts.

The Effect of Instruction Content and Attitudes
Toward Police on Guilty Verdicts
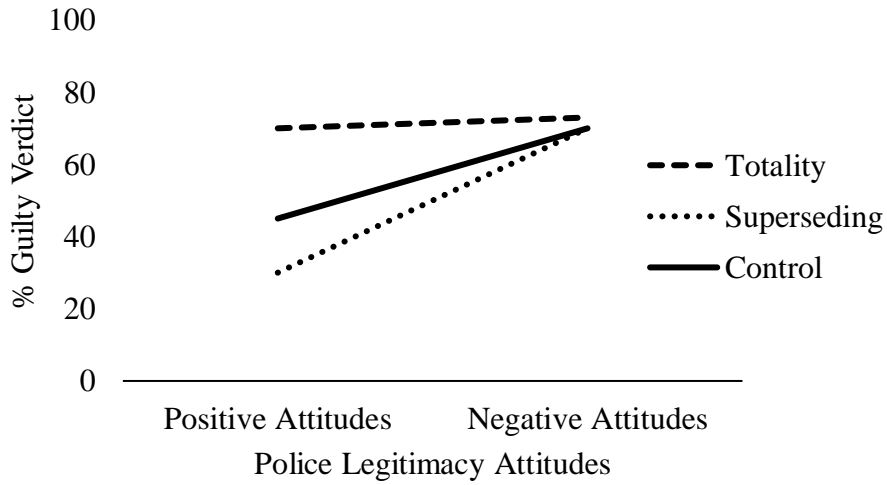
Figure 1. Line graph depicting the predicted interaction effects of jurors' attitudes toward police, and the content of jury instructions, on guilty verdicts in a fatal police use of force trial.
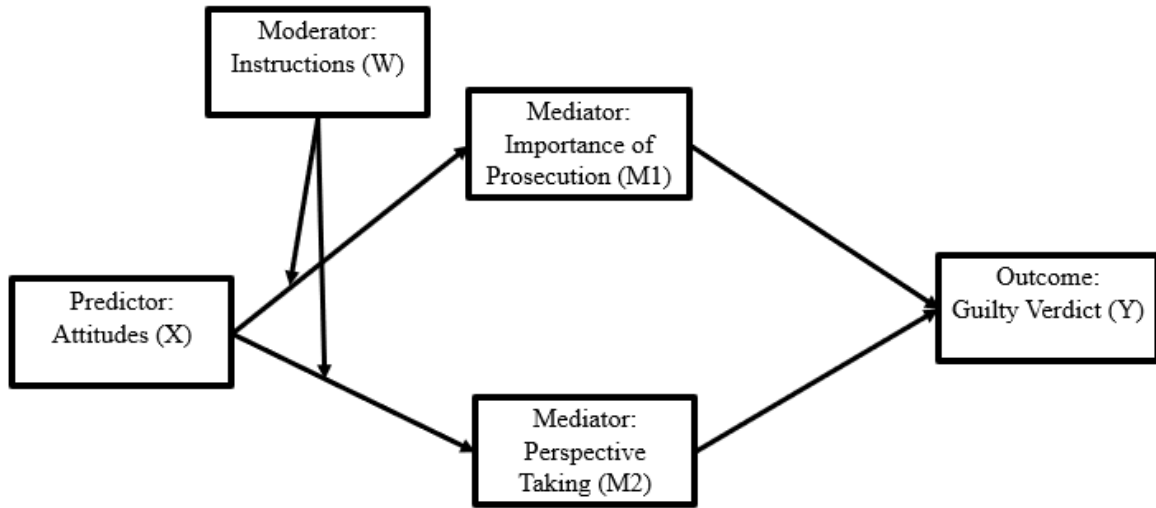
Figure 2. Path diagram for the predicted moderated mediation model (Hayes, 2012).
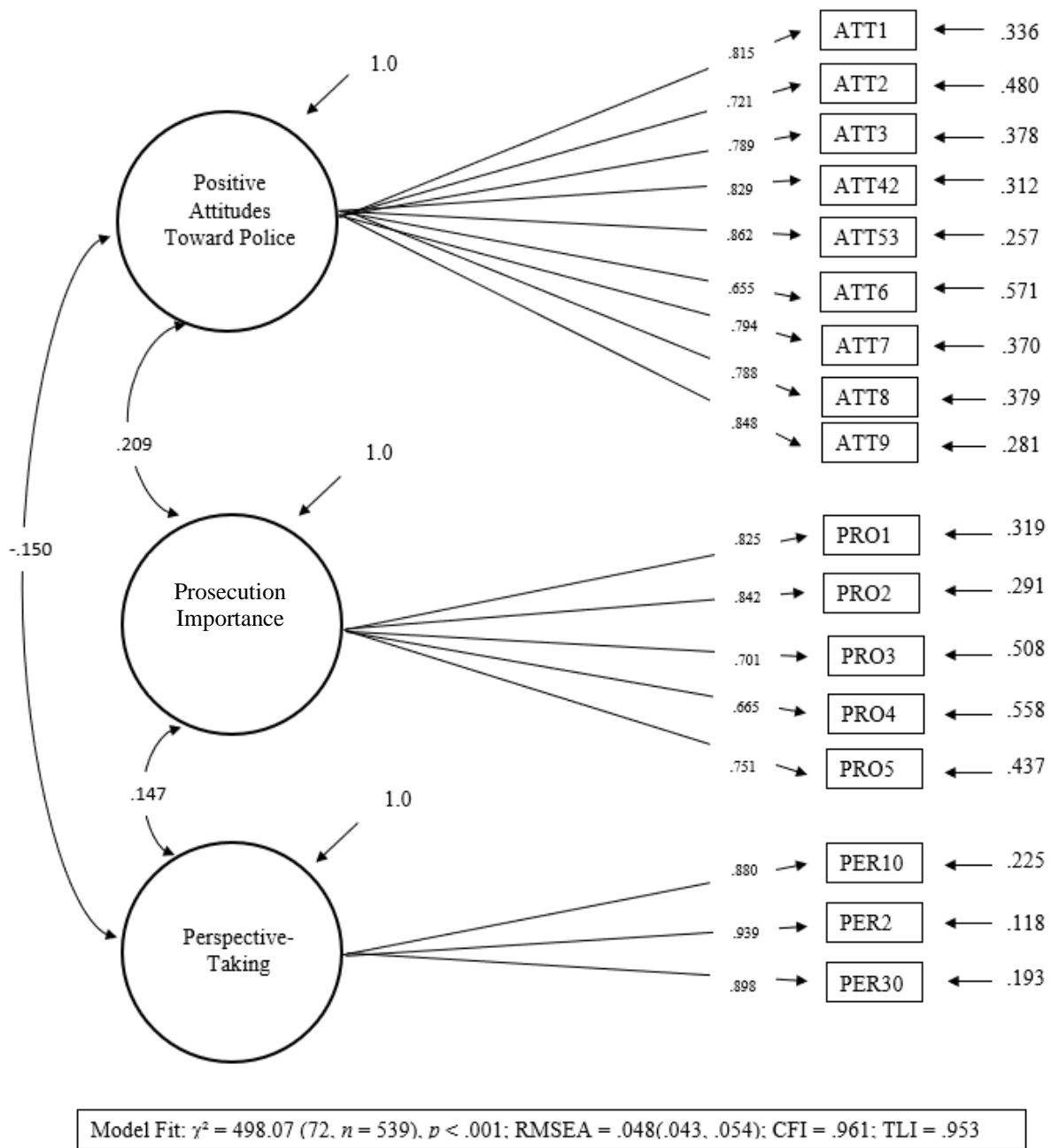
Figure 3. Fully Standardized CFA Estimates. CFA = confirmatory factor analysis; RMSEA = root mean square error approximation; CFI = comparative fit index; NNFI = non-normed fit index; TLI = Tucker-Lewis index; SRMR = standardized root mean square residual.

The Effect of Attitudes Toward Police and Instruction Content
on Guilty Verdicts
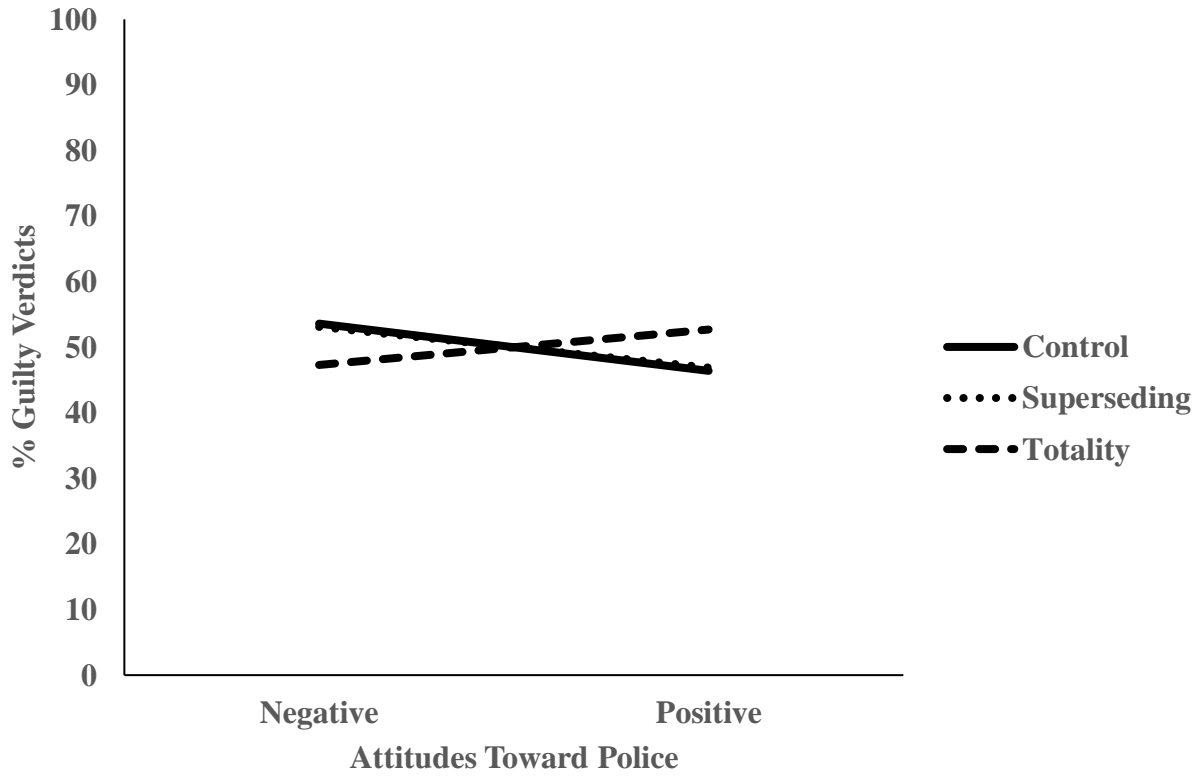
Figure 4. Line graph depicting the effects of jurors' attitudes toward police, and the content of jury instructions, on guilty verdicts in a fatal police use of force trial.

