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Are juries fair?

Cheryl Thomas

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Author

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Summary

This research asks: How fair is the jury decision-making process? It explores a number of aspects of jury fairness for the first time in this country, and asks specifically:

- Do all-White juries discriminate against BME defendants?
- Do jurors racially stereotype defendants?
- Do juries at certain courts rarely convict?
- Do juries rarely convict on certain offences?
- Do jurors understand legal directions?
- Do jurors know what to do about improper conduct in the jury room?
- Are jurors aware of media coverage of their cases?
- How is the internet affecting jury trials?

The research used a multi-method approach to examine these issues:

- case simulation with real juries at Crown Courts (involving 797 jurors on 68 juries);
- large-scale analysis of all actual jury verdicts in 2006–08 (over 68,000 verdicts);
- post-verdict survey of jurors (668 jurors in 62 cases).

The study found little evidence that juries are not fair. However, it identifies several areas where the criminal justice system should better assist jurors in performing this vital role. The study also demonstrates that section 8 of the Contempt of Court Act 1981 does not prevent comprehensive research about how juries reach their verdicts and that research from other jurisdictions should not be relied upon to understand juries in this country.

All-White juries and BME defendants

A key question remained to be answered from a recent jury study: **Do all-White juries discriminate against Black and minority ethnic (BME) defendants?** A large number of all-White juries tried an identical case in which only the race of defendants and victims was varied. This enabled the study to determine if race actually affects jury decision-making.

The case simulation was conducted with 41 all-White juries at Winchester and Nottingham Crown Courts (478 jurors). It replicated an earlier study of racially mixed juries at Blackfriars Crown Court in London (27 juries with 319 jurors). Earlier research found that juries at Winchester and Nottingham will almost always be all-White. The juror catchment area for

Nottingham is predominantly White but includes neighbourhoods with high levels of ethnic diversity; the Winchester juror catchment area is overwhelmingly White throughout.

The study examined decision-making at the jury verdict level:

- The key finding was that verdicts of all-White juries did not discriminate against BME defendants. Jury verdicts at both courts showed no tendency for all-White juries to convict a Black or Asian defendant more than a White defendant.
- All-White juries at Winchester had almost identical verdicts for White and BME defendants, but all-White juries at Nottingham had particular difficulty reaching a verdict involving a BME defendant or BME victim.
- This suggests that local population dynamics may play a role in jury decision-making.

The study also examined the votes of all individual jurors who sat on these juries:

- White jurors serving on racially mixed juries and on all-White juries had similar patterns of decision-making for White, Black and Asian defendants. But White jurors on racially mixed juries had lower conviction rates overall.
- White jurors in a racially diverse area (Nottingham) appeared sensitive to cases involving inter-racial conflict. These jurors were significantly more likely to convict the White defendant when he was accused of assaulting a BME victim compared to a White victim. No similar trend was found with White jurors in Winchester.
- White jurors serving on all-White juries did not racially stereotype defendants as more or less likely to commit certain offences based on race. The same result was found with both White and BME jurors serving on racially mixed juries.
- The only other personal characteristic that appeared to affect juror decision-making was gender. Female jurors were more open to persuasion to change their vote in deliberations than male jurors. Male jurors rarely changed their mind.

Jury verdicts in Crown Courts in England and Wales 2006–08

This study analysed a large dataset of all charges in all Crown Courts in England and Wales (551,669) where outcomes occurred between 1 October 2006 and 31 March 2008.

- Such a large dataset enabled a statistically reliable analysis of trends in jury verdicts.
- The study examined whether defendant ethnicity, offence type, court, severity of offence or number of charges in a trial had any correlation to jury verdicts.

Disproportionality for BME defendants in Crown Court trials

It is already known that members of BME groups are disproportionately represented among those stopped, searched, arrested, charged and in prison. This study found that:

- BME defendants are consistently more likely than White defendants to plead not guilty to charges in all of the 12 general offence categories used in this study except one (falsification, forgery and counterfeiting).
- BME defendants are three and half times more likely to face a jury verdict in the Crown Court relative to their representation in the general population.
- However, jury verdicts showed only small differences based on defendant ethnicity. White and Asian defendants both had a 63% jury conviction rate; Black defendants had a 67% jury conviction rate.

This indicates that one stage in the criminal justice system where BME groups do not face persistent disproportionality is when a jury reaches a verdict.

Appearance of jury fairness

While these findings strongly suggest that racially balanced juries are not needed to ensure fair decision-making in jury trials with BME defendants, concerns about the appearance of fairness with all-White juries may still remain.

- The study found that in all Crown Courts, the proportion of BME defendants is greater than the proportion of BME groups in the local population or BME jurors at each court.
- Concerns about the appearance of jury fairness are likely to arise in courts where all-White juries try substantial numbers of BME defendants or try White defendants accused of racial crimes against BME victims.
- To address these concerns, HMCS should ensure that court users understand how jury pools are selected and how representative they are of the locality.

Scope and effectiveness of jury trials

Most charges brought against defendants in the Crown Court are not decided by a jury:

- Only 12% of all charges are decided by jury deliberation.
- 59% of all charges result in a guilty plea by a defendant.
- Of the remaining charges where a defendant pleads not guilty and therefore gives rise to a potential jury trial, 36% are decided by jury deliberation.

Juries overall appear efficient and effective:

- Once a jury is sworn it reaches a verdict by deliberation on 89% of all charges (judges direct jury verdicts on 11% of charges).
- Once juries deliberate they reach verdicts on virtually all charges (only 0.6% of all verdicts are hung juries).
- Juries convict on almost two-thirds (64%) of all charges presented to them.
- Juries are rarely discharged (less than 1% of sworn juries).

Jury conviction rates

Offence type had an impact on the probability of a jury reaching a guilty verdict.

- Falsification, deception, drugs and theft offences are the general offence types most likely to produce a guilty jury verdict.
- Non-fatal offences against the person are least likely to result in a jury conviction, although juries still reach guilty verdicts more often than not here (52% conviction rate).

Conviction rates for specific offences within general offence types can vary substantially.

- The category of homicide-related offences has some of the lowest jury conviction rates (threatening to kill 36%, manslaughter 48%, attempted murder 47%) but also some of the highest jury conviction rates (death by dangerous driving 85%, murder 77%).

Differences in jury conviction rates for different specific offences suggest that juries try defendants on the evidence and the law.

- Offences where the strongest direct evidence is likely to exist against a defendant appear to have the highest conviction rates (making indecent photographs of a child 89%, drugs possession with intent to supply 84%, death by dangerous driving 85%).
- Cases where juries must be sure of the state of mind of a defendant or complainant in order to convict appear to have the lowest conviction rates (threatening to kill 36%, attempted murder 47%, GBH 48%).

Misconceptions about jury verdicts in rape cases

Contrary to popular belief and previous government reports, juries actually convict more often than they acquit in rape cases (55% jury conviction rate).

- Other serious offences (attempted murder, manslaughter, GBH) have lower jury conviction rates than rape.
- A previous Home Office study stating that jury acquittals were more common than convictions was based on a small number of verdicts (181) in a few courts. Current findings cover all jury rape verdicts in all courts in 2006–08 (4,310).
- Jury conviction rates for rape vary according to the gender and age of the complainant, with high conviction rates for some female complainants and low conviction rates for some male complainants. This challenges the view that juries' failure to convict in rape cases is due to juror bias against female complainants.
- Juries are not primarily responsible for the low conviction rate on rape allegations.

Misconceptions about jury verdicts in certain courts

There are variations in jury conviction rates between Crown Courts.

- In courts with over 1,000 jury verdicts in 2006–08, the conviction rate ranged from 69% to 53%. There were no courts with a higher jury acquittal than conviction rate, and this dispels the myth that there are courts where juries rarely convict.
- Variations in court conviction rates could be due to differences in the types of offences presented to juries at different courts; differences in public attitudes to crime and justice in different communities; or variations in police evidence gathering or prosecution or judicial handling of jury trials.
- It is recommended that the underlying reasons for substantial variations in jury conviction rates between Crown Courts be examined further.

Multiple charges

- The number of charges against a defendant affected the likelihood of the jury returning at least one guilty verdict.
- The probability of a guilty jury verdict increased with the number of charges, rising steeply from 40% with one charge to 80% with five charges.

Juror comprehension of judicial directions

This study involved 797 jurors at three courts who all saw the same simulated trial and heard exactly the same judicial directions on the law.

