

TABLE OF CONTENTS

List of Tables and Figures

Foreword

10 Practical Features of this Book

PROLOGUE

PART I: STUDYING JURORS

Chapter 1 KNOWING JURORS

- § 1-1. Three Jury Epiphanies.
- § 1-2. The Mystery of Jury Deliberations
- § 1-3. The Problems of Jury Research
 - § 1-3(a). The Effects of Deliberating
 - § 1-3(b). Criticism of Jury Research Designs.

PART II: THE BIO-PHYSIOLOGY OF A JUROR'S BRAIN: One Juror, Many Minds: How Consciousness *Really* Works

Chapter 2 THE MIND IS A CRAZY QUILT

- § 2-1. The Crowd Living in a Juror's Mind
- § 2-2. How a Juror Becomes Aware of a "Fact."
 - § 2-2(a). Brain Facts/Mind Facts
 - § 2-2(b). Mind Spinning
- § 2-3. Juror Listening and Attention Errors
 - § 2-3(a). Cognitive Busyness
 - § 2-3(b). Juror Listening Errors
 - § 2-3(c). Divided Attention
- § 2-4. Biological Basis for Attention

Chapter 3 "TRIALS" ARE IN THE BRAINS OF THE BEHOLDERS

- § 3-1. The Influence of Color Perception
- § 3-2. Remembering and Forgetting.
 - § 3-2(a). Raw Sensory Memory
 - § 3-2(b). Short-term Working Memory
 - § 3-2(c). Long-term Retrievable Memory
 - § 3-2(d). Homo narrans
 - § 3-2(e). Person Memory
 - § 3-2(f). The Generation Effect
 - § 3-2(g). The Self-Reference Effect
 - § 3-2(h). Memory Stress
 - § 3-2(i). Flashbulb Memory
 - § 3-2(j). Never-Happened Memory
 - § 3-2(k). Memory After Forty
 - § 3-2(l). Memory Talk

PRACTICAL JURY DYNAMICS

- Chapter 4 RIGHT MIND/LEFT MIND? HOW OUR BRAIN'S
 HEMISPHERES REALLY FUNCTION
 - § 4-1. Right Mind/Left Mind.
 - § 4-2. Regions of the Brain That Process Language
- Chapter 5 FROM JUROR-COGNITION TO JUROR-EMOTION
 - § 5-1. The Purpose of Emotions in Human Survival
 - § 5-2. Physiology of Jurors' Emotions When They Judge Other People's Behaviors
 - § 5-3. How Emotional Arousal Impacts Juror Thinking about Other People
 - § 5-4. The Vividness Effect: Sensual Persuasion
 - § 5-4(a). Picture Superiority
 - § 5-4(b). Word Vividness.
 - § 5-4(c). Persuade the Juror's Body
 - § 5-4(d). The Vividness of Toys
 - § 5-5. The Velcro® Effect
 - § 5-6. The Effects of Juror Mood on Juror Reasoning
 - § 5-6(a). Mood and Memory
 - § 5-6(b). Mood and Decision Making Style
 - § 5-7. Deliberating Under the Influence of Stress
 - § 5-8. The Effect of Stress on Citizens Selected for Jury Duty
 - § 5-9. Anxiety: A Traveling Companion of Juror Stress
 - § 5-10. The Effect of Sleep Debt on Juror Competency
- PART III: THE SOCIAL PSYCHOLOGY OF A JUROR'S PERCEPTIONS:**
 The Trial Lawyers Offer versus The Trial Jurors Experience
- Chapter 6 FROM A FOCUS ON *SELLING* TOWARDS A FOCUS ON
 BUYING
 - § 6-1. Information Anxiety
 - § 6-1(a). The Trial Practitioner's Anxiety Checklist
 - § 6-1(b). The Unavoidable Selectivity of Perception
 - § 6-1(c). Ten Sources of Evidence-Anxiety for Jurors
 - § 6-1(d). Information Hat Racks
 - § 6-2. Creating Empty Spaces as Evidence
 - § 6-3. Toxic Language
 - § 6-3(a). Sentence Structures Affect Juror Comprehension
 - § 6-3(b). Negative Words
 - § 6-3(c). The Framing Effect
 - § 6-3(d). Toxic Court Words
- Chapter 7 HOW THE JUROR'S BRAIN TALKS TO ITSELF DURING
 TRIAL
 - § 7-1. Mental Filters and Misperceptions