Note. Results from all conditions are depicted. Verdicts in the Control and Superseding Moment conditions were nearly indistinguishable.
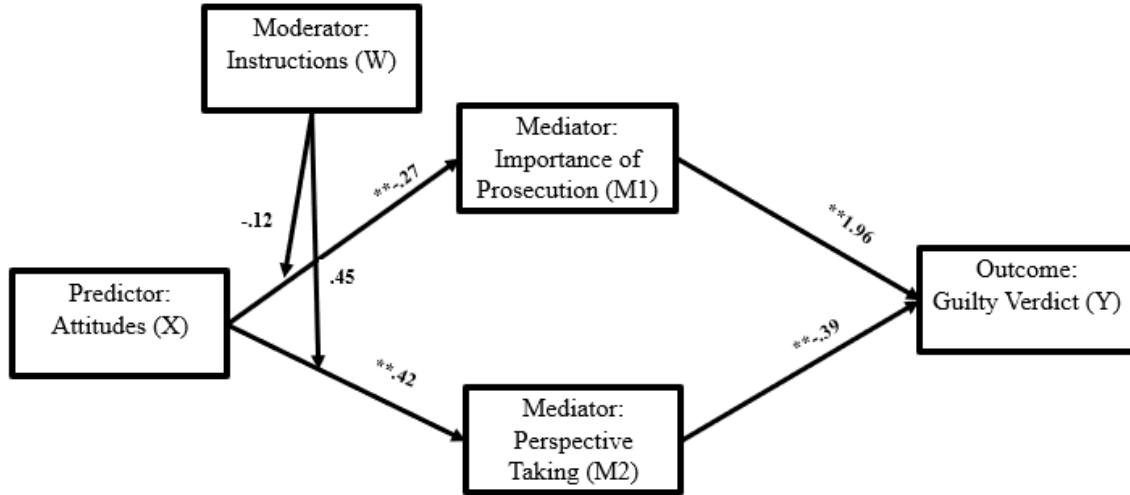
Figure 5. Path diagram depicting the results of a moderated mediation analysis (Hayes, 2017) with the control group serving as reference.
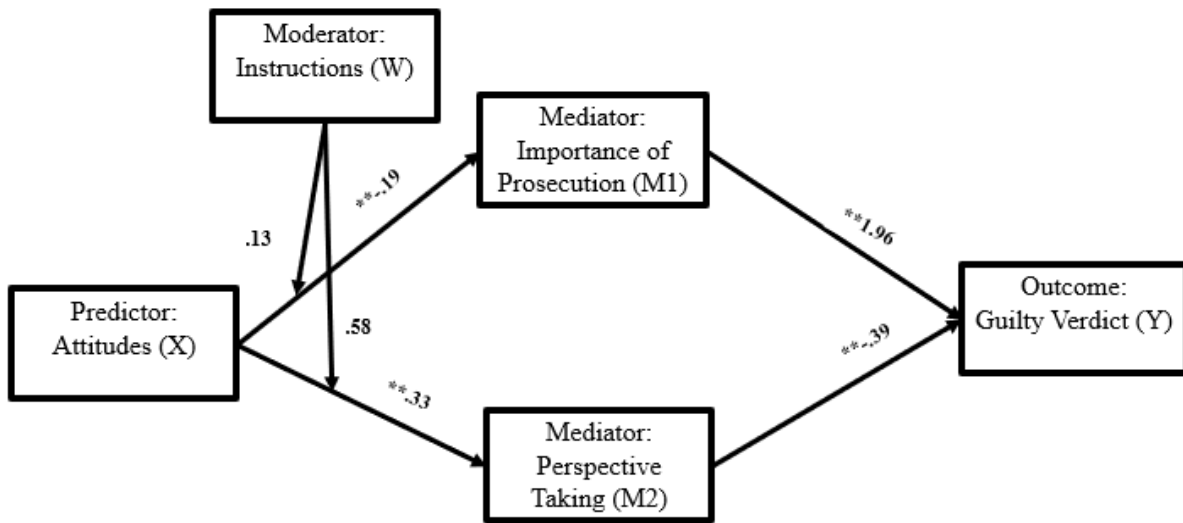
Figure 6. Path diagram depicting the results of a moderated mediation analysis (Hayes, 2017) with the superseding moment group serving as reference.

Table 1

Overall Sample Demographics (N = 539)

Variable	N	%	M	SD
Age	535		43.13	13.96
Gender	535			
Male		43.9		
Female		55.9		
Other		0.2		
Education	535			
No High School Degree		0.7		
High School/GED		11.6		
Some College		29.5		
Graduate/Prof. Degree		44.3		
Political Ideology	534			
Liberal		48.8		
Moderate		16.4		
Conservative		34.9		
Living Environment	535			
Urban		25.6		
Suburban		52.3		
Rural		22.1		
Police Interactions	535			
Yes		33.6		
No		66.4		

Table 2

Means for Continuous Dependent Measures, Mediators, and the Moderator Across Experimental Conditions (N = 539)

Measure	Range	Overall (N = 539)		Control (N = 192)		Superseding (N = 173)		Totality (N = 174)	
		M	*SD*	*M*	*SD*	*M*	*SD*	*M*	*SD*
Degree of Guilt	1-7	4.46	2.07	4.46	2.08	4.48	2.12	4.45	2.03
Prosecution Evidence	1-5	3.70	.96	3.74	1.04	3.73	.93	3.64	.94
Perspective-Taking	1-7	5.98	1.17	5.97	1.21	6.0	1.15	5.91	1.14
Attitudes	1-7	3.47	.90	3.45	.90	3.45	.94	3.50	.85

Notes. Degree of guilt was measured on a 7-point scale (1 = D*efinitely not guilty, 7 = Definitely guilty*). The importance of prosecution evidence was measured on a 5-point scale (1 = *Extremely important,* 5 = *Not at all important).* Prosecution items were recoded such that lower scores indicated the importance of prosecution evidence. Perspective-taking was measured on a 7-point scale (1 = *Strongly agree*, 7 = *Strongly disagree*) and was recoded such that higher scores indicated higher perspective-taking. Positive attitudes toward police were measured on a 5-point scale (1 = *Strongly disagree*, 5 = *Strongly agree*), with higher scores indicating more positive attitudes toward police.

Table 3

Correlations Among Dependent Measures, Mediators, and the Moderator (N = 539)

Measure	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1. Verdict	1	.87**	-.11*	.01	.15**	-.01	-.01	-.24*	.09*	-.04	.06	-.26**	.06	.63**	-.17**
2. Guilt		1	-.12**	-.01	.18**	.02	-.01	-.26**	.08	-.04	.06	-.37**	.08	.68**	-.20**
3. Age			1	.03	-.13	-.09*	-.01	.16**	-.08	.07	.12**	.27**	.00	-.06	.09
4. Male				1	.05	-.07	-.08	.03	-.02	.07	.06	.02	-.01	.05	.00
5. Black					1	-.06	-.02	-.09*	.17**	-.11*	.03	-.21*	.02	.14	-.14
6. Hispanic						1	-.01	-.04	.10	-.06	.04	-.03	.08	-.02	-.05
7. Education							1	-.15**	.03	-.16**	-.14**	.00	.03	-.10*	-.03
8. Political Ideation								1	-.12**	.23**	.02	.37**	-.04	-.21**	.19**
9. Urban									1	-.31**	.02	-.09*	-.06	.04	-.08
10. Rural										1	.02	.11**	.00	-.01	.06
11. Recent Interaction											1	-.02	-.01	.04	-.10*
12. Counterbalancing												1	.01	.00	-.02
13. Attitudes													1	-.29**	.31**
14. Prosecution Importance														1	-.07
15. Perspective-Taking															1

Notes. Verdict was coded 1 = Guilty, 0 = Not Guilty. Guilt was measured as a continuous variable and was averaged, with higher scores indicating higher confidence in guilt. Gender was coded 1 = Men, 0 = Women. Age was measured as a continuous variable and was averaged. Participant race was dummy coded with White participants serving as the reference group. Political orientation was measured as a continuous variable and was averaged, with higher scores indicating more conservative viewpoints. Education was measured as a continuous variable and averaged with higher scores indicating higher levels of education. Living environment was dummy coded with participants in the Suburban category serving as the reference group. Recent interactions with police were coded 1 = Yes, 0 = No. Attitudes toward police, importance of prosecution evidence, and perspective-taking were measured as continuous variables and averaged with higher scores indicating a higher presence of the construct.
$* p < .05, ** p < .01.$

Table 4

Hierarchical Logistic Regression Results for Moderating Effects of Attitudes and Instructions on Dichotomous Verdicts with Control Instructions as Reference Group

	B	SE	OR	OR 95% CI	Wald	p
Step 1						
Age	-.01	.01	.99	[.98, 1.00]	.44	.505
Male	.01	.19	1.00	[.98, 1.10]	.00	.985
Black	.82*	.40	2.28	[1.04, 5.00]	4.20	.041
Hispanic	-.19	.47	.83	[.33, 2.09]	.16	.687
Education	-.09	.11	.91	[.74, 1.13]	.69	.407
Political Ideology	-.21**	.06	.82	[.73, .91]	12.75	<.001
Urban	.30	.23	1.35	[.85, 2.12]	1.63	.202
Rural	.19	.24	1.21	[.75, 1.94]	.60	.441
Recent Interactions	.30	.20	1.34	[.91, 1.99]	2.16	.142
Counterbalancing	-.04	.19	.96	[.67, 1.38]	.05	.818
Step 2						
Age	-.01	.01	.99	[.98, 1.01]	.55	.458
Gender	.01	.19	1.01	[.70, 1.47]	.01	.945
Black	.85*	.40	2.34	[1.07, 5.12]	4.50	.034
Hispanic	-.21	.47	.81	[.32, 2.05]	.20	.658
Education	-.08	.11	.92	[.74, 1.14]	.64	.425
Political Ideology	-.21**	.06	.81	[.72, .91]	13.03	<.001
Urban	.30	.23	1.34	[.85, 2.12]	1.61	.204
Rural	.19	.24	1.21	[.75, 1.95]	.62	.431
Recent Interactions	.29	.20	2.06	[.90, 1.98]	2.06	.151
Counterbalancing	-.12	.19	.89	[.61, 1.29]	.40	.528
Attitudes	-.43**	.12	.65	[.51, .83]	12.39	<.001
Superseding	-.09	.23	.92	[.59, 1.43]	.15	.700
Totality	.31	.12	.65	[.51, .83]	1.84	.175
Step 3						
Age	-.01	.01	.99	[.98, 1.01]	.48	.490
Gender	.01	.19	1.01	[.70, 1.46]	.00	.966
Black	.83*	.40	2.29	[1.04, 5.04]	4.27	.039
Hispanic	-.21	.47	.81	[.32, 2.05]	.47	.658
Education	-.09	.11	.91	[.73, 1.13]	.73	.392
Political Ideology	-.20**	.06	.82	[.73, .91]	12.65	<.001
Urban	.30	.23	1.35	[.85, 2.12]	1.63	.202
Rural	.19	.24	1.20	[.75, 1.94]	.58	.446
Recent Interactions	.30	.20	1.34	[.91, 1.99]	2.15	.143
Counterbalancing	-.13	.19	.88	[.61, 1.28]	.44	.507
Attitudes	-.49*	.20	.61	[.41, .92]	5.70	.017
Superseding	-.09	.23	.91	[.58, 1.42]	.17	.679
Totality	.33	.24	1.39	[.88, 2.21]	1.95	.163
Attitudes * Superseding	.16	.27	1.18	[.70, 1.99]	.38	.537
Attitudes * Totality	-.06	.30	.94	[.53, 1.69]	.04	.841