- There is not a consistent view among jurors at all courts about their ability to understand judicial directions. Most jurors at Blackfriars (69%) and Winchester (68%) felt they were able to understand the directions, while most jurors at Nottingham (51%) felt the directions were difficult to understand.

Jurors' actual comprehension of the judge's legal directions was also examined.

- While over half of the jurors perceived the judge's directions as easy to understand, only a minority (31%) actually understood the directions fully in the legal terms used by the judge.
- Younger jurors were better able than older jurors to comprehend the legal instructions, with comprehension of directions on the law declining as the age of the juror increased.

A written summary of the judge's directions on the law given to jurors at the time of the judge's oral instructions improved juror comprehension of the law:

- The proportion of jurors who fully understood the legal questions in the case in the terms used by the judge increased from 31% to 48% with written instructions.
- The judiciary should reconsider implementing the Auld recommendations for issuing jurors with written *aide memoires* on the law in all cases.
- An assessment should also be made of how many judges already use written instructions, when and how often.
- Further research should be conducted as a matter of priority to identify the most effective tools for increasing juror comprehension of judicial directions.

Jury deliberations and impropriety

This study involved 196 jurors at Winchester who had served on a jury and therefore should have been instructed by a judge on improper conduct.

- Almost half (48%) of all jurors said they either did not know or were uncertain what to do if something improper occurred in the jury deliberating room.
- Most of these jurors (67%) also felt they should be given more information about how to conduct deliberations.

- An even larger majority of these jurors (82%) felt it was correct that jurors should not be allowed to speak about what happens in the deliberating room.
- This was only a limited exploration of these issues. The findings indicate that further research should be conducted to determine what jurors understand improper jury behaviour to be; how jurors think they should deal with improper jury conduct; and what type of information jurors want about deliberations.

Media reporting of jury trials and juror use of the internet

The study was conducted in three different locations (Nottingham, Winchester and London) and included 62 cases and 668 jurors. The sample included both long, high profile cases and standard cases lasting less than two weeks with little media coverage.

- Jurors serving on high profile cases were almost seven times more likely to recall media coverage (70%) than jurors serving on standard cases (11%).
- Most jurors who recalled media reports of their case saw or heard reports only during the time their trial was going on. This provides the first empirical evidence in this country of the “fade factor” in jury trials (the further away media reports are from a trial the more likely they are to fade from jurors’ memories).
- But a third of jurors (35%) on high profile cases remembered pre-trial coverage.
- In high profile cases, jurors recalled media reports of their cases from a range of media outlets, with television (66%) and national newspapers (53%) the two main sources. This contrasts with jurors’ recall of media reports in standard cases, where local newspapers accounted for almost all (77%) coverage recalled.
- Most jurors (66%) in high profile cases who recalled media coverage either did not or could not remember it having any particular slant. Where jurors did recall any emphasis, almost all recalled it suggesting the defendant was guilty.
- In high profile cases, 20% of jurors who recalled media reports of their case said they found it difficult to put these reports out of their mind while serving as a juror.

The findings show that in high profile cases almost three-quarters of jurors will be aware of media coverage of their case. It would be helpful to know how these jurors perceive this media coverage, what particular type of pre-trial coverage jurors’ recall and what type of coverage some jurors find difficult to put out of their minds.

The internet

All jurors who looked for information about their case during the trial looked on the internet.

- More jurors said they saw information on the internet than admitted looking for it on the internet. In high profile cases 26% said they saw information on the internet compared to 12% who said they looked. In standard cases 13% said they saw information compared to 5% who said they looked.
- In the study jurors were admitting to doing something they should have been told by the judge not to do. This may explain why more jurors said they saw reports on the internet than said they looked on the internet.
- Among all jurors who said they looked for information on the internet, most (68%) were over 30 years old. Among jurors on high profile cases, an even higher percentage (81%) of those who looked for information on the internet were over 30.

The findings raise a number of questions that should be examined further: do jurors realise they are not suppose to use the internet? How do they use the internet: do they just look for information or do they also discuss the case on social networking sites? What type of judicial instruction would be most effective in preventing jurors from looking for information about their case on the internet?

Recommendations

The jury system imposes a duty on citizens to participate in the criminal justice system and to decide the most serious criminal cases in this country. It is therefore crucially important that jurors are provided with the most effective tools to carry out that responsibility. The findings on juror comprehension of the law, impropriety, internet use and jurors' views about deliberations suggest that jurors want and need new tools to better understand the process. A concerted effort should be made by those responsible for the criminal justice system to identify the most effective means of ensuring the highest levels of juror understanding in criminal jury trials.

Written juror guidelines

To address both jury impropriety in general and juror use of the internet, the judiciary and HMCS should consider issuing every sworn juror with written guidelines clearly outlining the requirements for serving on a trial.

- The written guidelines should acknowledge the value of the juror's role and clearly explain what improper behaviour is, why it is wrong and what to do about it.
- The judge should review the requirements with jurors as soon as they are sworn. This should include a fuller direction to jurors on why they should not use the internet to look for information or discuss their case.
- Jurors should be required to keep the guidelines with them throughout the trial.
- Piloting should be carried out to determine what form of written guidelines and judicial directions are most comprehensible to jurors and are most likely to be taken seriously.

1. Context

1.1 The fairness of jury decision-making

Even though juries decide less than 1% of all criminal cases in England and Wales, defendants in these cases are charged with the most serious criminal offences and face the greatest possible loss of liberty. The fairness of jury decision-making is therefore of fundamental importance to the criminal justice system. Opinion polls consistently show strong public support for jury trials (Bar Council, 2002; ICM, 2007; Thomas, 2007). To preserve this confidence in the justice system it is crucial that allegations of jury bias are systematically explored. Yet in this country, little is known about how juries reach verdicts.

This lack of knowledge about jury decision-making is usually incorrectly attributed to section 8 of the Contempt of Court Act 1981. This makes it a criminal offence to “obtain, disclose or solicit any particulars of statements made, opinions expressed, arguments advanced, or votes cast by members of a jury in the course of their deliberations”. This does not, in fact, prevent almost all research about and with juries (Thomas, 2008). But its existence has created confusion about what jury research can and cannot be conducted and has contributed to an information vacuum about juries in this country.

In the absence of empirical evidence, inevitably domestic anecdote and research from other jurisdictions has been relied upon to draw conclusions about jury decision-making here. It has long been claimed for instance that juries in certain Crown Courts hardly ever convict (Hansard, 1982). Anecdotal reports also appear from time to time that juries do not understand legal directions or that improper conduct occurs in the jury room (Daly & Pattenden, 2005). Most jury research has been conducted in the United States. A large amount of this research is concerned with the issue of race¹ and juries, some of which has indicated that White jurors discriminate against non-White defendants (Sommers & Ellsworth, 2003). While this research has developed valuable methodologies, there are important differences between juries in America and in this country that mean caution needs to be exercised in drawing similar conclusions about juries here (Thomas, 2007).

In order to provide clear empirical evidence about juries in this country, this study tackles a number of important issues concerning the fairness of jury decision-making, including: discrimination, consistency, comprehension, improper conduct and media reporting.

¹ There is no universally accepted terminology in this field. American jury research uses the term “race”, while the term “ethnicity” is most commonly used in Britain.

1.2 Racial discrimination

For several decades there have been claims that the racial composition of juries affects jury fairness in this country. Where Black and minority ethnic (BME) defendants are tried by an all-White jury, the concerns are two-fold: that all-White juries may actually treat BME defendants unfairly and that all-White juries simply appear unfair. Similar concerns can also arise where all-White juries try White defendants accused of racially motivated crimes involving BME victims.

There has been no empirical research in this country to show how often BME defendants or racially motivated crimes are tried by all-White juries, and until recently there has been no research into whether race actually affects jury verdicts. As a result, American research showing White juror bias against non-White defendants has been relied upon to suggest that juries here are likely to be racially biased. Both the Auld Review of the Criminal Courts (2001) and the Runciman Royal Commission on Criminal Justice (1993) based recommendations for racially mixed juries on this assumption, but both recognised that these recommendations had to be made in the absence of empirical evidence in this country.