TABLE OF CONTENTS

§ 7-2.	Social Perception: What a Juror Sees Is What You Get.
§ 7-3.	Mental Short-Cuts a Juror Uses in Perception
§ 7-4.	The Influence of Juror Categories and Schemas
Chapter 8	A JUROR'S SOCIAL THINKING: HOW A JUROR MAKES SENSE OF THE BEHAVIORS OF <i>OTHER</i> PEOPLE
§ 8-1.	Social Thinking and Juror Decision Making
§ 8-2.	Juror Attributions
§ 8-3.	The Effect of Novel Events
§ 8-4.	Fundamental Attribution Error
§ 8-5.	False Consensus Error
§ 8-6.	False Uniqueness Error
§ 8-7.	Attributions of Blame
§ 8-8.	Locus of Control
§ 8-9.	Cracked Perceptual Lenses
§ 8-10.	A Practical Approach to Gaining Access to Juror Attitudes
§ 8-10(a).	Model for Measuring Strength and Extremity of Juror Attitude on Specific Trial Issues
§ 8-10(b).	Voir Dire Question Formats that Elicit Juror Attitude
Chapter 9	THE DILEMMA OF A JUROR'S <i>UN</i> -THINKING TASK
§ 9-1.	Intrusive Thoughts
§ 9-2.	Controlled Un-Believing
§ 9-3.	A Juror's Cognitive Load
§ 9-4.	The Bad Experience Closet
§ 9-4(a).	" <i>Set that Experience Aside!</i> " Where Do Jurors Put It?
§ 9-4(b).	Prejudice
§ 9-4(b)(1).	Activating Prejudice
§ 9-4(b)(2).	The Impossibility of Setting Prejudice Aside
§ 9-5.	The Set-it-Aside Agenda
PART IV: THE EFFECTS OF GROUP DYNAMICS ON A JUROR'S VOTE:	
The Deliberation Myth	
Chapter 10	THE <i>WORK</i> OF JURY WORK: WHEN INDIVIDUAL JURORS BECOME A GROUP
§ 10-1.	The Faulty Norms of Jury Deliberations
§ 10-2.	Changing the Way Jurors Deliberate
§ 10-2(a).	Strange Rules Jurors Create During Deliberations.
§ 10-2(b).	The Geography of Seating Positions
§ 10-2(c).	Why Some Jurors End Up More Equal than Others
§ 10-2(d).	Deadlock Phobia
10-2(d)(1).	Dynamite!
§ 10-2(e).	Five O' Clock Verdicts
§ 10-2(f).	The Voting-Structure Effect
§ 10-2(g).	What Counts as Evidence?

PRACTICAL JURY DYNAMICS

§ 10-2(h). The Toxic Agenda Effect.

§ 10-2(i). From List-Makers to Dialogue-Lovers

§ 10-2(j). Group Memory: Memory Chaos

§ 10-2(j)(1). Jointly Reconstructing the Past

§ 10-2(j)(2). Social Memory Contamination

Chapter 11 SOCIAL VERDICTS (THE RELATIONAL SIDE OF JURY DECISION-MAKING)

§ 11-1. Symbolic Convergence Theory: Groups and Fantasies

§ 11-2. Social Opinions

§ 11-3. Social Cliques

§ 11-4. Primary Tension and Secondary Tension: What Blocks the Jury's Task?

§ 11-5. Mars and Venus Deliberate—Gender in the Jury Room

§ 11-6. Salads, Stews, and Surprising Effects of Juror Diversity

Chapter 12 EMOTIONAL DELIBERATIONS

§ 12-1. Emotional Persuasion.

§ 12-2. Laughing on the Road to a Verdict

§ 12-3. Effects of Emotion on Juror Mood

§ 12-4. Emotional Argument

§ 12-5. Angry Argument: All People Are Afraid of the Anger of Others

§ 12-6. Emotional Pollution.

