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The effects of expert witness testimony on juror verdict: psychiatry versus psychology

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THE EFFECTS OF EXPERT WITNESS TESTIMONY ON JUROR VERDICT: PSYCHIATRY VERSUS PSYCHOLOGY

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Dedication

I would like to dedicate this manuscript to my dedicated parents, my loving husband and my sweet children. Without you all, I would not have made it this far.

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Abstract

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The purpose of this study was to explore the effects of expert witness testimony on juror verdicts. We, further, assessed whether there would be a difference in the relative influence of MDs and PhD expert witnesses. Undergraduate and graduate students served as mock jurors and were presented with an insanity case which either (a) a PhD testified for the defense and a MD testified for the prosecution or (b) an MD testified for the defense and a PhD testified for the prosecution. After analysis of verdicts, an "Insanity Defense Attitudes Survey," and specific witness credibility evaluations indicated no bias toward MD's, except for the PhD-defense/MD-prosecution condition. Implications for other case factors that combine to affect jurors' verdicts are discussed.

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Introduction

The history of expert witness testimony in criminal trials dates back to the eighteenth century. Expert testimony is a staple in a wide variety of trials including, but not limited to, business and toxic torts, contracts, intellectual property and anti-trust cases. Although experts can testify in any case in which their expertise is relevant, mental health professionals are more likely used in criminal cases. In times past, the practice of the mental health professional as expert witness is one that had been dominated by psychiatrists. This is due in part to the fact that the legal field has historically favored medically trained persons[1] as expert witnesses. Psychiatrists subscribe to a medical model of mental illness, which explains mental disorder as being physical diseases that are treatable by medications. This is different from the approach of many other mental health professionals that subscribe to models that are more holistic.

Trial court judges have the authority to exercise their own discretion in determining which members of the mental health profession might be admitted as expert witnesses. Generally, case law supported the domination of "medical" experts in cases involving complex psychological issues until the 1940 Michigan Supreme Court case of *People v. Hawthorne* (Polythress, 1983). Even some areas of the field of psychology itself presented some biases. A 1954 resolution adopted by the American Medical Association, the Council of the American Psychiatric Association and the Executive Council of the American Psychoanalytic asserted that "physicians" were the lone legitimate experts in the field of mental illness or disease (Greenburg & Wursten, 1988).

[1] "Medically trained" refers to a person who has received a degree in medicine (M.D.) from medical school.

Polythress (1983) chronicles the early shift from the medical psychological witness as the preferred witness. He cites *People v. Hawthorne* (1940), which set in motion a push back against the restriction of nonmedical testimony regarding psychological issues. Judge Butzel issued this opinion in the case: "There is no magic in particular titles or degrees." *Jenkins v. United States* (1962) ruled that a lack of a medical degree would not automatically bar a psychologist from testifying on the mental state of an individual. It, also, reaffirmed the importance of "demonstrable training and practical experience in the areas of diagnosing and treating psychopathology over simple possession of certain titles or degrees (p.3)."

Case specificity of expert witness testimony can be conceptualized as a continuum ranging from purely educative to conclusively evaluative. Mental health professionals are often called upon to testify in legal proceedings as "fact" witnesses or as "expert" witnesses. As fact witnesses, they are treated as other witnesses and may be asked to provide information from their practice (e.g. what treatment they gave, who said what). On the other hand, an expert witness is an individual with special knowledge likely to be helpful in court. They may testify to matters of their special learning or knowledge. In recent years, psychologists have contributed theoretical and empirical evidence to address seemingly common sense understanding of legal procedures. For example, the fact that eyewitnesses could be wrong or that traumatic memories may be fabricated is a factor that the average juror may not apply to the processing of evidence they receive during a trial. Yet, psychological research has established both the theoretical and empirical foundations for these assertions. In addition, the expert witness may, also, testify to matters of opinion. The expert witness is expected to yield testimony

that will shed light on a subject matter that is outside common experience or scope of knowledge of the average juror. It is to "assist the trier of fact to understand the evidence or to determine a fact in issue (Fed. R. Evid. 702, 1975)."