In 2007, the Ministry of Justice (MoJ) published the findings of the Jury Diversity Project (Thomas, 2007), which revealed that most defendants in most Crown Courts outside London will be tried by an all-White jury. This does not reflect any failure in juror summoning; it is simply the consequence of population dynamics in court catchment areas and the process of random summoning. The Project also conducted the first empirical study here of how race affects jury decision-making. That study at Blackfriars Crown Court in London² found that racially mixed juries did not discriminate against either BME or White defendants. However, a key question remained to be answered: Do all-White juries outside London discriminate against BME defendants? This study was commissioned to address this question and to determine how often all-White juries try BME defendants and try White defendants in race-related crimes.

As part of the study of racial discrimination, the current research also explores whether jurors in this country racially stereotype defendants. The Macpherson Report (1999) identified racial stereotyping as a sign of institutional racism. Elsewhere, the type of crime a defendant is accused of committing has been found to affect the likelihood of White juror bias. Sunnafrank and Fontes (1983) found that White jurors in America viewed white-collar crimes (such as embezzlement) as consistent with a stereotype of White criminals, but that more violent

² Herein referred to as the Blackfriars study.

crimes (such as assault) were associated with a Black criminal stereotype. This research looks at whether similar stereotyping occurs here.

1.3 Consistency of jury verdicts

Juries at certain Crown Courts are commonly thought to have very low conviction rates. Snaresbrook Crown Court, for instance, has long had a reputation for juries that do not convict (Hansard, 1982). It is possible that if jury conviction rates do vary significantly between courts this simply reflects differences in public attitudes to crime and justice in different localities. However, another possibility is that it reflects differences in police performance in evidence gathering in different areas or differences in prosecution or judicial handling of jury trials in different courts, which would be more problematic.

Claims are also often made that juries have particularly low conviction rates for certain offences, such as rape (Kelly *et al.*, 2005). In all cases, in order to convict a defendant juries must be sure of the defendant's guilt, and it is possible that some offences may be harder to prove to this standard than others. But in rape cases it is claimed that jurors' prejudicial attitudes to female complainants are what account for low conviction rates (Temkin & Krahe, 2008).

There has been no systematic examination of jury conviction rates either by court or offence in England and Wales. Where statistics exist on conviction rates by offence in the Crown Court (Marais, 2008), they do not distinguish jury verdicts from other outcomes. This research explores whether there is consistency in jury decision-making across Crown Courts, or whether differences in jury conviction rates are associated with other factors such as the type of offence, severity of the offence, number of charges against a defendant and defendant ethnic background.

1.4 Comprehension of legal instructions

Jurors' ability to understand legal directions is a crucial element in the proper functioning of the jury decision-making process. In a study of more than 7,000 jurors, Zander (1993) found that almost all jurors felt they had little difficulty understanding judges' legal directions. But there has been no research examining jurors' actual comprehension of judicial directions.

In 2007, Lord Phillips (then the Lord Chief Justice) publicly called for legal directions to juries to be simplified (Phillips, 2007). He also suggested that it might be time to reconsider proposals made by the Auld Review for restructuring jury trials to aid juror comprehension. Auld (2001) recommended that at the start of the trial the judge should give the jury a summary of the case and the questions they will have to decide, supported by a written

aide memoire. After the evidence, the judge would no longer direct the jury on the law but would provide the jury with written factual questions, the answers to which would lead to a verdict of guilty or not guilty. The current Lord Chief Justice (Judge, 2008) has also suggested that courts in future might need to present more information visually instead of orally to juries to reflect everyday advances in information technology.

While there have been studies elsewhere examining how certain tools or procedures could aid juror comprehension (Dann *et al.*, 2005), there has been no similar research here. This study includes an initial exploration of how well jurors actually understand judges' oral instructions on the law and whether certain tools may improve comprehension.

1.5 Jury impropriety

Once a jury has retired to consider its verdict, its discussions and reasons for its decision are sacrosanct. Reports of racist remarks made during jury deliberations in recent years, although few, have fuelled concerns about the impartiality of juries towards BME defendants (Daly & Pattenden, 2005). Some of these jury verdicts have been challenged on the basis that they infringed the defendant's right to a fair hearing under Article 6 of the European Convention. The European Court has ruled that sufficient guarantees must exist to exclude any objectively justified or legitimate doubts as to the impartiality of the jury, and stressed that a jury must be impartial from a subjective as well as an objective point of view.³

In 2004, the House of Lords addressed the extent to which section 8 of the Contempt of Court Act 1981 prohibits judges from questioning jurors about deliberations when accusations of jury impropriety arise.⁴ The court reiterated the longstanding principle that only the trial judge is entitled to investigate issues affecting jury deliberations.⁵ The effect of this ruling is that unless jurors bring concerns about improper jury conduct to the trial judge's attention **before** a verdict is returned, it is very difficult for such claims to be investigated after the verdict.

The judiciary subsequently adopted a new practice direction (55a), in which judges advise jurors at the outset of the trial of the need to bring any concerns about fellow jurors to the judge's attention immediately and not to wait until the case is concluded.⁶ The Government initially suggested providing further information to jurors on what jury impropriety is and how

³ See *Gregory v United Kingdom* (1997) 25 E.H.R.R. 577 and *Sander v United Kingdom* (2001) 31 E.H.R.R. 44.
⁴ *R. v. Mirza* [2004] UKHL 2 [2004] 1 All ER 925.

⁵ Except where criminal conduct is suspected.

⁶ Practice Direction 55a suggests saying: "Very rarely something may happen which causes you real concern. If any of you has such a concern, please inform me about it at once discreetly in a written note via the court clerk or the usher. Do not leave it until the case is over, because it might then be impossible to put matters right".

it should be addressed. However, after a consultation process (DCA, 2005) and discussions with the senior judiciary, it concluded that further guidance might only confuse the issue and run the risk of causing jurors unnecessary anxiety about what they can and cannot do.

There has so far been no research to determine whether the new practice direction is clearly understood by jurors, and recent cases present conflicting evidence. In the 2007 manslaughter conviction of Keran Henderson, dissenting jurors claimed only after the verdict that the jury majority did not understand the evidence. The jury foreman gave an interview to this effect to the Times newspaper after the verdict, which the newspaper published, and both parties were subsequently found guilty of contempt by the High Court. However, other instances in which jurors have reported fellow jurors' improper use of the internet to the court before a verdict was returned (see below) suggest that some jurors do understand the impropriety rule.⁷ This study explores whether jurors believe they know what to do about improper jury conduct.

1.6 Impact of media coverage and the internet

Concerns are also often raised about juries being unduly influenced by media coverage in high profile cases, but to date there has been no research on this issue here. In reporting jury trials there is inevitably a need to strike a balance between the competing interests of freedom of the press on the one hand and the administration of justice and right to a fair trial on the other. Under section 2(3) of the Contempt of Court Act 1981, media coverage of active legal proceedings must not create a substantial risk of serious prejudice to the case by unduly influencing jurors.

Legal judgments about whether media coverage amounts to such (strict liability) contempt are usually based on a belief in the “fade factor”.⁸ This is the idea that media reporting is less likely to affect jurors the further away it is from the actual trial. Psychological studies support this belief (Anderson, 1995),⁹ but there is no empirical evidence in this country to show whether or not the fade factor is a valid assumption in jury trials. Research in other common law jurisdictions has concluded that jury verdicts are not likely to be influenced by media reporting (Chesterman *et al.*, 2000), but this research is inevitably unique to those jurisdictions. In 2007, the Government signalled its willingness to consider whether media reporting is likely to affect jury decision-making here (Goldsmith, 2007), and this study provides an initial exploration of this issue.

⁷ Also see *R v Smith and Mercieca* [2005] UKHL 12.

⁸ Archbold 28–74 to 28–76; *R. v B.* [2006] EWCA Crim 2692.

⁹ The “power law of forgetting” shows that individuals initially and rapidly forget some of the material they are exposed to and then forget more of the material more slowly over time.

Today's 24-hour and internet news on demand present new challenges to the jury system. When a jury is sworn on a trial, the judge will tell jurors not to look for information about their case.¹⁰ While jurors are deliberating the judge will usually tell jurors at the end of each day not to make any enquiries into the case.¹¹ It is possible that the internet may have affected the extent to which jurors can reasonably be expected to heed directions about not looking for information about their case. Although there has been no research to substantiate this concern, in 2008 a number of juries had to be discharged or trials abandoned due to jurors' inappropriate use of the internet.¹² The Lord Chief Justice has recently called for a realistic assessment of the impact of juror access to the internet (Judge, 2008). This study examines the extent to which jurors use the internet during trials and explores juror awareness of media reporting of their cases more generally.