Notes. Verdict was coded 1 = Guilty, 0 = Not Guilty. Gender was coded 1 = Men, 0 = Women. Age was measured as a continuous variable and was averaged. Participant race was dummy coded with White participants serving as the reference group. Political orientation was measured as a continuous variable and was averaged, and then mean-centered with higher scores indicating more conservative viewpoints. Education was measured as a continuous variable and averaged with higher scores indicating higher levels of education. Living environment was dummy coded with participants in the Suburban category serving as the reference group. Recent interactions

with police were coded 1 = Yes, 0 = No. Attitudes toward police, importance of prosecution evidence, and perspective-taking were measured as continuous variables and was averaged, and then mean-centered with higher scores indicating a higher presence of the construct. Standardized odds ratios (OR) represent OR when standardized attitude scores are used.
* $p < .05$, ** $p < .01$.

Table 5

Hierarchical Logistic Regression Results for Moderating Effects of Attitudes and Instructions on Dichotomous Verdicts with Superseding Moment Instructions as Indicator

	B	SE	OR	OR 95% CI	Wald	p
Step 2						
Age	-.01	.01	.99	[.98, 1.00]	2.54	.111
Male	-.01	.19	.99	[.69, 1.43]	.00	.968
Black	1.03**	.40	2.80	[1.28, 6.10]	6.70	.010
Hispanic	-.26	.47	.76	[.31, 1.94]	.30	.587
Education	-.09	.11	.92	[.74, 1.13]	.66	.417
Political Ideology	-.27**	.05	.77	[.69, .85]	24.29	< .001
Urban	.28	.23	1.32	[.84, 2.07]	1.46	.227
Rural	.21	.24	1.23	[.77, 1.96]	.74	.390
Recent Interactions	.32	.20	1.37	[.93, 2.02]	2.57	.109
Counterbalancing	-.04	.19	.96	[.67, 1.38]	.05	.818
Attitudes	-.43**	.12	.65	[.51, .83]	12.39	< .001
Control	.09	.23	1.09	[.70, 1.71]	.15	.700
Totality	.40	.24	1.49	[.94, 2.37]	2.84	.091
Step 3						
Age	-.01	.01	1.00	[.98, 1.01]	.48	.490
Male	.01	.19	1.01	[.70, 1.46]	.00	.966
Black	.83*	.40	2.29	[1.04, 5.04]	4.27	.039
Hispanic	-.21	.47	.81	[.32, 2.05]	.20	.658
Education	-.09	.11	.91	[.73, 1.13]	.73	.391
Political Ideology	-.20**	.06	.82	[.73, .91]	12.65	< .001
Urban	.30	.23	1.35	[.85, 2.12]	1.63	.202
Rural	.19	.24	1.20	[.75, 1.94]	.58	.446
Recent Interactions	.30	.20	1.34	[.91, 1.99]	2.15	.143
Counterbalancing	-.13	.19	.88	[.61, 1.28]	.44	.507
Attitudes	-.32	.18	.72	[.51, 1.03]	3.19	.074
Control	.09	.23	1.10	[.70, 1.72]	.17	.679
Totality	.42	.24	1.53	[.96, 1.03]	3.13	.077
Attitudes * Control	-.16	.27	.85	[.50, 1.43]	.38	.537
Attitudes * Totality	-.22	.29	.80	[.45, 1.405]	.61	.436

Notes. Step 1 results and categorical variable coding are the same as reflected in Table 4. Standardized odds ratios (OR) represent OR when standardized attitude scores are used.
* $p < .05$, ** $p < .01$.

Table 6

Hierarchical Linear Regression Results for Moderating Effects of Attitudes and Instructions on Continuous Guilt Ratings with Control Instructions as Indicator

Variable	Model 1			Model 2			Model 3		
	B	*SE B*	β	*B*	*SE B*	β	*B*	*SE B*	β
Step 1									
Age	-.01	.01	-.07	.00	.01	-.01	.00	.01	.05
Male	-.07	.17	-.02	-.05	.17	-.01	-.05	.17	-.01
Black	1.03**	.31	.14	.72*	.30	.10	.72*	.30	.10
Hispanic	.03	.45	.00	.02	.44	.00	.03	.44	.00
Education	-.08	.10	-.03	-.05	.10	-.02	-.05	.10	-.02
Political Ideology	-.28**	.05	-.25	-.17**	.05	-.15	-.17**	.05	-.15
Urban	.13	.21	.03	.13	.20	.03	.13	.20	.03
Rural	.20	.23	.04	.22	.22	.04	.22	.22	.05
Recent Interactions	.26	.19	.06	.21	.18	.05	.21	.18	-.01
Counterbalancing	-.04	.17	-.01	-.17	.17	-.04	-.17	.17	-.04
Step 2									
Attitudes				-.67**	.10	-.29	-.64 **	.16	-.28
Superseding				.02	.20	.01	.02	.20	.01
Totality				.03	.20	.01	.03	.20	.01
Step 3									
Attitudes * Superseding							-.05	.22	-.01
Attitudes * Totality							-.06	.23	-.02
R²		.102			.169			.169	
F for change in R²		6.64			8.84			7.56	

Notes. Coding of categorical variables is the same as Table 4. * $p < .05$, ** $p < .01$.

Table 7

Hierarchical Linear Regression Results for Moderating Effects of Attitudes and Instructions on Continuous Guilt Ratings with Superseding Moment Instructions as Indicator

Variable	Model 2			Model 3		
	B	*SE B*	β	*B*	*SE B*	β
Step 2						
Attitudes	-.67**	.10	-.30	-.68**	.16	-.30
Control	-.02	.20	-.01	-.02	.20	-.01
Totality	.01	.21	.00	.13	.21	.00
Step 3						
Attitudes * Control				.01	.22	.01
Attitudes * Totality				-.01	.21	.00
R²		.169			.169	
F for change in R²		8.84			7.56	

Notes. Coding of categorical variables is the same as Table 4. Step 1 results are the same as reflected in Table 6.
* $p < .05$, ** $p < .01$.

REFERENCES

Augustyn, M. B. (2016). Updating Perceptions of (In)Justice. *Journal of Research in Crime and Delinquency*, *53*(2), 255–286.

Ajzen, I., (1991). The theory of planned behavior. *Organ, Behavior, and Human Decision Processes*, 50, 179-211.

Bargh, J. A., & Chartrand, T. L. (2010). The mind in the middle: A practical guide to priming and automaticity research. In H. T. Reis & C. M. Judd (Eds.), *Handbook of research methods in social and personality psychology., 2nd ed.* (pp. 311–344). New York, NY: Cambridge University Press.Bickman, 1974

Bates, D., Mächler, M., Bolker, B., & Walker, S. (2014). Fitting linear mixed effects models using lme4. *arXiv preprint arXiv:1406.5823*.

Bickman, L. (1974). The Social Power of a Uniform1. *Journal of Applied Social Psychology*, *4*(1), 47–61. doi: 10.1111/j.1559-1816.1974.tb02599.x

Bornstein, B. H., & Greene, E. (2011). Jury decision making: Implications for and from psychology. *Current Directions in Psychological Science*, 20(1), 63-67.

Bradford, B., Milani, J., & Jackson, J. (2017). Identity, legitimacy and "making sense" of police use of force. *Policing: An International Journal of Police Strategies & Management*, *40*(3), 614–627. doi: 10.1108/pijpsm-06-2016-0085

Buhrmester, M., Kwang, T., & Gosling, S. D. (2011). Amazon's Mechanical Turk: A new source of inexpensive, yet high-quality, data? *Perspectives on Psychological Science*, (1), 3. Retrieved from https://search-ebscohost-com.proxy.lib.siu.edu/login.aspx?direct=true&db=edsbl&AN=RN287011888&site=eds-live&scope=site

Braga, A., Winship, C., Tyler, T., Fagan, J., & Tracey L. Meares, T. (2014). The Salience of

Social Contextual Factors in Appraisals of Police Interactions with Citizens: A

Randomized Factorial Experiment. *Journal of Quantitative Criminology*, *30*(4), 599-627.

Brown, B., & Benedict, W. R. (2002). Perceptions of the police: past findings, methodological

issues, conceptual issues and policy implications. *Policing -Bradford*, (3), 543-

480.

Necka, E. A., Cacioppo, S., Norman, G. J., & Cacioppo, J. T. (2016). Measuring the Prevalence

of Problematic Respondent Behaviors among MTurk, Campus, and Community

Participants. *PLoS ONE*, *11*(6), 1–19. http://doi.org.proxy.lib.siu.edu/10.1371/

journal.pone.0157732

Carlson, K. A., & Russo, J. E. (2001). Biased Interpretation of Evidence by Mock Jurors.

Journal of Experimental Psychology Applied, (2), 91-103.

Celestin, B. D., & Kruschke, J. K. (2019). Lay evaluations of police and civilian use of force:

Action severity scales. *Law and Human Behavior*, *43*(3), 290–305.

Celestin, B. D., & Kruschke, J. K. (2018). Lay evaluations of police and civilian use of force:

Moral and physical magnitude ratings of officer and civilian actions. doi:

10.31219/osf.io/gdnb4

Chambers, J. R., & Davis, M. H. (2012). The role of the self in perspective-taking and

empathy: Ease of self-simulation as a heuristic for inferring empathic feelings. *Social

Cognition*, *30*(2), 153–180. doi: 10.1521/soco.2012.30.2.153

Davis, M. H. (1983). The effects of dispositional empathy on emotional reactions and helping: A

multidimensional approach. *Journal of Personality*, *51*(2), 167–184. doi: 10.1111/j.1467-

6494.1983.tb00860.x

Devine, D., Buddenbaum, J., Houp, S., Studebaker, N., & Stolle, D. (2009). Strength of

evidence, extraevidentiary influence, and the liberation hypothesis: Data from the field.

    Law and Human Behavior, *33*(2), 136-148.