Jurors are frequently reluctant to render guilty verdicts in the absence of hard facts. For example, prosecutors have had a difficult time obtaining convictions in rape cases, despite bringing their strongest cases. The issue in rape cases often becomes one of his words against hers. The average person, like the average juror, may have numerous myths, stereotypes and misconceptions about the phenomenon of rape that may adversely affect the perceptions of the victim's credibility in court. Although research indicates that in about 40% of all rapes, the victim is at least casually acquainted with her assailant, it is commonly believed that "true" rape involves strangers (Brekke & Borgida, 1988). Expert witness testimony about this research may greatly affect the juror's perception of the case.

In a study conducted by Loftus (1980), the influence of expert witness testimony about eyewitness identification on jury verdicts in both violent and nonviolent cases were assessed. Half of the jurors read about the testimony of a defense expert on the reliability of eyewitness identification, and half did not. The results indicated there was an increase in the amount of attention that jurors gave to eyewitness accounts when psychological expert testimony was present.

Blackman and Brickman (1984) explored the various aspects of the use and impact of expert testimony in cases of battered women who kill. When an expert witness testifies during the trial of a battered woman who has killed her husband, she or he is regularly engaged in a process of re-education. Experts who testify about battered

women's experiences are addressing jurors who possess ideas and experiences about conflict within family relationships and traditional sex roles in family life. These commonly held beliefs, however, may not necessarily be accurate and often reflect myths and stereotypes about battered women. Expert testimony by social psychologists attempt to refine and advance current beliefs.

The complexity of legal litigation can present conflict for juror decision making capabilities. Juries face a difficult and complex task of comprehending the evidence presented. Trial complexity has even led some legal scholars and judges to question whether there are cases so complex that juries cannot render verdicts fairly based upon a rational evaluation of the evidence. (Cooper, Bennet & Sukel, 1996).

There is cause for concern about the comprehension of the average juror for two reasons. First, jurors may be overwhelmed by the volume of evidence that is presented during a trial. Additionally, there are judicial instructions given in a case. There may also be several expert witnesses for one case. Second, the average juror is not adept in understanding legal concepts. Most jurors do not follow instructions on the law given by the judge in a case. The information is often presented using legal terms and jargon. Most jurors cannot remember the information given, much less interpret.

Scientific evidence in cases is, also, often presented in technically complex language. Cooper, Bennet & Sukel (1996) demonstrate when scientific evidence is presented in technically complex language, simulated jurors are more persuaded by a witness with more impressive credentials. Research seems to indicate that jurors look to other factors of the expert to determine whether they feel what he or she has to say is

credible; and, therefore what they say should be applied to the juror's comprehension of the case.

Horowitz, Bordens, Victor, Bourgeois and ForsterLee (2001) conducted a study where one hundred twenty mock jurors heard one of several versions of a civil trial on audiotape. The tort trial was either high or low in information load and contained evidence that either clearly favored the plaintiffs or was ambiguous. The expert witness was a medical doctor and testified in either technical or less technical language. Results show high information loads and technical language hindered evidence processing. The verdicts favored plaintiffs when the evidence was clear and presented in technical language because technical language enhanced witnesses' credibility when the evidence was clear. This finding would suggest that there are certain characteristics of the expert witness and not the testimony alone that affects the juror decision-making.

Perlin (1977) asserts although clinical psychologists may be gaining equality with psychiatrists as expert witnesses, it is only in terms of "legal status" and that psychiatrists may continue to have a higher "social status" in the courtroom. The perception of judges may have changed enough to allow technical admissibility of a nonmedical expert witness to take the stand, but if the bias is also, social, the effect on jurors must also be considered. According to Berlo, Lemmert & Mertz (1970), credibility is enhanced when the communicator holds a position of high status.