§ 12-7. Groupmood

Chapter 13 THE SHADOW SIDE OF JURY DECISION MAKING

§ 13-1. Groupbate

§ 13-2. Social Loafing

§ 13-3. Missing in Action! Jurors Who Disappear in the Jury Room

§ 13-4. Toxic Jurors

§ 13-5. Seizing Speaking Turns

§ 13-6. What Really Happens When One Juror Leaves the Room

§ 13-7. Improperly Speculating

§ 13-8. Ignoring Misconduct of Fellow Jurors

§ 13-9. The Shadow Side of Jury Leadership

§ 13-9(a). The First Act of Inequality

§ 13-9(b). Mutiny! Functional Leadership for All

§ 13-10. The Consensus Disease

Chapter 14 DECISIONAL REGRET IN THE JURY ROOM

§ 14-1. Juror Overconfidence

§ 14-1(a). Natural Bases of Juror Decision Biases

§ 14-2. Counterfactual Thinking: Changing the Facts

§ 14-3. Woulda/Coulda/Shoulda Minefields

§ 14-4. Why Deliberations Are a Set-Up for Woulda/Coulda/Shoulda Thinking

TABLE OF CONTENTS

§ 14-5.	A Storied Theory of Jury Deliberations
§ 14-6.	Regret Contagion, GroupRegret, and Decisional Avoidance
§ 14-7.	Story Plugs
Chapter 15	STORY-THINKING AND FANTASIES DURING DELIBERATIONS
§ 15-1.	The Storymaking-Mind of a Juror
§ 15-2.	Story Battles in Deliberation.
§ 15-3.	Opening the Jury Room's Door: Making Sense of the Story Battles
§ 15-4.	Storytelling Functions in Deliberations.
§ 15-5.	When Fantasies Collide: Symbolic Convergence Theory and Jury Decision Making.
§ 15-6.	Story Strategies for Attorneys
§ 15-6(a).	Storying Opening Statements
§ 15-6(b).	Storying Closing Arguments
§ 15-6(c).	Story Prompting
Chapter 16	JURY-JOINING
§ 16-1.	Collaborative Dialogues: How to Discuss What Matters Most
§ 16-2.	Non-Question Voir Dire
§ 16-3.	Collaborating on Solutions
§ 16-4.	Collaborative Challenges for Cause
§ 16-4(a).	General Legal Principals
§ 16-4(b).	Juror Signals of Challengeability
§ 16-4(c).	Template for Walking with a Juror on the Challenge-for-Cause Trail
§ 16.5.	Collaborative Closing Arguments
Chapter 17	OPENING WINDOWS TO THE BLACK BOX OF JURY DELIBERATIONS
§ 17-1.	Curing Ignorance about Jurors' Rights
§ 17-2.	Reasons Jurors Think They <i>Shouldn't</i> Communicate with the Judge
§ 17-3.	Gaining An Ear to the Jury Wall
§ 17-4.	Why Jurors Protect Bad Jurors
§ 17-5.	Toxic Bailiffs: The Virus Every Jury Is Exposed To
PART V: TRIAL CULTURE	
Moving (Persuasively) Towards Mindful Advocacy	
Chapter 18	THINKING UPSIDE DOWN
§ 18-1.	When Jurors Rebut Your Closing.
§ 18-2.	<i>Playing</i> Attention with the Final Act of Jurying
Chapter 19	PAYING ATTENTION TO THE COMPLEX CULTURE OF TRIALS
§ 19-1.	Enculturation: How Jurors Get Sucked Into a Strange System
§ 19-2.	Twenty Stressful Realities of a Juror's Experience

PRACTICAL JURY DYNAMICS

Chapter 20 REDUCING TOXIC TRIAL STRESS

- § 20-1. Avoiding The Helper's Pit.
- § 20-2. Empathy-Driven *versus* Distress-Driven Advocacy
- § 20-3. Ever Aftering, in Practical Ways
 - § 20-3(a). The Janus Effect

Resources and Tools

Browse the Stacks

Endcap

Gratitudes

Who Is the Author?

Endnotes

Index

LIST OF TABLES AND FIGURES

TABLES

Table 1	METHODS USED IN JURY RESEARCH
Table 2	RESEARCH ON COMMUNICATION DURING JURY DELIBERATIONS
Table 3	EMOTIONS THAT AFFECT JUROR BEHAVIORS OR PERCEPTIONS
Table 4	EXAMPLES OF IMAGINING-INSERTING-INVITING STORYTELLING DURING DELIBERATIONS
Table 5	EXAMPLES OF SEVEN STORY TYPES JURORS TOLD IN DELIBERATION
Table 6	COMMUNICATION INTERVENTIONS TO CREATE COLLABORATIVE JURY CONVERSATIONS

FIGURES

Figure 1	MODEL OF A JUROR'S INDIVIDUAL PSYCHO-SOCIAL "NOISES" THAT TRIAL EVIDENCE MUST PASS THROUGH IN ORDER TO BE PERCEIVED
Figure 2	MODEL OF CONCEPTS RELEVANT TO THE STUDY OF EMOTIONAL COMMUNICATION DURING JURY DELIBERATIONS
Figure 3	THE EMERGENCE OF ANXIETY DURING JURY DECISION MAKING
Figure 4	EFFECT OF DECISIONAL REGRET ON JURY VERDICTS
Figure 5	MODEL OF SEVEN STORY TYPES SHARED DURING JURY DELIBERATIONS
Figure 6	MODEL OF LEGALLY RELEVANT TOPICS FOR JURY DISCUSSION DURING DELIBERATIVE ARGUMENT
Figure 7	STORIED DELIBERATION MODEL