Donovan, K. M., & Klahm, C. F. (2015). The role of entertainment media in perceptions of

    police use of force. *Criminal Justice and Behavior*, *42*(12), 1261–1281.

    https://doi-org.proxy.lib.siu.edu/10.1177/0093854815604180

Ekins, E. (2016). Policing in America: Understanding public attitudes toward the police.

    Results from a National Survey. Washington, DC: Cato Institute.

Ellsworth, P. C. (1989). Are twelve heads better than one? *Law and Contemporary Problems*,

    52(4), 205. https://doi-org.proxy.lib.siu.edu/10.2307/1191911

Ellsworth, P. C. (2002). One Inspiring Jury. *Michigan Law Review*, *101*(6), 1387–1407.

Erber, M. W., Hodges, S. D., & Wilson, T. D. (1995). Attitude strength, attitude stability, and the

    effects of analyzing reasons. In R. E. Petty & J. A. Krosnick (Eds.), *Attitude strength:*

    Antecedents and consequences. (pp. 433–454). Lawrence Erlbaum Associates, Inc.

Epstein, S. (1994). Integration of the cognitive and the psychodynamic unconscious. *American*

    Psychologist, *49*(8), 709–724. https://doi-org.proxy.lib.siu.edu/10.1037/0003-

    066X.49.8.709

Fazio, R. H. (2007). Attitudes as Object-Evaluation Associations of Varying Strength. *Social*

    Cognition, (5), 603-637.

Fazio, R. H., Roskos-Ewoldsen, D. R., & Powell, M. C. (1994). Attitudes, perception, and

    attention. In P. M. Niedenthal & S. Kitayama (Eds.), *The heart's eye: Emotional*

    influences in perception and attention. (pp. 197–216). San Diego, CA: Academic Press.

Festinger, L. (1962). *A theory of cognitive dissonance*. Stanford University Press. Retrieved from

    https://search-ebscohostcom.proxy.lib.siu.edu/login.aspx?direct=true&db=

cat01028a&AN=ishare.14618459&site=eds-live&scope=site

Fine, A., Cavanagh, C., Donley, S., Steinberg, L., Frick, P. J., & Cauffman, E. (n.d.). The Role of
Peer Arrests on the Development of Youths' Attitudes Towards the Justice System. *Law
and Human Behavior*, *40*(2), 211–218.Fischer-Baum, R. & Johri, A. (2014). Another
(much higher) count of homicides by police.
Retrieved from: http://fivethirtyeight.com/datalab/another-much-higher-count-of-police-
homicide.

Fishbein, M., & Ajzen, I. (1975). Belief, attitude, intention, and behavior: An introduction to
theory and research. Addison-Wesley, Reading, MA.

Fingerhut, H. (2017). Whites, republicans more likely to view police warmly. Retrieved from:
https://www.pewresearch.org/fact-tank/2017/09/15/deep-racial-partisan-divisions-
in-americans-views-of-police-officers/

Ford, J. B. (2017). Amazon's Mechanical Turk: A comment. *Journal of Advertising*, 46(1), 156-
158.

Fox, K. A., Gover, A. R., & Kaukinen, C. (2009). The effects of low self-control and childhood
maltreatment on stalking victimization among men and women. *American Journal of
Criminal Justice*, 34, 181-197.

Galinsky, A. D., & Ku, G. (2004). The effects of perspective-taking on prejudice: The
moderating role of self-evaluation. *Personality and Social Psychology Bulletin*, *30*(5),
594–604. doi: 10.1177/0146167203262802

Gerber, M. M., & Jackson, J. (2017). Justifying violence: legitimacy, ideology and public
support for police use of force. *Psychology, Crime & Law*, (1), 79-95.

Graham v. Connor, 490 US 386 (1989).

Gollwitzer, P. M., & Kinney, R. F. (1989). Effects of deliberative and implemental mind-sets on

    illusion of control. *Journal of Personality & Social Psychology*, *56*(4), 531–542

Gollwitzer, P. M., & Heckhausen, H. (1990). Deliberative and implemental mind-sets: cognitive

    tuning toward congruous thoughts and information. *Journal of Personality & Social

    Psychology*, *59*(6), 1119–1127.

Greene, E., Heilbrun, K., & Wrightsman, L. S. (2019). *Wrightsman's psychology and the legal

    system*. Boston, MA, USA: Cengage.

Gross, J. P. (2016). Judge, jury, and executioner: The excessive use of deadly force by police

    officers. *Texas Journal on Civil Liberties Civil Rights* 21(2), 155-182.

Grinberg, E. (2018, August). Why police-involved shooting trials rarely end in convictions for

    officers. Retrieved from: https://www.cnn.com/2017/06/23/us/police-deadly-force-

    trials/index.html

Gordon, S. G. (2012). Through the eyes of jurors: The use of cognitive psychology in the

    application of plain language jury instructions. *SSRN Electronic Journal*. doi:

    10.2139/ssrn.2133000

Haegerich, T.M. & Bottoms, B. L. (2000). Empathy and jurors' decisions in patricide

    Trials involving child sexual assault allegations. *Law and Human Behavior*, *24*(4), 421.

Hekman, D. R., Johnson, S. K., Maw-Der Foo, & Wei Yang. (2017). Does diversity-valuing

    behavior result in diminished performance ratings for non-white and female leaders?

    Academy of Management Journal, *60*(2), 771–797. https://doi-

    org.proxy.lib.siu.edu/10.5465/amj.2014.0538

Heider, F. (1946). Attitudes and cognitive organization. *The Journal Of Psychology*, *21*, 107–

    112. https://doi-org.proxy.lib.siu.edu/10.1080/00223980.1946.9917275.

Haider-Markel, D. P., & Joslyn, M. R. (2017). Bad Apples? Attributions for Police Treatment of

    African Americans. *Analyses of Social Issues and Public Policy*, *17*(1), 358–378. doi:

    10.1111/asap.12146

Holyoak, K. J., & Simon, D. (1999). Bidirectional reasoning in decision making by constraint

    satisfaction. *Journal of Experimental Psychology General*, (1), 3-31.

Hope, L., Memon, A., & Mcgeorge, P. (2004). Understanding pretrial publicity: Predecisional

    distortion of evidence by mock jurors. *Journal of Experimental Psychology: Applied*,

    10(2), 111–119. doi: 10.1037/1076-898x.10.2.111

Huff, J., Alvarez, M., Miller, M. (2018) Mock juror perceptions of police shootings: the effects

    of victim race and shooting justifiability. *Applied Psychology in Criminal Justice*, *14,* 87–

    101

Jackson, J. (2018). Norms, Normativity, and the Legitimacy of Justice Institutions: International

    Perspectives. *Annual Review of Law and Social Science*, *14*(1), 145–165. doi:

    10.1146/annurev-lawsocsci-110316-113734

Jefferis, E. S., Kaminski, R. J., Holmes, S., & Hanley, D. E. (1997). The effect of a videotaped

    arrest on public perceptions of police use of force. *Journal of Criminal Justice*, (5), 381-

    396.

Jefferis, E., Butcher, F., & Hanley, D. (2011). Measuring perceptions of police use of force.

    Police Practice and Research, (1), 81-96.

Jonas, K., Broemer, P., & Diehl, M. (2000). Experienced ambivalence as a moderator of the

    consistency between attitudes and behaviors. *Zeitschrift Für Sozialpsychologie*, *31*(3),

    153–165. doi: 10.1024//0044-3514.31.3.153

Kalven, H. & Zeisel, H. (1972). "Statistics and the Law," in *Statistics: A Guide to the Unknown*,

San Francisco, CA: Judith M. Tanur eds., Holden-Day, Inc.

Kerr, N. L., & Maccoun, R. J. (2012). Is the leniency asymmetry really dead? Misinterpreting asymmetry effects in criminal jury deliberation. *Group Processes & Intergroup Relations*, *15*(5), 585–602. doi: 10.1177/1368430212441639

Kerr, N. L. (1978). Severity of prescribed penalty and mock jurors' verdicts. *Journal of Personality and Social Psychology, 36*(12), 1431-1442.

Kerwin, J., & Shaffer, D. R. (1994). Mock jurors versus mock juries: The role of deliberations in reactions to inadmissible testimony. *Personality and Social Psychology Bulletin*, *20*(2), 153–162. doi: 10.1177/0146167294202002

Kochel, T. R. (2015a). Assessing the initial impact of the Michael Brown shooting and police and public responses to it on St. Louis County residents' views about police. Carbondale, IL: Southern Illinois University Carbondale.

Kochel, Tammy R. (2015b). Ferguson's long-term impact on public views about police. Carbondale, IL: Southern Illinois University Carbondale.

Krauss, D. A., Lieberman, J. D., & Olson, J. (2004). The effects of rational and experiential information processing of expert testimony in death penalty cases. *Behavioral Sciences & the Law*, *22*(6), 801–822. doi: 10.1002/bsl.621

Kuhn, D., Weinstock, M., & Flaton, R. (1994). How well do jurors reason? Competence dimensions of individual variation in a juror reasoning task. *Psychological Science*, *5*(5), 289–296. doi: 10.1111/j.1467-9280.1994.tb00628.x

Lieberman, J. D., Krauss, D. A., Kyger, M., & Lehoux, M. (2007). Determining dangerousness in sexually violent predator evaluations: cognitive–experiential self-theory and juror judgments of expert testimony. *Behavioral Sciences & the Law*, *25*(4), 507–526.

https://doi-org.proxy.lib.siu.edu/10.1002/bsl.771.

Lundman, R. J. (2003). The Newsworthiness and Selection Bias in News About Murder:

Comparative and Relative Effects of Novelty and Race and Gender Typifications on

Newspaper Coverage of Homicide. *Sociological Forum*, *18*(3), 357. https://doi-

org.proxy.lib.siu.edu/10.1023/A:1025713518156

MacDonald, B. E. (1990). Graham v. Connor: A reasonable approach to excessive force claims

against police officers. *McGeorge Law Review*, 22(1), 157-187.

Mauro, R. (1984). The constable's new clothes: Effects of uniforms on perception and problems

of police officers. *Journal of Applied Social Psychology*, *14*(1), 42-56.

Maxson, C. L., Hennigan, K., & Sloane, D. C. (2003). *Factors that influence public opinion of*

the police. [electronic resource]. U.S. Dept. of Justice, Office of Justice Programs,

National Institute of Justice. Retrieved from https://search-ebscohost-

com.proxy.lib.siu.edu/login.aspx?direct=true&db=cat01173a&AN=siuce.1643900&site=

eds-live&scope=site

Maxwell, J. A. (2004). Causal explanation, qualitative research, and scientific inquiry in

education. *Educational Researcher*, (2), 3. Retrieved from https://search-ebscohost-

com.proxy.lib.siu.edu/login.aspx?direct=true&db=edsbl&AN=RN147993880&site=eds-

live&scope=site

McLaughlin, E. (2015, April) There aren't more police shootings, just more coverage. Retrieved

from: https://www.cnn.com/2015/04/20/us/police-brutality-video-social-media-

attitudes/index.html.