Two studies have actually compared psychologists and psychiatrists in a legal context. They report paradoxical findings. Polythress (1983) found that among trial judges, there was still a medical bias in attitudes. In the study, trial judges were surveyed regarding the admissibility of expert testimony of members of several professional

groups on a wide range of issues that arise in criminal justice proceedings. The results revealed there was some evidence of preference for testimony by medical experts. Psychiatrists received the highest ratings on six of eight legal issues. Conversely, Swenson, Nash and Roos (1984), in a simulated child-custody case, found that psychologists and social workers were perceived as more credible than psychiatrists. The latter result may have occurred because the area of dispute is one in which psychologists and social workers have historically established expertise.

A large body of research in social cognition indicates that attitudes can strongly bias the information processing sequence. Jurors' attitudes have strong influences on their decision-making and case judgments. Juror attitudes can even affect cognitive function ranging from attention to memory (Louden & Skeem, 2007). Juror attitudes often override the application of legal standards in cases. In insanity defense cases, for example, jurors are tasked with applying the appropriate legal standard of insanity to the evidence presented at trial to reach a verdict. Insanity defense cases are perfect examples of instances where many jurors often ignore legal instructions and personal convictions and/or preference may have some bearing on their verdicts. Finkel, Shaw, Bercaw and Koch (1985) tested real jurors and found that their attitudes toward the insanity defense predicted verdicts. Specifically, negative attitudes towards the insanity defense strongly predicted verdicts of "guilty." Finkel et. al found these findings to be consistent with the "vast amount" of research that has established, attitudes toward the insanity defense exert considerable influence on mock jurors' verdicts in insanity cases.

The issue of criminal insanity is one of the best examples of the differing approaches of psychology and law and the tension that exists as a result. When a

defendant asserts the affirmative defense of insanity they are examined by a mental health psychiatrist or psychologist. The first step for any psychiatrist/psychologist is to diagnose the defendant with some form of mental disorder. Once that step is completed, the psychiatrist/psychologist must determine how severe the defendant's functional impairment is (or the severity of the mental disorder). The psychiatrist must then make inferences as to whether the defendant has the capacity for judgment. In essence, the legal system uses the mental health system to answer the question of whether an individual is sane or not (insanity). This question, however, is not easily answered because the law and psychology define insanity differently.

In order for a person to be convicted of a crime, it must be proven that, along with the conscious act, there was intent or *mens rea*. The defense of insanity is often used by an individual accused of a crime to negate mens rea. There are currently two major legal standards of insanity used in the United States. The most notable is the *McNaughton* rule, which excuses criminal conduct if the defendant 1) did not know what he or she was doing or 2) did not know what he or she was doing was wrong. One of the major criticisms of the McNaughten rule is that, in its focus on the cognitive ability to know right from wrong, it fails to take into consideration the issue of control or "irresistible impulse". Psychiatrists agree that it is possible to understand that one's behavior is wrong, but still be unable to stop oneself.

Approximately half of the states in the United States currently use the *Brawner* rule as the legal standard of insanity. The *Brawner* rule states that the defendant is not responsible for his or her criminal behavior if he or she lacks substantial capacity to either appreciate the criminality or wrongfulness of his or her conduct or to conform his

or her conduct to the requirements of law (Butler, 2006). The law is interested in whether the defendant knew right from wrong at the moment of the alleged wrongdoing. Even if a person is diagnosed with a specific mental disorder, the defense would have to prove that the defendant lacked substantial capacity to appreciate wrongfulness at the time of the criminal act, in order to please Not Guilty by Reason of Insanity (NGRI). NGRI is also referred to as the insanity defense.

Are people who suffer from mental illness capable of appreciating the difference between right and wrong? The case of Andrea Yates, a Texas mother known for killing her five young children on June 20, 2001 is a recent case that explores this question. It was reported that she suffered for years with postpartum depression and psychosis. The McNaughten Rule was used in her case and she was initially convicted of capital murder. Her conviction was later overturned on appeal and a jury ruled Yates was Not Guilty by Reason of Insanity (Resnick, 2007).