1.7 Main research questions

In order to provide clear empirical evidence about the fairness of jury decision-making in this country, this study tackles a number of fundamental questions:

- Do all-White juries discriminate against BME defendants?
- Do jurors racially stereotype defendants?
- Is there consistency in jury verdicts: do juries rarely convict at certain courts or on certain offences?
- Do jurors understand legal directions?
- Do jurors know what to do about improper jury conduct?
- Are jurors aware of media coverage of their cases?
- How is the internet affecting jury trials?

These are sensitive and controversial issues, and the research has developed ways of understanding how juries make their decisions without violating the secrecy of the jury room.

¹⁰ Jurors are also told not to discuss the case with anyone outside the jury and only to discuss the case when all members of the jury are present in the jury room. Advisory language for initial remarks to the jury is contained in Practice Direction 55a, and draws on the issue of internet use following *R v Karakaya* [2005] 2 Cr App R 5 (77).

¹¹ Practice Direction 59(2) on jury separation under section 43 of the Criminal Justice and Public Order Act 1994.

¹² In 2008, juries were discharged in the child cruelty case against Jasmin Schmidt at the Old Bailey, the manslaughter case against Dale Patterson at Newcastle Crown Court and the murder trial of Peter Smith at Nottingham Crown Court. A single juror was dismissed in a sexual abuse case at Burnley Crown Court.

2. Approach

2.1 Multi-method approach

This chapter provides details of the methodology used to address the study's research questions. A multi-method approach was adopted and included:

- case simulation study in which 41 juries involving 478 actual jurors at court decided a single case in a controlled setting;
- large-scale quantitative analysis of the outcomes of 551,669 charges against defendants in all Crown Courts in England and Wales from 1 October 2006 to 31 March 2008; and
- post-trial survey of 668 jurors in 62 cases.

Each approach has its strengths and weaknesses, but the most robust studies of jury decision-making include elements of each method (Sommers & Ellsworth, 2003). This is the approach taken in this study.

Each method is described in the order in which the results appear in chapter 3.

- Case simulation was used to address the study's first and main research question: Do all-White juries discriminate against BME defendants? (chapter 3, 3.1). It was also used to examine whether jurors racially stereotype defendants (chapter 3, 3.1), and to explore juror comprehension of judicial directions (chapter 3, 3.3).
- Large-scale analysis of jury verdicts in Crown Courts was used to explore actual case outcomes for BME defendants in all Crown Courts (chapter 3, 3.1). This large-scale verdict analysis also addressed the study's second key question: Is there consistency in jury verdicts? (chapter 3, 3.2).
- Post-trial survey of jurors was used to examine jurors' recollections of media coverage of their cases and juror use of the internet during trial (chapter 3, 3.4).

2.2 Case simulation

Case simulation is designed specifically to examine causal links between case factors and jury decisions. In a case simulation, a trial is filmed and edited so that only a specific factor (such as the race of the defendant) is altered in different versions of the case. Each version of the case is then shown to a large number of juries to decide. This creates a systematic and controlled study of jury decision-making.

Jurors' decisions in case simulations do not have real consequences for a defendant. It is crucial, therefore, that the highest level of authenticity is achieved in the simulation in order to replicate the jury experience as closely as possible. Previous case simulations can rightly be criticised for using unrealistic case materials, not providing jury instructions or allowing deliberations, and using students or volunteers as "jurors" (Sommers & Ellsworth, 2003). Extensive efforts were made to bring this simulation as close as possible to conditions normally experienced by juries.¹³ The case is based on an actual case and contains all elements of a jury trial.¹⁴ A real judge, barristers, police, court staff and witnesses participated in making the case films. And most importantly, the study was run only with actual jurors at Crown Courts.

Each jury was a panel created by Her Majesty's Courts Service (HMCS) computerised random selection system for a trial at court. When a panel was not needed for a trial and all jurors on the panel were about to be dismissed from jury service, they were asked if they would participate in the study before leaving court. Almost all jurors (98%) agreed. This was crucial to the research success, as it ensured that all juries constituted a legally valid jury (between 9 and 12 jurors). This enabled an analysis of the impact of race on **jury** decision-making. Most "jury" research looks only at decision-making of individual jurors, not at jury verdicts. But without the jury verdict dimension, findings of individual juror bias can result in misleading conclusions about possible jury bias (Thomas, 2008).

The case was of a male defendant accused of causing actual bodily harm (ABH)¹⁵ by punching another male in the face after a confrontation outside a bar. Each jury was shown a randomly selected version of this same case. In each version, the case was identical except for the race of the defendant or victim. For instance, some juries saw the case with a White defendant, some saw exactly the same case but with a Black defendant and others saw the same case with an Asian defendant. After viewing the case each juror recorded an initial vote of guilty or not guilty and a degree of confidence in that assessment. Jurors then deliberated as a jury in an effort to reach a verdict. After deliberating jurors recorded their final votes, as well as impressions of evidence and witnesses. Any differences in jury verdicts (or individual votes) can therefore be attributed to the influence of the defendant's or victim's race.

¹³ See Thomas (2007) for a full description of the case simulation method used in this study.

¹⁴ Prosecution opening, evidence-in-chief and cross-examination of all witnesses, prosecution and defence closings and judge's instructions on the law.

¹⁵ ABH is the most common charge in the Crown Court decided by a jury (see technical annex 11).

The case simulation was run with all-White juries at two Crown Courts. The Jury Diversity Project established that Crown Courts where BME groups make up less than 10% of the juror catchment area will usually have all-White juries (Thomas, 2007). It also identified two types of courts where all-White juries are the norm. One of each was selected for the study. Winchester is a typical “low ethnicity court”, where the whole juror catchment area is predominantly White (97%) but there are still BME defendants at court. Nottingham is a typical “ethnicity concentration court”, where the whole juror catchment area is 94% White but there are substantial concentrations of BME groups within the catchment area (as high as 28%) and a substantial proportion of BME defendants at court. The study was designed to replicate the Blackfriars study of racially mixed juries (Thomas, 2007) with all-White juries at these two courts. The Blackfriars study included 319 jurors, 243 of whom were White jurors. A similar sample size of White jurors was achieved at each court (table 2.1). Jurors were closely representative of the local population in all courts (appendix 1).

Table 2.1: Sample size in case simulation study

Size of jury	Number of juries Nottingham	Number of juries Winchester	Number of jurors Nottingham	Number of jurors Winchester
12 persons	16	15	192	180
11 persons	3	4	33	44
10 persons	1	1	10	10
9 persons	0	1	0	9
Court total	20	21	235	243
Total:	41		478	

The case simulation addressed the main research question “Do all-White juries discriminate against BME defendants?” by addressing several specific issues reported in chapter 3, 3.1. First, the analysis examined two questions about **verdicts of all-White juries**:

- Do verdicts of all-White juries discriminate against BME defendants?
- Do verdicts of all-White juries in low ethnicity courts (ie, Winchester) differ from verdicts of all-White juries in ethnicity concentration courts (ie, Nottingham)?

Then the **individual votes** of all jurors who took part in the Nottingham, Winchester and earlier Blackfriars case simulations were analysed to examine three further questions:

- Do White jurors on White juries vote differently from White jurors on racially mixed juries?
- Do jurors racially stereotype defendants as likely to commit certain crimes?
- Do any other personal characteristics of jurors affect their decision-making?

In the case simulations, jurors were also asked questions exploring their impressions and understanding of judicial instructions and the conduct of jury trials. Findings address the questions reported in chapter 3, 3.3:

- Do jurors understand the legal directions in the case?
- Is juror comprehension of the law improved if written directions are given?
- Are jurors aware of what to do if something improper occurs during jury deliberations?
- Do jurors want more information about how to conduct deliberations?
- How do jurors feel about the existing rule on secrecy of jury deliberations?

2.3 Large-scale verdict analysis (CREST)

Analysis of actual jury verdicts has the benefit that it deals with real cases and real juries. However, this also presents an inherent problem. Because no two cases are identical, it is very difficult to isolate the factors that may have led to a verdict and to draw conclusions that can be extrapolated beyond individual cases. As a result, large-scale verdict studies cannot establish **causal** links between jury verdicts and case factors (such as a defendant’s race) in the way case simulation studies can. The value of large-scale case analysis lies in its ability to identify general trends in verdicts that are consistently associated with specific factors.¹⁶

These studies need to be conducted with large datasets to ensure results are not misleading. This research analysed data from CREST,¹⁷ the HMCS case management and reporting system for Crown Courts. The dataset covers all cases at all Crown Courts in England and Wales that concluded between 1 October 2006 and 31 March 2008. The dataset includes over half a million charges (table 2.2) and is sufficiently large to conduct reliable analyses of correlations between jury verdicts and case factors such as defendant ethnicity, court, offence type, offence severity and number of charges. The most recent data were used, as these contain the most complete information on defendant ethnicity (Jones & Singer, 2008).