McLean, K., Wolfe, S. E., & Pratt, T. C. (2019). Legitimacy and the life course: An age-graded

examination of changes in legitimacy attitudes over time. *Journal of Research in Crime*

& Delinquency, *56*(1), 42–83

Meisner, L. (2017, August) Jury convicts chicago officer of excessive force for firing 16 shots at

car and wounding 2 teens. Retrieved from: https://www.latimes.com/nation/la-na-

chicago-cop-convicted-20170829-story.html.

Menard, S. (2009). *Logistic regression: From introductory to advanced concepts and*

applications. Sage Publications. Thousand Oaks, CA.

Morin, R., Parker, K., Stepler, R., & Mercer, A. (2017). *Police views, public views,* Pew

Research Center. Retrieved from: https://www.pewsocialtrends.org/2017/01/11/police-

views-public-views/

Mourtgos, S. & Adams, I. T. (2019). Assessing public perceptions of police use of force: Legal

reasonableness and community standards, Justice Quarterly. https://doi-

org.proxy.lib.siu.edu/10.1080/07418825.2019.1679864

Moule, R. K., Fox, B. H., & Parry, M. M. (2018). The long shadow of ferguson: Legitimacy,

legal cynicism, and public perceptions of police militarization. *Crime & Delinquency*,

65(2), 151–182. doi: 10.1177/0011128718770689

Mutz, D. C., & Nir, L. (2010). Not necessarily the news: Does fictional television influence real-

world policy preferences? *Mass Communication and Society*, *13*(2), 196–217. doi:

10.1080/15205430902813856

Nickels, E. (2008). Good guys wear black: Uniform color and citizen impressions of police,

Policing: An International Journal, 31(1), 77-92.

Nix, J., Wolfe, S. E., Rojek, J., & Kaminski, R. J. (2014). Trust in the police. *Crime &*

Delinquency, *61*(4), 610–640. doi: 10.1177/0011128714530548

O'Brien, B.; Oyserman, D. (2008). It's not just what you think, but also how you think about it:

The effect of situationally primed mindsets on legal judgments and decision making. *Marquette Law Review, 92(1),* 149-172.

Osborne, J., & Waters, E. (2002). Four assumptions of multiple regression that researchers should always test. *Practical assessment, research & evaluation,* 8(2), 1-9.

Osgood, C. E., & Tannenbaum, P. H. (1955). The principle of congruity in the prediction of attitude change. *Psychological Review*, *62*(1), 42–55. https://doi-org.proxy.lib.siu.edu/10.1037/h0048153.

Park, M. (2018, October 3). Police shootings: Trials, convictions are rare for officers. Retrieved from https://www.cnn.com/2017/05/18/us/police-involved-shooting-cases/index.html

Peck, J. H. (2015). Minority perceptions of the police: a state-of-the-art review. *Policing-An International Journal of Police Strategies & Management*, *38*(1), 173–203.

Pennington, N. & Hastie, R. (1992) Explaining the evidence: Tests of the story model for juror decision making. *Journal of Personality and Social Psychology,* 62, 189 –206.

Pennington, N., & Hastie, R. (1981). Juror decision-making models: The generalization gap. *Psychological Bulletin*, *89*(2), 246–287.

Pennington, N., & Hastie, R. (1988). Explanation-based decision making: Effects of memory structure on judgment. *Journal of Experimental Psychology: Learning, Memory, and Cognition*, *14*(3), 521–533

Pennington, N., & Hastie, R. (1988). Explanation-based decision making: Effects of memory structure on judgment. *Journal of Experimental Psychology: Learning, Memory, and Cognition*, *14*(3), 521–533.

Peter-Hagene, L. C., & Bottoms, B. L. (2017). Attitudes, anger, and nullification instructions

influence jurors' verdicts in euthanasia cases. *Psychology, Crime & Law*, (10), 983–1009.

Pfeifer, J. E., & Ogloff, J. R. P. (1991). Ambiguity and guilt determinations: A modern racism perspective. *Journal of Applied Social Psychology*, *21*(21), 1713–1725. doi: 10.1111/j.1559-1816.1991.tb00500.x

Read, S. J., Vanman, E. J., & Miller, L. C. (1997). Connectionism, parallel constraint satisfaction processes, and gestalt principles: (Re)introducing cognitive dynamics to social psychology. *Personality and Social Psychology Review*, *1*, 26–53

Reifman, A., Gusick, S. M., & Ellsworth, P. C. (1992). Real jurors' understanding of the law in real cases. *Law and Human Behavior*, *16*(5), 539. Retrieved from https://search-ebscohost-com.proxy.lib.siu.edu/login.aspx?direct=true&db= edsjsr&AN=edsjsr.1394237&site=eds-live&scope=site

Rosenbaum, D. P., Schuck, A. M., Costello, S. K., Hawkins, D. F., & Ring, M. K. (2005). Attitudes Toward the Police: The Effects of Direct and Vicarious Experience. *Police Quarterly*, *8*(3), 343–365. doi: 10.1177/1098611104271085

Roskos-Ewoldsen, D. R., & Fazio, R. H. (1992). On the orienting value of attitudes: Attitude accessibility as a determinant of an object's attraction of visual attention. *Journal of Personality and Social Psychology*, *63*(2), 198–211.

Russo, J. E., Carlson, K. A., Meloy, M. G., & Yong, K. (2008). The goal of consistency as a cause of information distortion. *Journal of Experimental Psychology: General*, *137*(3), 456–470. doi: 10.1037/a0012786

Ruva, C. L., & Guenther, C. C. (2015). From the shadows into the light: How pretrial publicity and deliberation affect mock jurors' decisions, impressions, and memory. *Law and*

Human Behavior, *39*(3), 294–310. doi: 10.1037/lhb0000117

Ruva, C. L., & Mcevoy, C. (2008). Negative and positive pretrial publicity affect juror memory and decision making. *Journal of Experimental Psychology: Applied*, *14*(3), 226–235. doi: 10.1037/1076-898x.14.3.226

Saad, L. (2018, June). Military, small business, police still stir the most confidence. Gallup. Retrieved from: https://news.gallup.com/poll/236243/military-small-business-police-stir-confidence.aspx.

Sandys, M., & Dillehay, R. C. (1995). First-ballot votes, predeliberation dispositions, and final verdicts in jury trials. *Law and Human Behavior*, 19, 175-195.

Saulnier, A., Burke, K. C., & Bottoms, B. L. (2019). The effects of body-worn camera footage and eyewitness race on jurors' perceptions of police use of force. *Behavioral Sciences & the Law*, *37*(6), 732–750. doi: 10.1002/bsl.2443

Saxton, B. (1998). How well do jurors understand jury instructions? A field test using real juries and real trials in Wyoming. *Land and Water Law Review, 33,* 59-189.

Schwartz, S. H. (1992). Universals in the content and structure of values: Theoretical advances and empirical tests in 20 countries. In M. P. Zanna (Ed.), Advances in experimental social psychology (Vol. 25, pp. 1– 65). San Diego, CA: Academic Press.

Seron, C., Pereira, J., & Kovath, J. (2004). Judging police misconduct: "Street-level" versus professional policing. *Law Society Review*, *38*(4), 665–710. doi: 10.1111/j.0023-9216.2004.00063.x

Simon, D., & Holyoak, K. J. (2002). Structural dynamics of cognition: From consistency theories to constraint satisfaction. *Personality and Social Psychology Review*, *6*(4), 283–294. doi: 10.1207/s15327957pspr0604_03

Simon, D., Snow, C. J., & Read, S. J. (2004). The redux of cognitive consistency theories: Evidence judgments by constraint satisfaction. *Journal of Personality and Social Psychology*, (6), 814. Retrieved from https://search-ebscohost-com.proxy.lib.siu.edu/login.aspx?direct=true&db=edsbl&AN=RN150715725&site=eds-live&scope=site.

Skorinko, J. L., Laurent, S., Bountress, K., Nyein, K. P., & Kuckuck, D. (2014). Effects of perspective-taking on courtroom decisions. *Journal of Applied Social Psychology*, (4), 303. Retrieved from https://search-ebscohost-com.proxy.lib.siu.edu/login.aspx?direct=true&db=edsbl&AN=RN350845791&site=eds-live&scope=site

Smithson, M., Deady, S., & Gracik, L. (2007). Guilty, not guilty, or …? multiple options in jury verdict choices. *Journal of Behavioral Decision Making*, *20*(5), 481–498. doi: 10.1002/bdm.572

Snyder, M., & Ickes, W. (1985). Personality and social behavior. In G. Lindzey & E. Aronson (Eds.), *Handbook of social psychology* (3rd ed., pp. 883-948). Reading, MA: Addison-Wesley.

Stack, S. J., & Cao, L. (1998). Political conservatism and confidence in the police: A comparative analysis. *Journal of Crime and Justice*, (1), 71-76.

Stevens, J. P. (2009). *Applied multivariate statistics for the social sciences* (5th ed.). Mahwah, NJ: Routledge Academic.

Stinson, P. M., (2017). Police shootings data: What we know and what we don't know. *Criminal Justice Faculty Publications*, 78.

Stinson, P. M.; Wentzlof, C. A. & Swinehart, M. L. (2019). On-duty police shootings: Officers charged with murder or manslaughter 2005-2018. *Criminal Justice Faculty*

Publications. 98.

Sunshine, J., & Tyler, T. R. (2003). The role of procedural justice and legitimacy in shaping

    public support for policing. *Law and Society Review*, 37(3), 513-548.

Tabak, S. J., Klettke, B., & Knight, T. (2013). Simulated jury decision making in online focus

    groups. *Qualitative Research Journal*, *13*(1), 102–113. doi:

    10.1108/14439881311314667 *Tennessee v. Garner 471 US 1* (1985).

Terrance, C. A., Matheson, K., & Spanos, N. P. (2000). Effects of judicial instructions and case

    characteristics in a mock jury trial of battered women who kill. *Law and Human*

    Behavior, *24*(2), 207-229.

Tyler, T. R., & Huo, Y. J. (2002). *Trust in the law: encouraging public cooperation with the*

    police and courts. New York: Russell Sage Foundation.

Tyler, T. R. (2003). Procedural Justice, Legitimacy, and the Effective Rule of Law. *Crime and*

    Justice, *30*, 283–357. doi: 10.1086/652233

Tyler, T. R. (2007). *Legitimacy and Criminal Justice: An International Perspective*. Russell Sage

    Foundation.

U.S. Census Data (2017). Retrieved from:

    http://www.census.gov/quickfacts/fact/table/US/PST045217.

Vidmar, N. (1972). Effects of decision alternatives on the verdicts and social perceptions of

    simulated jurors. *Journal of Personality and Social Psychology, 22*(2), 211-218.