Andrea Yates had called the police after she killed her children and admitted that she had done something wrong. This matters a lot to legal conceptions of insanity, and may have influenced the initial verdict, but it matters little to psychology. Psychology views psychotic behaviors as outward manifestations of a disease process that impairs rational thinking. In other words, mental illness is not something that can be turned on and off. It erodes the normal operations of the brain. So, it is conceivable that an individual would exhibit both rational and irrational behaviors fluidly. It is, furthermore, conceivable that a person with a mental disease can exhibit rational behaviors and not be an individual with the capacity to appreciate wrongfulness.

The insanity defense issue is one that is complex and there is conflict between the professionals. With such tension between the professionals, one could imagine the confusion that such technical language and complex ideas cause jurors. This may be the reason that many jurors rely on their own knowledge and convictions and ignore legal standards.

Poulson, Wuensch, Brown and Braithwaite (1997) cite a number of researchers that have identified the important role of expert testimony in juror's decision making. In their research, they cite James (1960) who conducted a study of juror evaluation of expert psychiatric testimony using mock jurors. The study revealed that 74% of mock jurors believed psychiatric testimony was helpful in choosing a verdict. In a study conducted by Greenberg and Wursten (1988), the relative perceptions and influences of MD and PhD expert witnesses were assessed. Eighty-four Introductory Psychology students attended experimental sessions in groups of 5-25. They read a case, were asked to provide verdicts and answer questions on how they made their decisions. In the first condition, subjects were exposed to PhD's testimony for the defense and MD's testimony for the prosecution. In the second condition, subjects were exposed to MD's testimony for the defense and the PhD's for the prosecution. The credentials for both the PhD and MD were approximately equal. With the exception of specific training differences, their testimonies were identical. They found bias in favor of MDs in that subjects tended to follow the MD's recommendations, endorse attitudes consistent with the MD's testimony and rate the MD as more credible. This was primarily true in the condition where the PhD testified for the defense and the MD testified for the prosecution. This finding was most evident among weakly involved subjects.

There were two purposes for conducting the current study. First, I replicated the previous research by examining whether expert witness testimony has an effect on juror verdict and, further, whether there is a difference between psychologist and psychiatrist as expert witnesses in terms of credibility. Second, I extended previous research through the utilization of a sample that will, presumptively, be less weakly involved than the subjects involved in the previous research due to their years of education and age. The current study will use graduates students, as well as, undergraduate students. The assumption is that with the presumptively stronger graduate student sample, the MD testimony will have a greater effect across conditions.

Method

Subjects

Ninety-four students from Rowan University, 81 undergraduate students and 13 students, volunteered to participate in this study. The average participant was 21.5.

Design

A 2x2 factorial design was used; participants were assigned randomly to conditions with the restriction that an equal number of participants participate in each condition. Half of the participants read a summary of one crime and court proceedings and the other half read a separate crime. Within each of these conditions half of the participants read a version of the of the case where they were exposed to the PhD's testimony for the defense and the MD's testimony for the prosecution and half were exposed to the MD's testimony for the defense and the PhD's for the prosecution.

Procedure

Participants were told that they would be participating as jurors in a jury study and were admonished to remember that juror decisions are extremely important and would affect the life of the accused if they were actually in a courtroom. They were informed that they would be asked to read a case, complete a verdict slip (which also includes questions on how they made their decisions), and complete an Insanity Defense Attitude Survey.

Participants were asked to read the case summary, which included testimony from experts from both prosecution and defense. In first condition, participants read Case A and were exposed to the PhD's testimony for the defense and the MD's testimony for the prosecution. In the second condition, participants read Case A and were exposed to the MD's testimony or the defense and the PhD's testimony for the prosecution. In the third condition, participants read Case B and were exposed to the PhD's testimony for the defense and the MD's testimony for the prosecution. In the fourth condition, participants read Case B and were exposed to the MD's testimony or the defense and the PhD's testimony for the prosecution. We took care to ensure that the credentials for each were approximately equal; specifically, both experts practiced for 15 years, both had published extensively, and both had graduated from Ivy League universities. Except when the specific training differences were highlighted for PhD's and MD's, the testimonies were identical. At the end of each case, participants were given legal definition of insanity, along with, a lay definition of insanity.