Table 2.2: Sample size for CREST data analysis

	Total	Not guilty pleas	Jury verdicts by deliberation
Charges	551,669	191,140	68,874
Cases	115,671	63,691*	20,378*
Defendants	137,604	75,294*	23,031*

* Where there was at least 1 not guilty plea or verdict by deliberation in each case or per defendant

¹⁶ See discussion of this by the United States Supreme Court in *McCleskey v. Kemp* 481 U.S. 279, 312 (1987).

¹⁷ The **C**rown **C**ourt **E**lectronic **S**upport **T** System = CREST

The analysis of CREST examined defendant ethnicity first (chapter 3, 3.1). It explored:

- Are BME defendants more or less likely than White defendants to be charged on indictment at Crown Courts?
- Are they more or less likely to plead not guilty and opt for a jury trial?

Where juries deliberated and reached a verdict (68,874 verdicts), the analysis explored:

- Are BME defendants more likely than White defendants to be found guilty by juries?

CREST data were also analysed in conjunction with findings from the Jury Diversity Project on juror ethnicity at each Crown Court (Thomas, 2007). This analysis was able to examine:

- Where are all-White juries most likely to try large numbers of BME defendants?
- Are BME defendants more likely to be found guilty by all-White juries at these courts?
- Where White defendants are charged with racially motivated crimes are there different conviction rates with all-White juries and racially mixed juries?

A wider analysis of CREST explored trends in jury trials more generally (chapter 3, 3.2). This part of the analysis addressed one of the main research questions:

- Is there consistency in jury verdicts?

Specifically it examined whether certain case factors are strongly associated with jury convictions (offence type, severity, court, number of charges in a case). This analysis is able to shed light on the two specific questions about jury consistency:

- Do jury rarely convict defendants in certain types of cases?
- Do juries rarely convict defendants in certain courts?

CREST analysis was also able to address wider questions about the jury system:

- Are juries efficient?
- How often do they reach a verdict?
- How often are they discharged?

It is important to point out that this study's analysis of jury decision-making in Crown Courts differs from government statistics on Crown Court conviction rates in several respects. First, this study focuses on jury conviction rates (ie, only those decisions reached by jury deliberation), whereas government statistics on Crown Court conviction rates also include

guilty pleas and directed verdicts. Second, in almost all instances analysis of jury verdicts in this study was conducted at the charge level, whereas government Crown Court conviction rates are calculated at the defendant level. A charge-based analysis was adopted in this study because juries reach verdicts on individual charges and are often asked to return multiple verdicts in a single case. Multilevel analytical models were used to control for clustering of verdicts by case. Third, in this study offences were categorised according to Blackstone’s 12 criminal offence types (Ormerod & Hooper, 2008), which differ slightly from and provide more offence categories than categories used in government Crown Court statistics.¹⁸ As a result, this study’s findings on jury conviction rates in the Crown Courts will not be directly comparable to government statistics on Crown Court conviction rates.

2.4 Post-verdict surveys

Post-verdict questioning of jurors in actual cases, like large-scale verdict analysis, is useful because it deals with real juries and real cases. But it also has similar limitations. Post-verdict studies rely entirely on jurors’ self-reported perceptions and recollections of their time on a jury. It is well documented that individuals often lack the ability to accurately identify the factors that influence their judgement and behaviour (Nisbett & Wilson, 1977). So these types of studies are not particularly useful for understanding **why** juries reached verdicts. Instead they are most useful when the research is interested in understanding what jurors were aware of and what they did during the time they served on a jury.

A post-trial survey was used here to gain some understanding of what media coverage jurors were aware of in their case and if they used the internet at all during their trial (chapter 3, 3.4). Several specific questions were addressed:

- To what extent do jurors recall pre-trial publicity or in-trial publicity of their cases?
- What types of media coverage are jurors most likely to recall?
- Do jurors recall any emphasis in the reporting of their cases?
- Do jurors feel able to put media coverage of their case out of their mind?
- Do jurors look for information on the internet about their case while it is going on?

Table 2.3: Sample size for media reporting and internet study

Court	Jurors	Cases	Standard cases	Longer, high profile cases
Nottingham	191	20	20	0
Winchester	246	22	17	5
London	231	20	10	10
Total:	668	62	47	15

¹⁸ See technical annex 15 for a comparison of the different categories of offence used.

All jurors that took part in the case simulation at Nottingham and Winchester who had served on an actual trial completed a questionnaire about their recollection of media coverage of their case and their use of the internet during the trial. Because these jurors served on standard cases that were unlikely to have any substantial media coverage, an identical survey was conducted with juries in longer, high profile cases in London and Winchester between June 2008 and February 2009. The number of high profile cases was necessarily limited by the number of these cases that were concluded in the study period. Standard cases in London were also included in order to compare juror awareness of media coverage and use of the internet on standard cases in London with standard cases in provincial courts.

Almost all jurors who served on the juries covered by the study (98%) agreed to participate in the study. This ensured a near complete picture of juror recollection of media coverage and internet use in every case in the study. The survey was carried out directly after jurors served on a jury. This ensured that jurors were not influenced by any subsequent media coverage and there was no lack of recollection due to a time lag between the trial and the survey. All jurors were guaranteed anonymity, and therefore specific cases are not identified in this report. The cases (both standard and higher profile) covered a wide range of offences. Some of the high profile cases had been covered extensively in the media over a very substantial period of time, and some also had reporting restrictions imposed during the trial.

3. Results

3.1 Race and jury decision-making

The findings on race and jury decision-making in this chapter address the key question the research set out to answer: Do all-White juries discriminate against BME defendants? The case simulation study of all-White juries at Nottingham and Winchester Crown Courts asked:

- Do verdicts of all-White juries discriminate against BME defendants?
- Do verdicts of all-White juries in Nottingham and Winchester differ?

Results of the Nottingham, Winchester and earlier Blackfriars case simulations were then analysed to examine three further questions:

- Do White jurors on White juries vote differently than White jurors on racially mixed juries?
- Do jurors racially stereotype defendants as likely to commit certain crimes?
- Do any other personal characteristics of jurors affect their decision-making?

To compliment the case simulation study, a separate large-scale analysis looked specifically at defendant ethnicity in all Crown Court cases in 2006–08 (CREST). This enabled a broader picture to be created of race and jury decision-making by examining:

- Whether BME defendants are more or less likely than White defendants to be charged in Crown Courts, and more or less likely to plead not guilty and opt for a jury trial?
- Whether BME defendants are more likely to be found guilty by juries?
- Whether BME defendants are more likely to be found guilty in overwhelmingly White communities that try a high proportion of BME defendants?
- Whether all-White juries are less likely than racially mixed juries to convict White defendants accused of racially motivated crimes?