Washington Post Police Shooting Database (2018). Retrieved from:

    https://www.washingtonpost.com/graphics/2018/national/police-shootings-

    2018/?utm_term=.df2c785bd389

Weitzer, R. (2002). Incidents of police misconduct and public opinion. *Journal of*

Criminal Justice, *30*(5), 397–408.

Weitzer, R., Tuch, S. A., & Skogan, W. G. (2008). Police-community relations in a majority-black city. *Journal of Research in Crime and delinquency*, (4), 398-428.

Wessling, K. S., Huber, J., & Netzer, O. (2017). MTurk character misrepresentation: Assessment and solutions. *Journal of Consumer Research*, *44*(1), 211–230. doi: 10.1093/jcr/ucx053

Wiener, R. L., Pritchard, C. C., & Weston, M. (1995). Comprehensibility of approved jury instructions in capital murder cases. *Journal of Applied Psychology*, *80*(4), 455–467. doi: 10.1037/0021-9010.80.4.455

Wheelock, D., Stroshine, M. S., & O'Hear, M. (2019). Disentangling the Relationship Between Race and Attitudes Toward the Police: Police Contact, Perceptions of Safety, and Procedural Justice. *Crime & Delinquency*, *65*(7), 941–968.

Wyer, R. S., & Srull, T. K. (2009). *Social intelligence and cognitive assessments of personality*. New York: Psychology Press.

Yeager, D. S., & Dweck, C. S. (2012). Mindsets that promote resilience: When students believe that personal characteristics can be developed. *Educational Psychologist*, (4), 302-314.

APPENDIX A

ELIGIBILITY AND CONSENT

You are being asked to complete this survey because we are interested in jurors' decisions in criminal trials. Please read this form before agreeing to participate.
1. The purpose of this research is to investigate opinions about court cases.
2. If you agree to participate, you were asked to view a presentation of a court case including summaries of evidence and testimony and then to complete a questionnaire assessing your opinions about the case.
3. Your participation will take no more than 35 minutes.

4. The information we collect were used solely for research purposes. The data were collected and analyzed by the researchers in aggregate form. Although anonymity cannot be guaranteed, as with any academic research, your answers are strictly confidential and the data will not contain any information that can be used to uniquely identify you or your individual responses.

5. All information collected as part of this research were stored on a secure server. We will take all reasonable steps to protect your identity and will not even record your name as a participant, so there is no way your name will ever be linked to your survey responses. Thus, your answers will remain completely confidential and your data were stored in a completely confidential manner.

6. Participation in this study involves the risk of some psychological discomfort. You may view evidence from an actual shooting event that resulted in death. However, this would not be more upsetting than anything you could see in movies, online, or on the news. Although there are no direct benefits to you for participating, the information you provide will help improve our understanding of legal reasoning, which advances social psychological research.

7. Your participation is completely voluntary. You may withdraw at any time without consequence.

8. By participating in this study, you will have the opportunity to earn credits on Mechanical Turk.

9.   This study is being conducted by Chasity Ratliff at Southern Illinois University. If you have questions, you may contact the researchers at (573)270-9381 or chasity.ratliff@siu.edu.

10. This project has been reviewed and approved by the SIUC Human Subjects Committee. Questions concerning your rights as a participant in this research may be addressed to the Committee Chairperson, Office of Research Compliance, Southern Illinois University, Carbondale, IL 62901-4709. Phone (618) 453-4534.   E-mail siuhsc@siu.edu

I have read (or someone has read to me) the above information. By clicking "I understand and wish to continue" below, I indicate that I agree to participate in this research.

To begin, please answer these questions:

Are you 18 years or older?

- o Yes
- o No

Are you a United States Citizen?

- o Yes
- o No

*If the participant is younger than 18 or is not a U.S. citizen, they will see the following prompt:

Thank you for your interest in completing this research study. However, participation in this study is restricted to United States citizens who are 18 years or older**.**

APPENDIX B

ATTITUDES TOWARD POLICE

	Disagree	Somewhat disagree	Neither agree nor disagree	Somewhat agree	Agree
Police generally make fair and impartial decisions in the cases they deal with.					
Police give people the opportunity to tell their side of the story before making any decisions.					
Police make decisions based upon the law and not their personal opinions or biases.					
When the police deal with people they almost always behave according to the law.					
Police have great respect for people's rights.					
Police often arrest people for no good reason.					
Police stand up for values that are important to me.					
I generally support how the police act in my community.					
Police usually act in ways consistent with my own ideas about what is right and wrong.					

Items adapted from Jackson, J., Trinkner, R., & Tyler, T. (2018). Bounded authority: expanding appropriate police behavior beyond procedural justice. Law and Human Behavior, 42(3), 280-293.

PRE-TRIAL INSTRUCTIONS

Participants were randomly assigned to receive one of the three following sets of instructions.

<u>CONTROL:</u>

You will read the summary of an actual criminal trial involving a white police officer who shot a white suspect for failing to comply with orders from the officer. The officer is now on trial for using lethal force against the suspect. You will play the role of a jury member in this case, which means you will have to make a legal decision based on the law and on the evidence presented at trial.

These are the pre-evidence instructions the judge gives to the jury in these cases. Please read them carefully as they are very important to your understanding of the trial evidence. You will also receive detailed instructions at the end of the trial.

<u>Ladies and gentlemen of the jury:</u> You have been selected to perform a very important function in the criminal justice system.

The indictment charges the defendant, Mike Smith, with first-degree murder in the death of Shawn Davis. The defendant has pleaded not guilty. The indictment is simply the formal way of telling the defendant what crime he is accused of committing. It is not evidence that the defendant is guilty. It does not even raise a suspicion of guilt.

It is your duty as jurors to review the evidence, decide what the facts are, and then apply those facts to the law as it is given to you. That is how you will reach your verdict of "Guilty" or "Not Guilty." In doing so you must follow that law whether you agree with it or not. Throughout the trial, you were presented with statements from prosecution and defense attorneys, evidence exhibits, and witness testimony. At the end of the trial you will receive additional, detailed instructions.

<u>SUPERSEDING MOMENT:</u>

You will read the summary of an actual criminal trial involving a white police officer who shot a white suspect for failing to comply with orders from the officer. The officer is now on trial for using lethal force against the suspect. You will play the role of a jury member in this case, which means you will have to make a legal decision based on the law and on the evidence presented at trial.

These are the pre-evidence instructions the judge gives to the jury in these cases. Please read them carefully as they are very important to your understanding of the trial evidence. You will also receive detailed instructions at the end of the trial.

<u>Ladies and gentlemen of the jury:</u> You have been selected to perform a very important function in the criminal justice system.

The indictment charges the defendant, Mike Smith, with first-degree murder in the death of Shawn Davis. The defendant has pleaded not guilty. The indictment is simply the formal way of telling the defendant what crime he is accused of committing. It is not evidence that the defendant is guilty. It does not even raise a suspicion of guilt.

It is important to understand that police officers are permitted to use lethal force under some circumstances. The reasonableness of a particular use of force must be <u>judged from the perspective of a reasonable officer on the scene</u>, rather than with the 20/20 vision of hindsight. With respect to a claim of excessive force, the standard of reasonableness <u>at the moment</u> applies.

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.

It is your duty as jurors to review the evidence, decide what the facts are, and then apply those facts to the law as it is given to you. That is how you will reach your verdict of "Guilty" or "Not Guilty." In doing so you must follow that law whether you agree with it or not. Throughout the trial, you were presented with statements from prosecution and defense attorneys, evidence exhibits, and witness testimony. At the end of the trial you will receive additional, detailed instructions.

<u>TOTALITY OF CIRCUMSTANCE:</u>

You will read the summary of an actual criminal trial involving a white police officer who shot a white suspect for failing to comply with orders from the officer. The officer is now on trial for using lethal force against the suspect. You will play the role of a jury member in this case, which means you will have to make a legal decision based on the law and on the evidence presented at trial.

These are the pre-evidence instructions the judge gives to the jury in these cases. Please read them carefully as they are very important to your understanding of the trial evidence. You will also receive detailed instructions at the end of the trial.

<u>Ladies and gentlemen of the jury:</u> You have been selected to perform a very important function in the criminal justice system.

The indictment charges the defendant, Mike Smith, with first-degree murder in the death of Shawn Davis. The defendant has pleaded not guilty. The indictment is simply the formal way of telling the defendant what crime he is accused of committing. It is not evidence that the defendant is guilty. It does not even raise a suspicion of guilt. It is important to understand that police officers are permitted to use lethal force under some circumstances. The reasonableness of a particular use of force depends on the particular facts and circumstances of each case. Factors you may consider in deciding whether the defendant's use of force was unreasonable include, without limitation:

The need for the force used;
The relationship between the need for the use of force and the amount of force used;

The extent of the victim's injury;

Any efforts made by the defendant to temper or limit the amount of force;

The severity of the crime at issue;

The threat reasonably perceived by the officer;

Whether warning was given;

Whether the victim was actively resisting arrest or was attempting to evade arrest by fleeing, if the victim was attempting to escape or evade arrest by use of a deadly weapon or if it reasonably appeared that he was posing a risk of death or great bodily harm to another person.

It is your duty as jurors to review the evidence, decide what the facts are, and then apply those facts to the law as it is given to you. That is how you will reach your verdict of "Guilty" or "Not Guilty." In doing so you must follow that law whether you agree with it or not. Throughout the trial, you were presented with statements from prosecution and defense attorneys, evidence exhibits, and witness testimony. At the end of the trial you will receive additional, detailed instructions.

OPENING STATEMENTS:

PROSECUTOR: Angela Woods

On the night in question, February 5, 2018, Officer Joseph Collins and his partner were dispatched to investigate a report of a man—later identified as Shawn Davis—who was stealing from trucks. Officers located Shawn Davis and approached him, ordering him to stop and take his hands out of his pockets. Shawn Davis turned, walked away and took both hands out of his pockets, displaying a small knife in his right hand. Joseph Collins drew his weapon and ordered Shawn Davis to drop the knife, but Shawn Davis continued walking away. Officer Joseph Collins didn't shoot though, he continued to follow Shawn Davis on foot. Another officer—Stan Bogan—followed in the police cruiser while the police dispatcher requested a police unit with a Taser.

Now, to be clear, as Officer Bogan was attempting to use the police cruiser to direct Shawn Davis, Davis did strike the windshield and popped the squad car tire with his knife. But, ladies and gentlemen, the damage was minimal. The officers on the scene did not feel the need to fire their weapons, they already had a plan in place. Like I said, dispatch had already called for a unit with a Taser and they were in route. Every officer in this area has access to that radio frequency and would have been able to hear this.