Participants completed a Verdict Slip (e.g, "Do you find that the Defendant, James Edward, is NOT GUILTY of the charge of criminal homicide?" "Do you find that Defendant, James Edward is GUILTY of the charge of criminal homicide?" "Do you find

that the Defendant, James Edward, is not guilty because he was legally insane at the time he shot and killed David Schultz or NOT GUILTY BY REASON OF INSANITY?") and responded to the Insanity Defense Attitude Survey (e.g., "The insanity defense is never an appropriate defense for the crime of first-degree murder," "I am opposed to the insanity defense, but I would consider it under certain circumstances," "In principle, I favor the insanity defense, but I would not consider it under certain circumstances," "The insanity defense is always an appropriate defense for the crime of first-degree murder").

Case A

James Edward operated a wrestling training facility on the estate. He, also, provided housing on the estate to some of the wrestlers who trained at the facility. Over the years, James Edward developed close relationships with some of the wrestlers at his facility. He, on the other hand, came to dislike others. In 1995, he began to show signs of dislike toward David Schultz, a successful wrestler and also one of the facility's wrestling coaches. On the afternoon of January 16, 1996, James Edward drove to the home of Mr. Schultz accompanied by one of the estate security consultants. Mr. Schultz was working on his car in his driveway when they arrived, but greeted James Edward. James Edward stuck his hand out the window, pointed a gun at Mr. Schultz and asked, "You got a problem with me?" He, then, shot him three times with a .44 Magnum revolver. He, then, pointed the weapon at the security consultant and toward Shultz's wife who was standing in the doorway of the residence.

Soon after, James Edward fled in his vehicle to his mansion, reloaded and locked up his weapon. When the police arrived, he refused to surrender to the police.

At trial, James Edward did not dispute that he shot Mr. Schultz, but he puts forth a defense of insanity. Defense witness and girlfriend of James Edward, Nancy White, testified about James Edwards' bizarre and delusional behavior in recent years. She also claimed that Edward thought Schultz was part of a conspiracy against him.

The defense presented Dr. Chris Hatcher, a psychologist in private practice. Dr. Hatcher had an opportunity to assess James Edward and gave him a diagnosis of paranoid schizophrenia. Prosecution witness, Theodore Brown, former security consultant of Edward's, painted a portrait of James Edward as a rich and arrogant man who had grown increasingly angry with Schultz during the year before the shooting. The prosecution contended that James Edward's actions after the shooting --retreating to his mansion and holding police sharpshooters at bay for

two days, refusing to surrender and asking for his lawyer more than 100 times during that time -- proved James Edward understood it was wrong to shoot Schultz (Appellee v. John DuPont, 1999).

Case B

George Thaw was the son of a software multimillionaire. In January 1994, he began dating former model and actress, Mary Claire. After only one year of dating, Thaw and Mary Claire married in a private ceremony in Los Angeles, CA. During the time of their short courtship, Mary Claire revealed to Thaw that she was seduced by noted architect, Stephen White in 1991 when she was only sixteen years old, which made this act statutory rape. White was forty-seven years old and married. After their marriage, Thaw went into rages regarding White. The Thaw and White travelled in the same social circles and have many common associates.

Thaw was paranoid about the fact that White was still interested in pursuing a relationship with his wife. Mary Claire would insist to Thaw that things were over and she had not even spoken with White in years. Thaw became obsessed with White and hired detectives to follow him. He made his wife refer to White only as "the Beast." On the evening of June 25, 1996, George Thaw shot and killed noted architect Stephen White during the performance of a Broadway musical at New York's Madison Square Garden. White was unarmed and defenseless.

At trial, defense witness and wife of George Thaw, Mary Claire, testified about Thaw's bizarre and delusional behavior in recent years. The defense presented Dr. Alexander Smith, a psychologist in private practice. Dr. Smith said that he interviewed Thaw and observed a nervous agitation and restlessness. From the evidence he diagnosed the defendant as schizophrenic.