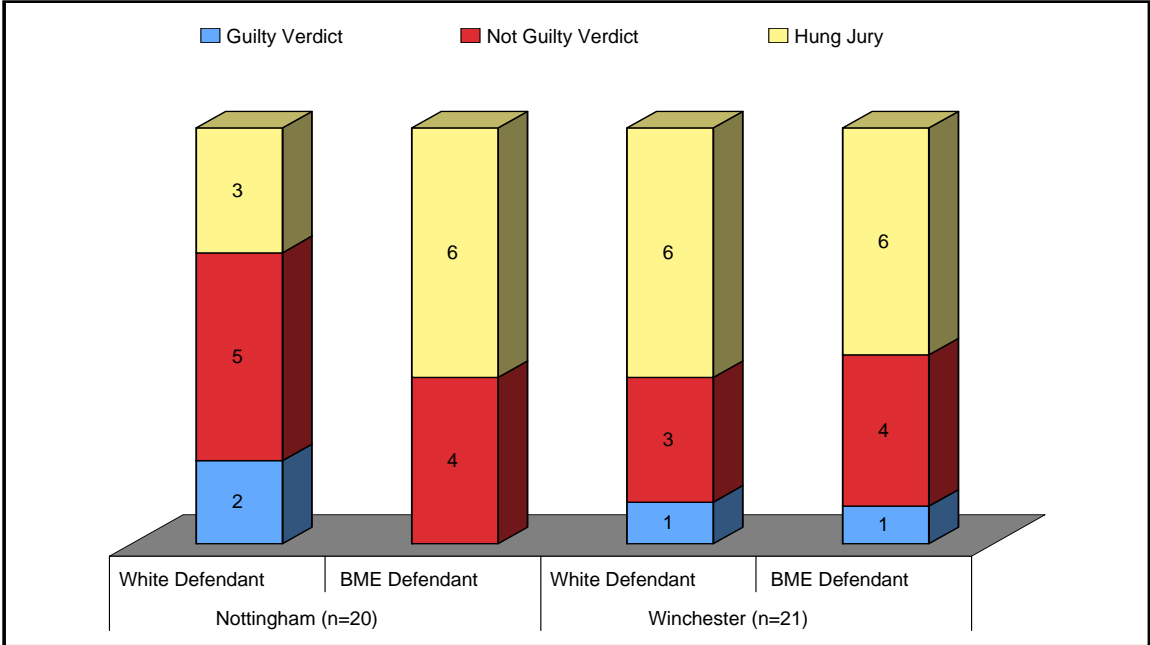
Verdicts of all-White juries

Most “jury” research only looks at decision-making at the individual juror level, but in the real world of criminal trials it is ultimately only the verdict of the jury that counts. Juror-level research can rightly be criticised for not taking into account the importance of group decision-making by juries. The case simulation study with juries at Winchester and Nottingham Crown Courts is able to show whether race affects the verdicts of all-White juries. This is because

the study presented a large number of juries with an identical case to decide, but where the race of the defendant was systematically varied.

In this study, 41 all-White juries (20 at Nottingham and 21 at Winchester) viewed the same case and then deliberated to reach a verdict. Some juries saw the case with a White defendant while others saw the case with a BME defendant (either a Black defendant or an Asian defendant). The verdicts of these all-White juries showed no evidence of discrimination against BME defendants (figure 3.1). At both courts, where juries reached a verdict, they were not more likely to convict a BME defendant than the White defendant. This applied to both the Black defendant and the Asian defendant.¹⁹

Figure 3.1: Jury verdicts in case simulations by defendant ethnicity



The large number of hung juries at both Winchester (12 out of 21) and Nottingham (9 out of 20) was expected. The original case on which the simulation is based resulted in a hung jury. This was one of the reasons the case was selected. The original jury’s inability to reach even a majority verdict suggested that the case facts were likely to present an opportunity for jurors’ views about the case to differ. However, an examination of the guilty/not guilty split on these hung juries also indicates a lack of discrimination against BME defendants at both courts. At both courts, all hung juries for the Black defendant and the Asian defendant had more not guilty votes than guilty votes or an equal split.

¹⁹ See technical annex 1 for a full breakdown of each jury verdict at each court.

One difference did emerge between the verdicts of all-White juries at Nottingham and at Winchester. Nottingham juries had much more difficulty reaching a verdict when the case involved a BME defendant or victim compared to when the case only involved White participants. When both the defendant and victim were White, juries at Nottingham always reached a verdict. But they were only able to reach a verdict in 4 out of the 10 trials with BME defendants, and two-thirds of all cases with a BME victim resulted in a hung jury. No similar trend was found at Winchester.

One specific issue the study set out to examine was whether all-White juries in courts with different local ethnic profiles showed any differences in decision-making towards BME groups. The juror catchment area for Nottingham is predominantly White but includes a number of neighbourhoods with very large BME populations, while the Winchester juror catchment area is overwhelmingly White throughout. It may be that the more diverse local community in Nottingham is in some way related to all-White juries in Nottingham having difficulty reaching a decision when BME participants are involved in a case.

KEY FINDING ON JURY VERDICTS:

- **The verdicts of all-White juries did not discriminate against BME defendants. But some differences in jury decision-making emerged. Winchester juries had almost identical verdicts for White and BME defendants, but Nottingham juries had difficulty reaching a verdict involving a BME defendant or BME victim.**

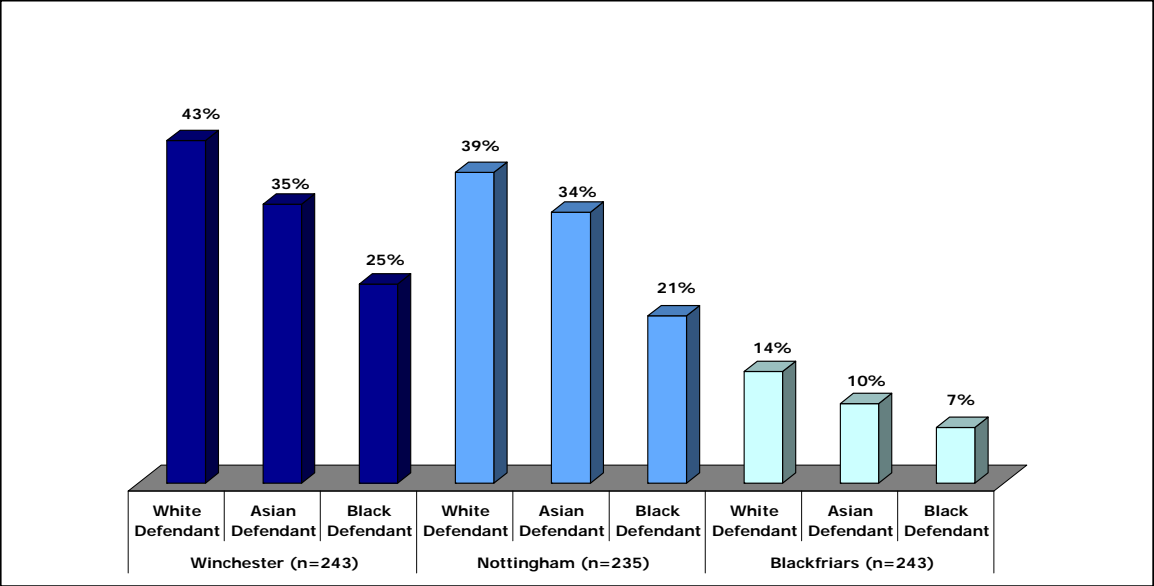
White jurors on all-White juries and on racially mixed juries

As well as examining jury verdicts, the study was also able to examine the individual decisions of jurors serving on these juries to identify any general decision-making patterns. The votes of all 721 White jurors who took part in the case simulations at Nottingham, Winchester and the earlier Blackfriars study were analysed to see if any differences emerged between White jurors serving on all-White juries and White jurors serving on racially mixed juries (Blackfriars). The larger sample size enabled a more detailed look at the impact of defendant ethnicity by separating BME defendants out into Black and Asian defendants.

As figure 3.2 shows, White jurors at all three courts had the same overall pattern of decision-making for White, Asian and Black defendants. They were least likely to convict the Black defendant and most likely to convict the White defendant. The highest conviction rates overall were in Winchester, and the lowest were in Blackfriars. Blackfriars has one of the most ethnically diverse local populations in the country (33% BME), while Winchester has a very low level of ethnic diversity throughout the local population (3%). This suggests that

population dynamics may have some influence on White juror decision-making in general, and that there may be a tendency for jury conviction rates to differ by court or region.