Now, this is when Officers Dale Seabaugh and Mike Smith—the defendant—arrived on the scene. Ladies and gentlemen, Mike Smith got out of the vehicle with his gun drawn. Not long after, he opened fire 16 times. Smith emptied his magazine while Shawn Davis was surrounded by squad cars and while a Taser unit was near. There was also a chain link fence six to seven feet tall preventing Shawn Davis from escaping police, and there were no pedestrians nearby. Mike Smith abused his power as a police officer that night and committed murder when he shot Shawn Davis.

DEFENSE: Martin Montgomery

The evidence in this case is going to show that Officer Mike Smith is not a murderer, but a reasonable police officer who feared for his life and the life of others while serving in the line of

duty that night. Furthermore, the evidence will demonstrate that Officer Smith acted within his training when he fired his weapon at what he perceived to be a dangerous suspect coming toward him with a deadly weapon.

Now, I just want to give you a little more context on Shawn Davis and why the police were there in the first place. The police received a call that Shawn Davis was stealing from trucks inside a secured lot and what the prosecution didn't tell you is that Shawn Davis had threatened the driver who discovered him with a knife. Then, when the officers initially came into contact with Shawn Davis, he brandished the same knife—a deadly weapon—at the officers and disobeyed orders to drop the knife, causing Officer Collins to draw his weapon.

As you will see, Shawn Davis continued on his path of destruction when he struck the windshield and punctured the tires of a squad car when the police were attempting to confront and contain him. Then, as more police units arrived on the scene, Shawn Davis flicked out his knife and took off running near busy restaurants full of innocent civilians who would have been put at risk.

Shawn Davis had already brandished his weapon toward police officers and violently damaged a police cruiser, so Officer Smith reasonably concluded that Shawn Davis was planning an attack at this point in his wild rampage. In the moment he fired his weapon, Smith was reasonably afraid based on Shawn Davis's behavior, and he was focused on a threat to himself, his fellow officers, and to innocent civilians. That threat was Shawn Davis. Officer Smith acted in accordance with his training and instincts to protect himself and others from the serious threat posed by Shawn Davis.

Prosecution Evidence and Witnesses

Evidence: map of area, coroner's report, Still photos from dashcam
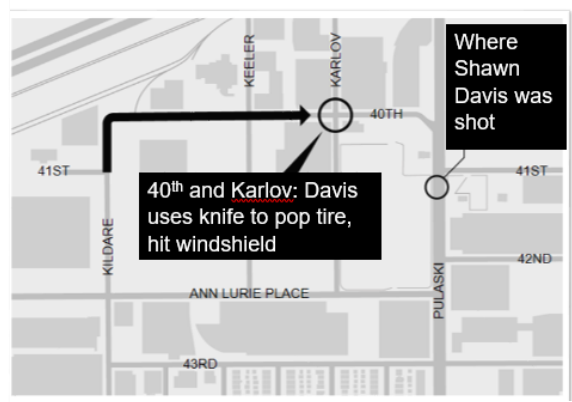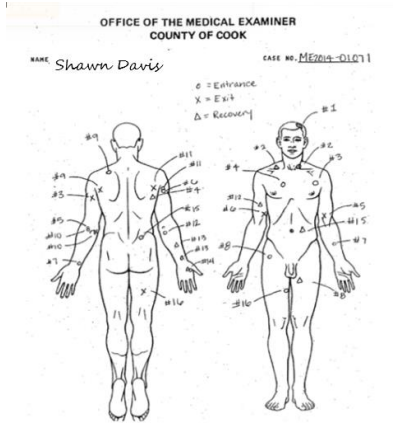
Prosecution Witnesses:

Althea Groves: Police dispatcher who called for a Taser unit

Summary of Testimony: Ms. Groves confirmed that she made the call for a unit with a Taser to assist at the intersection where Shawn Davis was walking with the knife. She also verified that everyone with a working police radio should have heard the call for a Taser unit.

Joseph Collins: Officer who followed Shawn Davis on foot

Summary of Testimony: The officer testified that he followed Shawn Davis on foot for blocks but he never felt his life was in danger. Officer Collins drew his gun after Shawn Davis displayed a knife but was careful to keep his distance from him. "We were trying to buy time to have a Taser. He didn't make any direct movement at me, and I felt like my partner was protected for the most part inside the vehicle," he said. "It was kind of like organized chaos. We were just trying to be patient."

John Patrick: Police medical examiner

Summary of Testimony: Dr. Patrick reviewed the coroner's report and testified that Shawn Davis died as the result of multiple gunshot wounds. "Shawn Davis died as the result of 16 distinct gunshot entry wounds to his scalp, neck, chest, arms, back, and his right leg."

Samuel Burns: Law enforcement educator

Summary of Testimony: Mr. Burns reviewed a dashcam video. "Unfortunately, the dashcam video is very poor quality, but as you can see in the progression of these screenshots, Shawn Davis appeared to be walking away from police in an unthreatening manner in an area absent of other pedestrians or bystanders. It seems unreasonable for the officer to have fired one, let alone 16, shots into this man. He should have tried to de-escalate the situation instead of firing his weapon."

> **Under cross-examination from the defense:** Mr. Burns conceded that it was plausible for Shawn Davis to run into the nearby Burger King or Dunkin Donuts with his knife in hand.
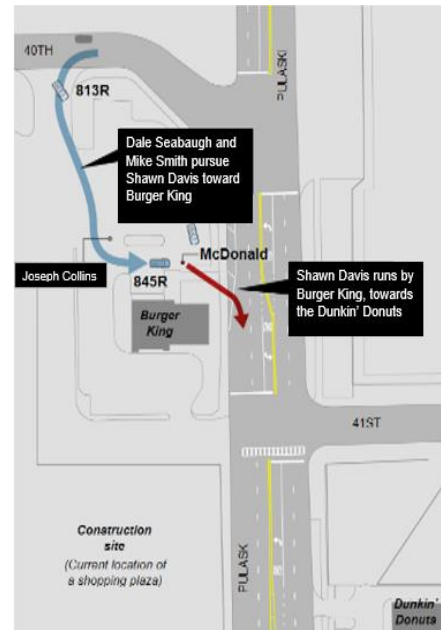
Defense Evidence and Witnesses

Evidence: Photos of damage to squad car, Map including Burger King and Dunkin Donuts, 911

audio

AUDIO:
http://bit.ly/1mgPjbo *"I have a parking lot for trucks. I have a guy right here that is (stealing) the radios."*
—911 caller

Evidence photos show 815R and the small gash in its front tire.

Defense Witnesses:

Dale Seabaugh: Mike Smith's partner the night of shooting

Summary of Testimony: The officer testified that he was concerned Shawn Davis would enter the nearby restaurants and injure people inside. "This guy had been stealing and terrorizing people with a knife. I mean, he had already punctured the tire on a police cruiser, so I was worried that he might go into the Burger King or Dunkin Donuts and hurt people in there."

Nathan Miller: Police psychologist and law enforcement educator

Summary of testimony: Dr. Miller testified that police recruits are explicitly taught that knives are deadly weapons that can pierce their bulletproof vests and that someone with a knife can close a distance of 21 feet in less than two seconds. Their police training at the academy always includes knives as dangerous, deadly weapons. "Officer Mike Smith responded to what he perceived was a deadly threat, responded in a way based on his training, in a way that was designated to neutralize that threat as he understood it."

Mike Smith: Defendant on trial

102

Summary of Testimony: Smith testified as he got out of the car that night, he saw Shawn Davis "extend out a knife, flicking it toward his side."

"His face had no expression. His eyes were just bugging out of his head. He had these huge eyes just staring right through me. I was yelling at him drop the knife, I was yelling at him I don't know how many times. He got probably about 10 to 15 feet away from me."

"We never lost eye contact. He turned his torso towards me. ... It looked like he waved the knife from his lower right side, upwards across his body towards my left shoulder. Those pictures don't show my perspective. I felt like he was coming toward me, threatening me with that knife. Everything was happening so quickly, and I had to make a decision to shoot him or get stabbed, so I shot him."

CLOSING STATEMENTS

PROSECUTION: The defendant didn't have to end Shawn Davis' life that night, ladies and gentlemen. He could have hit him with the car door or tapped him with the front of his squad car. He could have checked on how soon the Taser would arrive. Yes, someone needed to arrest Shawn Davis for damaging a police cruiser and to question him about breaking into vehicles. But Mike Smith did not need to stop him with a hail of gunfire. That's not self-defense. That's not fear for personal safety, that is murder.

DEFENSE: At any point throughout his wild rampage that night, Shawn Davis could have dropped the knife and he would be here today. It is unprecedented for a police officer to be charged with murder for doing his job. Officer Mike Smith had no motive, no malice, and no premeditation. You can use your common sense, ladies and gentlemen. You can determine what is a murder. This wasn't murder, this was an officer doing his duty to protect himself, his fellow officers, and innocent civilians.

POST-TRIAL INSTRUCTIONS

Instructions in both the superseding moment and totality of circumstance conditions will also contain the instructions from the control condition.

CONTROL:

DIRECTIONS: The following are the judge's final instructions. Please read **every word** and pay close attention as these instructions are very complex. It is very important that you read through these **very carefully** and understand them before delivering a verdict.

THE JUDGE'S INSTRUCTIONS TO YOU, THE JURY

Members of the jury, it is your duty to determine the facts from the evidence in this case and to apply the law to the facts. Neither sympathy nor prejudice should influence you. Faithful performance of your duties as jurors is vital to the administration of justice. The defendant, Mike Smith, is charged with first-degree murder.

*A person commits the offense of first-degree murder when he <u>kills an individual without lawful justification</u> **AND**<u>, in performing the acts that caused the death, he:</u>*

<u>1) intended to kill or do great bodily harm;</u>
                         OR
<u>2) knew that such acts would result in death;</u>
                         OR
<u>3) knew that such acts create a strong probability of death or great bodily harm.</u>

The defendant is presumed innocent of the charge of first-degree murder. This presumption is not overcome unless, from all the evidence in this case, you are convinced beyond a reasonable doubt that he is guilty.

SUPERSEDING:

Members of the jury, it is your duty to determine the facts from the evidence in this case and to apply the law to the facts. Neither sympathy nor prejudice should influence you. Faithful performance of your duties as jurors is vital to the administration of justice.

Police officers are lawfully justified in using deadly force under some circumstances. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. With respect to a claim of excessive force, the standard of reasonableness <u>at the moment</u> applies.

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.

The defendant, Mike Smith, is charged with first-degree murder.

*A person commits the offense of first-degree murder when he <u>kills an individual without lawful justification</u> **AND**<u>, in performing the acts that caused the death, he:</u>*

<u>1) intended to kill or do great bodily harm;</u>
OR
<u>2) knew that such acts would result in death;</u>
OR
<u>3) knew that such acts create a strong probability of death or great bodily harm.</u>

The defendant is presumed innocent of the charge of first-degree murder. This presumption is not overcome unless, from all the evidence in this case, you are convinced beyond a reasonable doubt that he is guilty.