Prosecution witness, Theodore Brown, former security consultant of Thaw of the painted a portrait of George Thaw as a rich and arrogant man who had grown increasingly angry with White during the year before the shooting. The prosecution presented Dr. John Davis, a clinical associate professor of psychiatry at Johns Hopkins University where he also received his MD. Dr. Davis testified that he had an opportunity to assess George Thaw and gave him a diagnosis of paranoid schizophrenia. Dr. Davis also testified that it was his expert opinion that Thaw was fully aware of his actions at the time he shot White (Pinta, 2007).

(See Appendices A & B for full cases).

Results

The possible range on the Verdict Slip questions for all of the questions except, "Which expert did you find most credible?" was 0-10, where high scores indicated higher levels of agreement with the particular question. The mean scores on the Verdict Slip questions for the four conditions can be found in Table 1.1.

Analysis of the question, "Which expert witness do you find most credible?" found preliminary analysis comparing the number of participants that answered either PhD (M=41) or MD (M=53) for the question, "Which expert witness did you find most credible?" participants-jurors indicated no significant difference.

There was a correlation, $r(92) = .298$, $p < .01$, between participants who found the defendant not guilty by reason of insanity and those who reported their verdict was affected by expert witness testimony. Conversely correlations show, if a participant found the defendant guilty, they were less likely to do so because of the expert witness testimony, $r(92) = -.185$, $p < .01$. This was a negative correlation.

Table 1.1 Verdict Slip Means

	Edward Case		Thaw Case	
	PhD-Defense/MD-Prosecution	MD-Defense/PhD-Prosecution	PhD-Defense/MD-Prosecution	MD-Defense/PhD-Prosecution
Do you find that the Defendant, X, shot and killed X?	10*	9.38	8.76*	9.73
Do you find that the Defendant, X, is not guilty because he was legally insane at the time he shot and killed X?	3.20	3.80	2.76	3.21
Do you find that the Defendant, X, is guilty of the charge of criminal homicide?	8.28	8.04	8.04	8.61
Did expert witness testimony affect your verdict of guilty or innocent for the defendant?	6.64	5.81	5.76	6.65

* *significant differences*

Results showed significant differences between groups on conditions where the PhD was the expert witness for the defense and the MD was expert witness for the prosecution ($M=9.129$, $F(3,90) = 8.084$, $p < .001$). There was one significant difference between the PhD-defense/MD-prosecution conditions on the question, "Do you find that the Defendant, X, shot and killed X?" $F(3,90)=2.954$, $p=.037$. This was for both the Edward ($M=10$) Thaw and ($M=8.76$) cases. There was, also, between subjects differences for the overall total of scores for grade levels, freshman ($M=8.6$, $SD=.36$) and graduate ($M=9.7$, $SD=.40$) ($M=9.129$, $F(4) = 4.386$, $p = .003$) on verdict slip question, "Do you find that the defendant, X, shot and killed David Schultz?

Results of the "Insanity Defense Attitude Survey" showed no extremes. Only 1 participant felt the insanity defense was "always" an appropriate defense for criminal

homicide. In addition, only 2 participants felt the insanity defense was "never" an appropriate defense for criminal homicide. More than half of the participants were opposed the insanity defense, but would consider it under certain circumstances, n=67. The remainder of the participants favored the insanity defense in principle, but would not consider it under certain circumstances n=24. This survey was primarily included to find whether or not mock jurors' attitudes toward the insanity defense would affect selection of a guilty verdict. Pairwise comparisons showed a significant difference between those who felt the insanity defense was never appropriate (M=5.00, SD=5.66) and those who were opposed to the insanity defense, but would consider it (M=8.49, SD=2.19).

Discussion

We found there was no overall bias in favor of MD's. In fact, MD's and PhD's were favored almost equally. There was, however, a medical bias evident under specific conditions. A medical bias was found on credibility measures in the PhD-defense/MD-prosecution case. In this condition, the MD was consistently viewed as more expert. In the MD-defense condition, however, subjects found the witnesses equally trustworthy. It is unclear as to why the MD's were only seen as more credible in the PhD-defense/MD-prosecution condition. It would seem that a medical bias should have been evident despite the condition. Greenberg and Wursten (1988) suggest that when testifying for the state, the witness is viewed as more authoritative.