Figure 3.2: White juror guilty votes for White, Asian and Black defendants at 3 courts

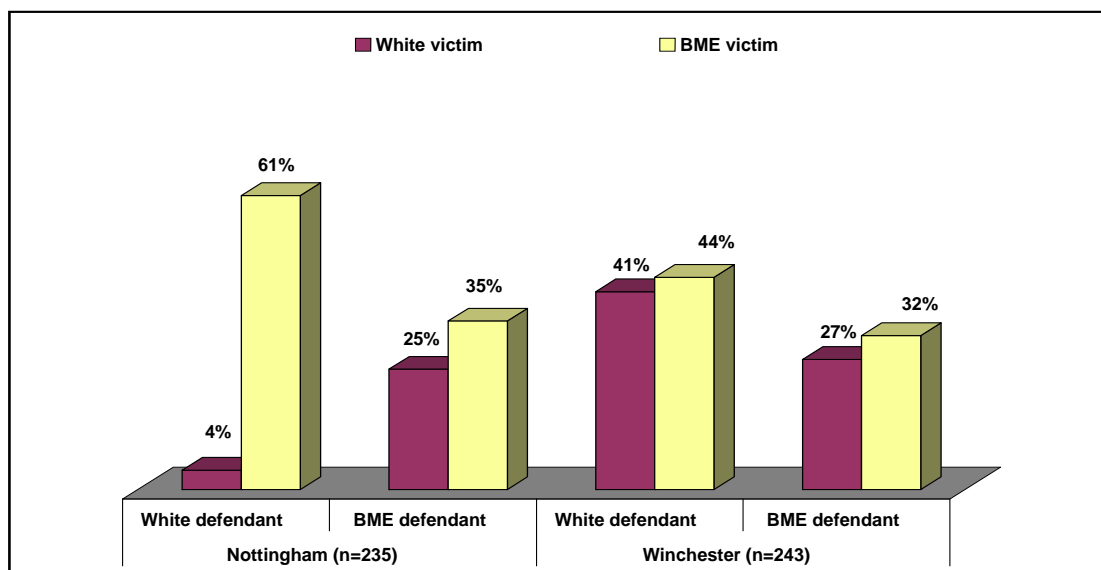


White jurors and BME victims

The analysis of jury verdicts suggested that the race of the victim may have been a factor in Nottingham but not Winchester. An analysis of all juror votes at Nottingham compared to Winchester reinforced this. White jurors in Nottingham appeared particularly sensitive to the plight of a BME victim allegedly assaulted by a White defendant (figure 3.3). White jurors at Nottingham were significantly more likely to convict the White defendant when he was accused of assaulting a BME victim (61%) than when he was accused of assaulting a White victim (4%).²⁰ Winchester jurors showed no similar pattern of decision-making.

²⁰ See appendix 2.

Figure 3.3: White juror guilty votes by defendant and victim ethnicity



White jurors at Nottingham were clearly conscious of race in cases involving a White defendant and BME victim: 76% said they thought race was a factor in these cases, compared to only 21% of jurors in Winchester who saw exactly the same case. This suggests that White jurors living in diverse communities may be more conscious of race and more censorious towards White defendants in cases involving inter-racial conflict compared to White jurors living in predominantly White communities. This is reinforced by findings from Blackfriars, where there is a very high level of diversity in the community. White jurors there were also more likely to convict the White defendant when he was accused of assaulting a BME victim (48%) compared to when he was accused of assaulting a White victim (32%).

Racial stereotyping

All jurors in the case simulation at each court were also asked to express a view of the likelihood (on a scale of 0 to 5) that the defendant in the case would commit certain crimes in the future. The offences were either similar to the offence in the case (assault, causing a disturbance in a public place) or dissimilar (drug possession, theft, sexual assault, handling stolen goods, fraud, domestic violence, burglary). White jurors serving on all-White juries at both Nottingham and Winchester did not stereotype any defendants (White, Black or Asian) as more or less likely to commit certain offences based on their race.

None of the three defendants were seen as likely to commit any of the dissimilar offences. The only crimes jurors thought any defendant had any likelihood of committing were the two similar offences (assault, and causing a disturbance in a public place). But even here most jurors did not feel any of the three defendants were very likely to commit these offences in future. An identical study of jurors serving on racially mixed juries at Blackfriars had similar

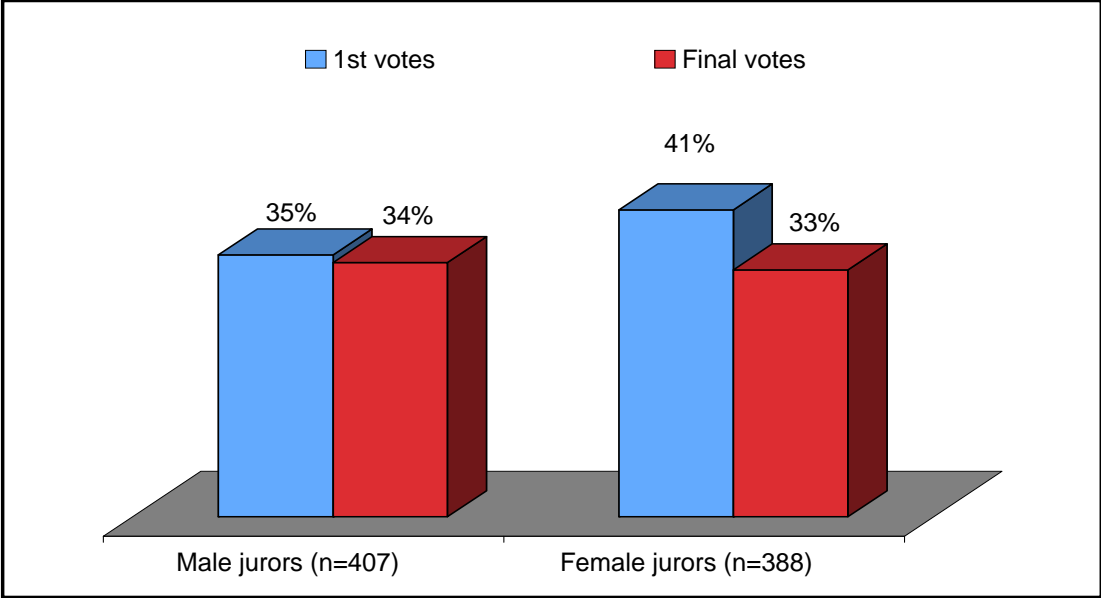
findings. Neither White nor BME jurors racially stereotyped any of these three defendants as likely to commit a certain type of crime.²¹

Juror gender: a woman’s prerogative to change her mind?

All jurors who took part in the case simulation also completed personal profile forms providing information on gender, age, employment status, profession, income, religion and language. By combining the votes of all 797 jurors (both White and BME) who took part in the case simulations at the three courts, it was possible to see if any other personal characteristics of jurors (beyond ethnicity) were related to their decision-making in the case. Gender emerged as the only juror characteristic where there were significant differences.²²

Female jurors appeared tougher on defendants than male jurors before jury deliberations started but more open to persuasion to acquit in deliberations (figure 3.4). Female jurors were significantly more likely than male jurors to vote to convict at the start of deliberations (41% guilty votes compared to 35%). But deliberation had the greatest impact on female jurors: after deliberations this gender difference in conviction rates disappears. On final votes after deliberations, female jurors actually had a lower conviction rate than male jurors (33% compared to 34%). Male jurors rarely changed their view; 64% of all jurors that changed their votes during deliberations were women. This pattern of decision-making occurred for all defendants, regardless of race, and at all courts.

Figure 3.4: Juror first and final guilty votes by gender



²¹ See technical annex 14 for full results for both all-White and racially mixed juries.
²² See appendix 2.

KEY FINDINGS ON INDIVIDUAL JUROR DECISION-MAKING:

- **The only difference between White jurors serving on racially mixed and on all-White juries was that White jurors on racially mixed juries had lower conviction rates overall.**
- **White jurors on all-White juries in a diverse community appeared particularly sensitive to the plight of a BME victim allegedly assaulted by a White defendant.**
- **Jurors, regardless of ethnic background, do not racially stereotype Black, Asian or White defendants as more or less likely to commit certain crimes.**
- **Female jurors were tougher on defendants at the start of jury deliberations than male jurors but more open to persuasion to change their vote during deliberations.**

BME defendants in all Crown Court trials 2006–08 (CREST)

While the case simulation study could examine directly whether a defendant's race affects jury verdicts and individual juror votes, it was necessarily limited to one type of offence (ABH) and juries at three (albeit representative) courts. A separate analysis of all jury verdicts reached at all Crown Courts in England and Wales (CREST) from October 2006 through to March 2008 enriches the picture of how race relates to jury decision-making by exploring how, if at all, a defendant's ethnic background is related to actual charges and jury verdicts.

Disproportionality

There is currently good evidence that members of BME groups are over-represented at virtually every stage of the criminal justice process relative to their representation in the general population (Jones & Singer, 2008). This is referred to as "disproportionality" in the criminal justice system. Statistics show that members of a BME group are more likely to be stopped, searched, arrested, charged and in prison than their White counterparts. What has not been known is whether BME defendants are disproportionately convicted by juries.

CREST data show that members of a BME group are two and half times more likely to be charged in the Crown Court relative to representation in the population (21.7% of all charges compared to 8.7% representation in the population), and Black persons are four times more likely to be charged (10.7% of charges compared to 2.8% of the population). However, this disproportionality varies by offence type (table 3.1).

