

Jury Management

Texts:

Kaplan, M. F. (1986) The impact of social psychology on procedural justice. Springfield, IL: Charles Thomas.

Wrightsman, L., Nietzel, M., & Fortune, W. (1994). Psychology and the legal system. (3rd Ed.). Pacific Grove, CA: Brooks Cole.

Topics:

I. Overview.

Kaplan, M. F., & Wanshula, T. (photocopy). Dynamics of jury decision making.

Kaplan (1986) pp. 7-14.

Wrightsman, et al. (1994) pp. 2-43, 266-284.

**Abbott, W., & Batt, J. (1999). A handbook of jury research. Philadelphia PA: ALI-ABA. Chapters 2 and 3.

**Monahan, J., & Walker, L. (1993). Social science in law: Cases and materials (3rd Edition). Westbury NY: Foundation Press. Pp. 31-49.

II. Evidence.

Kaplan (1986), Chapters 8, 10.

Kerr, N., & Bray, R. (1982). The psychology of the courtroom. New York: Academic Press. Chapter 2.

**Kassin, S., & Wrightsman, L. (1985). The psychology of evidence and trial procedure. Beverly Hills, CA: Sage. Chapters 8, 9, 13.

**Abbott & Batt (1999), Chapters 18 and 19.

**Monahan & Walker (1993), Chapter 3 (sections I A, III), Chapter 4 (section III A), Chapter 5 (sections IVA to 432; IV B), Chapter 6 (section III), Chapter 7 (II A and II B).

III. Witnesses.

Kaplan (1986), Chapter 6

**Kassin & Wrightsman (1985). Chapters 5, 6, 10.

Kerr & Bray (1982). Chapters 5 and 6.

**Abbott & Batt (1999), Chapter 17.

**Monahan & Walker (1993). Chapter 5 (Section IV C

IV. The Juror.

Wrightsmen et al. (1994), Chapter 14.

Kerr & Bray (1982). Chapter 7.

**Abbott & Batt (1999), Chapters 8, 9, 10, 13.

V. Extra-legal Influences.

Kerr & Bray (1982), Chapter 4

Reskin, B. F., and Visher, C. A. (1986). The impacts of evidence and extralegal factors in juror's in jurors decisions. Law and Society Review, 20, 423-438.

**Abbott & Batt (1999), Chapter 5.

**Monahan & Walker (1993)., Chapter 6 (section I).

VI. Jury Selection.

Kaplan (1986), Chapter 7.

Wrightsmen, et al. (1994), Chapter 13.

**Abbott & Batt (1999), Chapters 4, 6 (to p. 26), 15, 16.

**Monahan & walker (1993), Chapter 6 (section II).

VII. The Judge.

Kerr & Bray (1982), Chapter 9.

Kaplan (1986), Chapter 4.

VIII. Jury Deliberation.

Kerr & Bray (1982), Chapter 8.

Kaplan, M. F. (1989). Task, situational, and personal determinants of influence processes in group decision making. In E.J. Lawler & B. Markovsky (Eds.). Advances in group processes: Volume 6. (pp.87-105). Greenwich, CT: JAI Press.

**Abbott & Batt (1999), Chapters 20, 21, 22.

**Monahan & Walker (1993), Chapter 4 (section II C).

IX. Sentencing.

Wrightsman, et al. (1994), Chapter 18.

Kaplan (1986). Chapter 11.

**Monahan & Walker (1993), Chapter 4 (section II D); Chapter 5 (sections II B, II C).

Jury Management

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Law 720

This course will deal with the application of social science, and in particular, social psychology, to court trials. We will study the factors that affect how judges, juries, and attorneys form judgments in the course of a trial. We will explore this by reviewing the social psychological research on trial behavior, and then examining the interface of this research with trial practices. The goal is to have the study understand and appreciate the contribution of social science research to effective trial techniques and management.

The course combines lecture and seminar format. For each topic, the instructor will present introductory lectures, supplemented by required readings by students (see attached syllabus). During the first class session, students will be assigned to committees, each of which will be responsible for supplemental readings (starred items in the syllabus) in their assigned topic, and presenting the material in class lectures. The instructor's lectures will survey the research conclusions relevant to the topic, and the student presentations will (a) provide the case background to the topic issues, and (b) apply the topic knowledge to practice. Students will also be responsible for submitting a written paper based on their topical presentations.

At the end of the semester, students will submit a case study of a trial case provided by the instructor. In this paper, students will apply the lessons learned from each topic to trial preparation – in other words, students will act as consultants for the hypothetical attorneys trying the case, advising on the emergent issues, and using the course content to inform consultation. This case study is due at the end of the semester, but can be worked on “as we go along”. I will discuss this work product at greater length later in the semester.

Grades will be based on:

1. Oral presentation (25%).
2. Short (10 pp. or so) paper on topic assignment, due at the session immediately following presentation (25%).
3. Case study, applying the topics to the treatment of a hypothetical case (50%).

Topical Outline

- I. **Overview of judgment in trials.**
 - a. What is the role of social science in legal decision making?
 - b. How are judgments formed?
- II. **Evidence. How do people process the evidence in a trial?**
 - a. Relative contribution of types of evidence.
 - b. Order of presentation.
 - c. Procedural structure: Adversarial or Inquisitorial?
 - d. Jury instructions (e.g., limited use, reasonable doubt, burden of proof, Allen charge).
Comprehensible? Effective?
 - e. The problem of complex litigation.
- III. **Witnesses.**
 - a. Credibility
 - b. Eyewitnesses.
 - c. Accuracy of testimony, recall.
 - d. Character testimony.
- IV. **The juror.**
 - a. Personal biases in the juror: General (leniency vs. stringency) and case specific (issues and defendants).
 - b. Temporary biases.
 - c. Reducing the effects of biases.
- V. **Extra-legal influences.**
 - a. Pre-trial publicity.
 - b. Inadmissible evidence.
 - c. Defendant characteristics.
 - d. Effect of sentence severity on conviction rate.
- VI. **Jury selection.**
 - a. Methods of voir dire.
 - b. Methods of systematic selection.
 - c. Evaluation of systematic selection.
- VII. **The judge.**
 - a. Attitudinal and personality influences.
 - b. Demographic influences.
- VIII. **Jury deliberation.**
 - a. Processes during deliberation – how do they affect outcome?
 - b. Decision rule: Unanimous or non-unanimous?
 - c. Jury size.
- IX. **Punishment and sentencing.** [if time permits!]
 - a. Potential for bias.
 - b. Sentencing guidelines.