There was significance in participants' beliefs that expert witness testimony affected their verdicts. This finding implies the importance and relevance of expert

witness testimony in legal proceedings. Interestingly, expert witness testimony had the most effect when participants delivered NGRI verdicts. This seems to suggest that the mental health profession has credibility when it comes to assisting the general public in understanding mental illness.

The absence of a medical bias may be a reflection of the generations. The mental health field covers a wide range of professions. Weakening of medical biases may be due to generational perceptions of the mental health profession. This absence may, also, be due to the field of mental health, generally, moving toward a wellness model rather than a medical model.

Results of the "Insanity Defense Attitudes Survey" showed no extreme attitudes about the insanity defense. It was expected that this issue would be polarizing and that people would have very strong attitudes. The opposite proved true. It proved to be an issue that participants had mixed attitudes about. This, however, was beneficial for this particular study because we were able to factor out extreme attitudes about the insanity defense as having a major effect on juror verdicts.

There are limitations to this study. Insanity cases were chosen due to the idea that these types of cases are not as easy to decipher without specific mental health expert information. Perhaps, other case types may have presented varied results. Another limitation is the fact that the mental health profession is broadening. The type of expert witness that may be called from the mental health profession may not be exclusive to psychiatrists and psychologists. Further study could explore the perceptions and influence of other mental health professionals. Some areas of the mental health profession are rather new, like the field of counseling. The legal and the mental health

professions must be prepared to demonstrate their competence, expertise and credibility of these professionals.

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Appendix A

Edward Case

THE CRIME

James Edward resided on an 800-acre estate known as "Foxcatcher Farm." For many years James Edward operated a wrestling training facility on the estate. He, also, provided housing on the estate to some of the wrestlers who trained at the facility and were members of "Team Foxcatcher," which was the name of a wrestling team founded by James Edward.

Over the years, James Edward developed close relationships with some of the wrestlers at his facility. He, on the other hand, came to dislike others. In 1995, he began to show signs of dislike toward David Schultz, a successful wrestler and also one of the facility's wrestling coaches. On the afternoon of January 16, 1996, James Edward drove to the home of Mr. Schultz accompanied by one of the estate security consultants. Mr. Schultz was working on his car in his driveway when they arrived, but greeted James Edward. James Edward stuck his hand out the window, pointed a gun at Mr. Schultz and asked, "You got a problem with me?" He, then, shot him three times with a .44 Magnum revolver. He, then, pointed the weapon at the security consultant and toward Shultz's wife who was standing in the doorway of the residence.

Soon after, James Edward fled in his vehicle to his mansion, reloaded and locked up his weapon. When the police arrived, he refused to surrender to the police. During the two day standoff which followed, James Edward spoke with his attorney on numerous occasions. He was finally apprehended on January 18, 1996 when he left the mansion to attempt a repair of the heating system.

People who knew James Edward noticed a change in his behavior and emotional state around the time of his mother's death in 1988. James Edward became extremely security conscious and hired a security firm in 1993 to provide protection on the estate. Despite the firm's efforts implementing extensive security measures, James Edward exhibited paranoid fear on several occasions that he was being spied upon and that his life was in danger. Several witnesses also related incidents of James Edward's drug and alcohol abuse between 1988 and 1995. In spite of his unusual behavior, however, James Edward continued to manage his facility and maintain daily operations.

THE TRIAL

James Edward did not dispute that he shot Mr. Schultz, but he puts forth a defense of insanity.

Defense

Defense witness and girlfriend of James Edward, Nancy White, testified about James Edwards' bizarre and delusional behavior in recent years. Nancy said that the millionaire had razor wire installed in the walls and attic of his house to keep intruders out, complained about mechanical trees moving on his property and often referred to himself by such titles as the Dalai Lama and Christ child. She also claimed that Edward thought Schultz was part of a conspiracy against him.