<u>TOTALITY OF CIRCUMSTANCE:</u> Members of the jury, it is your duty to determine the facts from the evidence in this case and to apply the law to the facts. Neither sympathy nor prejudice should influence you. Faithful performance of your duties as jurors is vital to the administration of justice.

Police officers are lawfully justified in using deadly force under some circumstances. The reasonableness of a particular use of force depends on the particular facts and circumstances of each case. Factors you may consider in deciding whether the defendant's use of force was unreasonable include, without limitation:

The need for the force used;
The relationship between the need for the use of force and the amount of force used;
The extent of the victim's injury;
Any efforts made by the defendant to temper or limit the amount of force;
The severity of the crime at issue;
The threat reasonably perceived by the officer;
Whether warning was given;
Whether the victim was actively resisting arrest or was attempting to evade arrest by fleeing, if the victim was attempting to escape or evade arrest by use of a deadly weapon or if it reasonably appeared that he was posing a risk of death or great bodily harm to another person.

The defendant, Mike Smith, is charged with first-degree murder.

*A person commits the offense of first-degree murder when he <u>kills an individual without lawful justification</u> **AND**<u>, in performing the acts that caused the death, he:</u>*

<u>1) intended to kill or do great bodily harm;</u>
OR
<u>2) knew that such acts would result in death;</u>
OR
<u>3) knew that such acts create a strong probability of death or great bodily harm.</u>

The defendant is presumed innocent of the charge of first-degree murder. This presumption is not overcome unless, from all the evidence in this case, you are convinced beyond a reasonable doubt that he is guilty.

APPENDIX F

DEPENDENT MEASURES

As a jury member, would you find the defendant GUILTY or NOT GUILTY

- o Not Guilty
- o Guilty

Please select the option that best expresses your opinion about whether the defendant should be found GUILTY or NOT GUILTY.

- o Definitely not guilty
- o Not guilty
- o Probably not guilty
- o Unsure
- o Probably guilty
- o Guilty
- o Definitely guilty

Please briefly describe why you found the defendant GUILTY or NOT GUILTY.

APPENDIX G

THE IMPORTANCE OF PROSECUTION EVIDENCE

Below, you will see brief summaries of information presented by prosecution and defense witnesses during the trial. For each, please indicate how important the testimony was in helping you reach your verdict decision.

	None at all important	A little important	Moderately important	Very important	Extremely important
Officer Joseph Collins followed Shawn Davis on foot for blocks and did not feel his life was in danger.					
Every officer knew that a Taser unit was on the way.					
Shawn Davis was shot 16 times.					
The dashcam photos appeared to show Shawn Davis walking away from the officer.					
According to a law enforcement educator, Officer Mike Smith should have tried to de-escalate the situation.					
Shawn Davis had been stealing and threatening people with a knife.					
Shawn Davis had already damaged a police cruiser with a knife.					
Officer Mike Smith's was trained that knives are deadly weapons that can pierce bulletproof vests and someone with a knife can close a distance of 21 feet in less than two seconds.					
Officer Dale Seabaugh feared that Shawn Davis would injure people in nearby restaurants.					
Officer Mike Smith believed he was being threatened with a deadly weapon.					

APPENDIX H

PERSPECTIVE-TAKING

Please indicate the extent to which you agree or disagree with the following statements:

	Disagree	Somewhat disagree	Neither agree nor disagree	Somewhat agree	Agree
I tried to imagine how I would feel if I were in the officer's place.					
I tried to imagine what I would think if I were in the officer's place.					
I tried to imagine how things looked from the officer's perspective.					

Items adapted from Davis, M. H. (1983). Measuring individual differences in empathy: Evidence for a multidimensional approach. *Journal of personality and social psychology*, 44(1), 113.

APPENDIX I

MEMORY FOR CASE FACTS

Please indicate whether each of the following statements are TRUE or FALSE according to the evidence that was presented.

Officer Joseph Collins (a prosecution witness) testified that Shawn Davis did not make any direct movements toward him while he followed Davis on foot.	T/F
Sam Burns (a prosecution witness) testified that Shawn Davis appeared to be walking away when he was shot by Mike Smith.	T/F
Mike Smith (the defendant) testified that he repeatedly instructed Shawn Davis to "drop the knife and get down on the ground before I shoot."	T/F
Shawn Davis popped a tire on a police cruiser with a knife.	T/F
Nathan Miller (a defense witness) testified that Shawn Davis appeared to be walking toward the officers.	T/F
The coroner's report identified 13 entry wounds	T/F
Nathan Miller (a defense witness) testified that police recruits are taught that knives are deadly weapons	T/F
Althea Groves (a prosecution witness) testified that some of the police officers working that night may not have heard the dispatch call for a taser.	T/F

APPENDIX J

MANIPULATION CHECK

Please answer the following questions about the jury instructions you were given before making your verdict decision.

Did the instructions include the following statement?

The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. With respect to a claim of excessive force, the standard of reasonableness at the moment applies.

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.

- o Yes
- o No

Did the instructions inform you that you could consider the following factors when making your verdict decision?

The need for the force used;
The relationship between the need for the use of force and the amount of force used;
The extent of the victim's injury;
Any efforts made by the defendant to temper or limit the amount of force;
The severity of the crime at issue;
The threat reasonably perceived by the officer;
Whether warning was given;

- o Yes
- o No

APPENDIX K

CONCEPTUAL MANIPULATION CHECK

Please indicate the extent to which you agree with the following statements.

	Disagree	Somewhat disagree	Neither agree nor disagree	Somewhat agree	Agree
The jury instructions encouraged me to rely on my own attitudes and beliefs to determine reasonableness.					
The jury instructions encouraged me to rely on an objective standard to determine reasonableness.					
The jury instructions guided me to focus on the very split-second when the officer used fatal force.					
The jury instructions guided me to focus on all of the facts and circumstances that occurred before and after the officer used fatal force.					

APPENDIX L

SUSPICION ITEM

What do you think the study was about? There is no right or wrong answer, we just want to know what your thoughts were as you were taking the study.

APPENDIX M

DEMOGRAPHICS

Please indicate your age in years as a 2-digit number (e.g., 29).

Please indicate your gender.

- o Male
- o Female
- o Other

Please indicate your race/ethnicity – check all that apply:

- o American Indian or Alaska Native
- o Asian
- o African American
- o Hispanic
- o Native Hawaiian or Other Pacific Islander
- o White
- o Other

What is the highest degree or level of education you have completed?

- o No high school degree
- o High school or GED
- o Some college
- o Bachelor's degree
- o Graduate or professional degree

When it comes to your stance on social issues, are you…

- o Extremely Liberal
- o Mostly Liberal
- o Slightly Liberal
- o Moderate
- o Slightly Conservative
- o Mostly Conservative
- o Extremely Conservative

***If "Moderate" is selected, participants will see the following:

Do you lean towards liberal or conservative when it comes to social issues?

- o Lean toward Liberal
- o Neutral or Uncertain
- o Lean toward Conservative

What is your occupation?

Zip Code:

How would you describe your living environment?

- o Urban
- o Suburban
- o Rural

Have you interacted with a police officer(s) in the last 12 months?

- o Yes
- o No
- • If participants select 'yes' they will see:

Please indicate how positive or negative you would rate your interaction(s):

- o Very negative
- o Negative
- o Neither negative nor positive
- o Positive
- o Very positive

APPENDIX N

DEBRIEFING

Thank you for participating in this study. We would like to explain more about its purpose. It is probably obvious that we are interested in examining people's perceptions about police-involved shootings. We are also interested in exploring how different types of jury instructions influence the outcomes in cases involving excessive use of force. You may have read jury instructions that guided you to consider only the moments preceding the shooting, instructions guiding you to consider the totality of circumstance regarding the police use of force, both, or neither.

We chose to manipulate the type of instructions you were given because social psychological research has demonstrated that the type of instructions provided to jurors affects verdict outcomes (Bornstein & Greene, 2011; Peter-Hagene & Bottoms, 2017).

Additionally, only recently have police officers been charged with using excessive force and it is important to understand why jurors may or may not find the officer guilty.

We want to remind you that all data and resulting analyses associated with this study were non-identifiable, and were managed to protect your privacy.

<u>Finally, if you were emotionally upset by any of the contents of this study, we suggest that you seek professional guidance in processing the experience.</u>

Please contact us if you have any questions.

Thank you for your participation in this study.

Contact for further information:

Chasity Ratliff, M.A.

chasity.ratliff@siu.edu

Liana Peter-Hagene, PhD

claudia.peter-hagene@siu.edu

Click NEXT to receive your confirmation code to be compensated.

This project has been reviewed and approved by the SIUC Human Subjects Committee. Questions concerning your rights as a participant in this research may be addressed to the Committee Chairperson, Office of Research Compliance, Southern Illinois University, Carbondale, IL 62901-4709. Phone (618) 453-4534. E-mail: siuhsc@siu.edu

VITA

Graduate School
Southern Illinois University

Chasity L. Ratliff

chasityratliff@gmail.com

Southeast Missouri State University
Bachelor of Science, Psychology, December 2008

Southern Illinois University Carbondale
Master of Arts, Psychology, May 2018

Special Honors and Awards:

2019   American Psychology-Law Society Grant-in-Aid Award. *Content variation in jury*

instructions for fatal police use of force trials moderate the effect of attitudes toward

police on verdicts.

2015   SBNCP Pipeline Scholar, Society for Behavioral Neuroscience and Comparative

Psychology

2015   SEPCS Pipeline Scholar, Society of Experimental Psychology and Cognitive Science

2008   Bowers Endowed Scholarship in Psychology, Southeast Missouri State University

2007   Hoover Endowed Scholarship in Psychology, Southeast Missouri State University

2007   Provost Award, College of Liberal Arts, Southeast Missouri State University

Dissertation Paper Title:

Content Variation in Jury Instructions for Fatal Police Use of Force Trials Do Not

Moderate the Effect of Attitudes Toward Police on Verdicts

Major Professor: Dr. Eric Jacobs

Publications:
Peter-Hagene, L. C., & Ratliff, C. L. (2020). When jurors' moral judgments result in jury
nullification: Moral outrage at the law as a mediator of euthanasia attitudes effects on verdicts.

Psychiatry, Psychology, & Law.

Beran, M. J., Evans, T. A., & Ratliff, C. L. (2009). Perception of food amounts by chimpanzees (*Pan troglodytes*): The role of magnitude, contiguity, and wholeness. *Journal of Experimental Psychology: Animal Behavior Processes, 35,* 516-524.

Beran, M. J., Ratliff, C. L., & Evans, T. A. (2009). Natural choice in chimpanzees (*Pan troglodytes*): Perceptual and temporal effects on selective value. *Learning and Motivation, 40,* 186-196.

Burns, R. A., Racey, D. E., Ratliff, C. L. (2007). The roles of outcome and position associations in animal serial learning. *Learning and Motivation*, 39, 1-12.