The defense presented Dr. Chris Hatcher, a psychologist in private practice. Dr. Hatcher is a graduate of the University of Notre Dame who also received a PhD from Harvard University. He has been a practicing psychologist for 15 years.

Dr. Hatcher had an opportunity to assess James Edward and gave him a diagnosis of paranoid schizophrenia. This evidenced by his delusional beliefs, particularly during the standoff and in examinations after the shooting, that he was Jesus Christ, the Dalai Lama, and a Russian czar, among others.

Prosecution

Prosecution witness, Theodore Brown, former security consultant of Edward's, painted a portrait of James Edward as a rich and arrogant man who had grown increasingly angry with Schultz during the year before the shooting.

The prosecution contended that James Edward's actions after the shooting --retreating to his mansion and holding police sharpshooters at bay for two days, refusing to surrender and asking for his lawyer more than 100 times during that time -- proved James Edward understood it was wrong to shoot Schultz.

On rebuttal, Dr. Lunde testified that he had an opportunity to assess James Edward and gave him a diagnosis of paranoid schizophrenia. Dr. Lunde also testified that it was his expert opinion that Mr. Edward was fully aware of his actions at the time he shot Mr. Schultz.

Appendix B

Thaw Case

THE CRIME

George Thaw was the son of a software multimillionaire. In January 1994, he began dating former model and actress, Mary Claire. After only one year of dating, Thaw and Mary Claire married in a private ceremony in Los Angeles, CA.

During the time of their short courtship, Mary Claire revealed to Thaw that she was seduced by noted architect, Stephen White in 1991 when she was only sixteen years old, which made this act statutory rape. White was forty-seven years old and married. After their marriage, Thaw went into rages regarding White. The Thaw and White travelled in the same social circles and have many common associates.

Thaw was paranoid about the fact that White was still interested in pursuing a relationship with his wife. Mary Claire would insist to Thaw that things were over and she had not even spoken with White in years. Thaw became obsessed with White and hired detectives to follow him. He made his wife refer to White only as "the Beast."

On the evening of June 25, 1996, George Thaw shot and killed noted architect Stephen White during the performance of a Broadway musical at New York's Madison Square Garden. White was unarmed and defenseless.

THE TRIAL

Defense

Defense witness and wife of George Thaw, Mary Claire, testified about Thaw's bizarre and delusional behavior in recent years. Nancy said that the millionaire had consistently accused her of having secret relationship with White, despite the fact that she insisted that she would never have had a relationship with the man that took such advantage of her as a young woman. Mary Claire testified to the fact that Thaw hired detectives to hire her, as well as, White. She also claimed that Thaw thought she and White were conspiring against him in order to get his fortune.

The defense presented Dr. Alexander Smith, a psychologist in private practice. Dr. Smith is a graduate of the University of Notre Dame who also received a PhD from Harvard University. He has been a practicing psychologist for 15 years and has published extensively.

Dr. Smith said that she interviewed Thaw and observed a nervous agitation and restlessness. From the evidence she diagnosed the defendant as schizophrenic, chronic undifferentiated type, characterized by abnormal thoughts, difficulty with emotional control, deficiency in common sense judgment, and lacking in close relationships with other people.

Prosecution

Prosecution witness, Theodore Brown, former security consultant of Thaw of the painted a portrait of George Thaw as a rich and arrogant man who had grown increasingly angry with White during the year before the shooting.

The prosecution contended that George Thaw's actions after the shooting –fleeing to his home on the island of Barbados, making several calls to his lawyer and refusing to surrender before being caught by the police and extradited to the United States -- proved Thaw understood it was wrong to shoot White.

The prosecution presented Dr. John Davis, a clinical associate professor of psychiatry at Johns Hopkins University where he also received his MD. Dr. Lunde is a graduate of the University of Notre Dame. He has been a practicing psychiatry for 15 years and has published extensively.

On rebuttal, Dr. Davis testified that he had an opportunity to assess George Thaw and gave him a diagnosis of paranoid schizophrenia. Dr. Davis also testified that it was his expert opinion that Thaw was fully aware of his actions at the time he shot White.