Members of a BME group are three times more likely to be charged with a drugs offence, offences related to the proceeds of criminal conduct and falsification, forgery and counterfeiting offences. They are twice as likely to be charged with all other offence types,

except damaging property (where they are proportionally charged) and sexual offences (where they are less likely to be charged than a White person relative to their representation in the general population).

Table 3.1: Crown Court charges by ethnicity of defendant and offence type: 2006–08 (n=551,669)

Offence type (Blackstone’s)	Defendant ethnicity White	Defendant ethnicity BME	Defendant ethnicity unknown	Defendant ethnicity White	Defendant ethnicity BME	Defendant ethnicity unknown ²³
Drugs	42,055	20,568	12,078	56%	28%	16%
Falsification, forgery and counterfeiting	6,158	5,784	9,079	29%	28%	43%
Proceeds of criminal conduct	5,213	2,750	2,794	48%	26%	26%
Theft, handling stolen goods	83,665	27,533	23,025	62%	21%	17%
Homicide-related	4,419	1,611	1,683	57%	21%	22%
Deception, fraud and blackmail	7,750	3,761	6,371	43%	21%	36%
Public order	41,313	12,204	11,677	63%	19%	18%
Non-fatal offences against the person	61,890	14,585	13,795	69%	16%	15%
Administration of justice	10,401	2,579	2,673	66%	17%	17%
Damage to property	8,090	1,276	1,703	73%	12%	15%
Sexual	68,600	7,584	13,059	77%	8%	15%
Customs and excise ²⁴	221	27	298	40%	5%	55%
Unknown	4,185	4,730	4,482	31%	35%	34%
Total:	343,960	104,992	102,717	62%	19%	19%

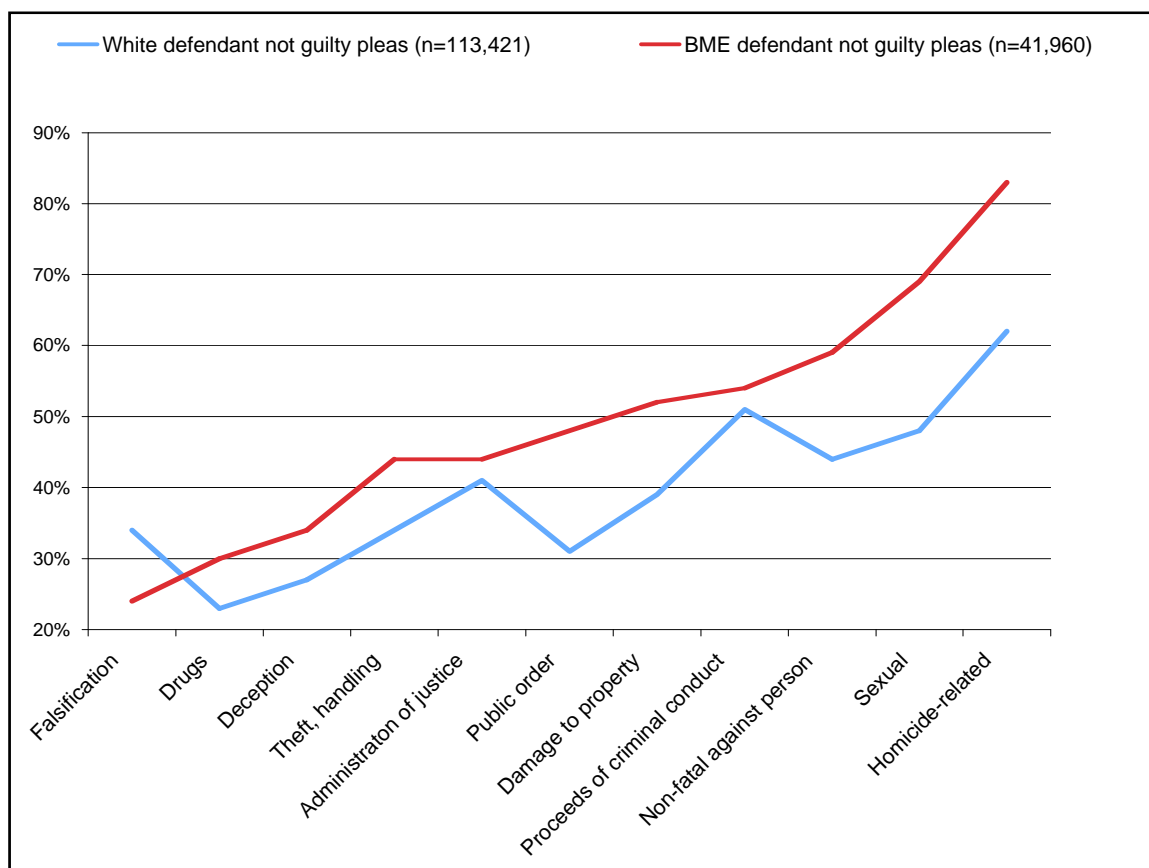
Overall, more BME defendants (43%) pleaded not guilty to charges than White defendants (35%). To explore whether this difference in not guilty pleas occurred across all offence types, a multilevel analysis examined the likelihood of a not guilty plea based on defendant ethnicity and Blackstone’s offence types. The analytical model also controlled for the possibility that pleas may cluster by trial.²⁵ As figure 3.5 shows, BME defendants were consistently more likely than White defendants to plead not guilty for all offence types except one (falsification, forgery and counterfeiting).

²³ For falsification, deception and customs and excise offences, ethnicity is unknown for a large proportion of charges. Some of these defendants are companies, but this does not account for most of the unknown ethnicity.

²⁴ Due to small numbers, customs & excise offences are not included in the subsequent offence-based analysis.

²⁵ See technical annex 3 for description, output and equation for the multilevel binary logistic regression model.

Figure 3.5: Defendant not guilty pleas by ethnicity and offence type: 2006–08

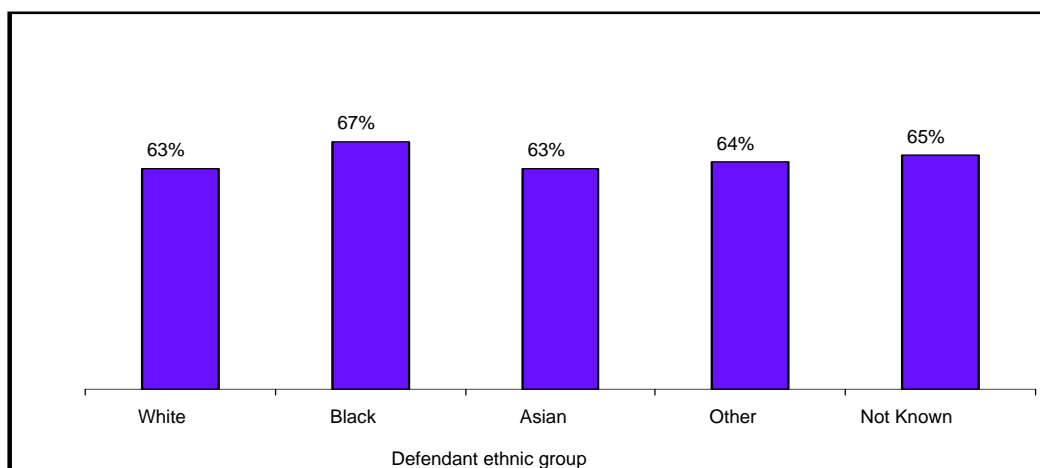


Jury conviction rates for BME defendants 2006–08

Given their disproportionate charges and higher rate of not guilty pleas, it is not surprising that BME defendants are three and half times more likely to face a jury verdict relative to their representation in the general population (29% of all jury verdicts are for BME defendants), and Black defendants are five times more likely to face a jury verdict (14% of all jury verdicts). Yet jury verdicts showed remarkably small differences based on defendant ethnicity. The analysis found an overall jury conviction rate of 65% for BME defendants and 63% for White defendants.²⁶ Figure 3.6 shows that Black defendants had a 67% conviction rate compared to 63% for Asian and White defendants. These small differences suggest that factors other than ethnicity are likely to be more relevant to jury verdicts.

²⁶ See technical annex 6.

Figure 3.6: Jury conviction rates by defendant ethnicity: 2006–08 (n=68,451)

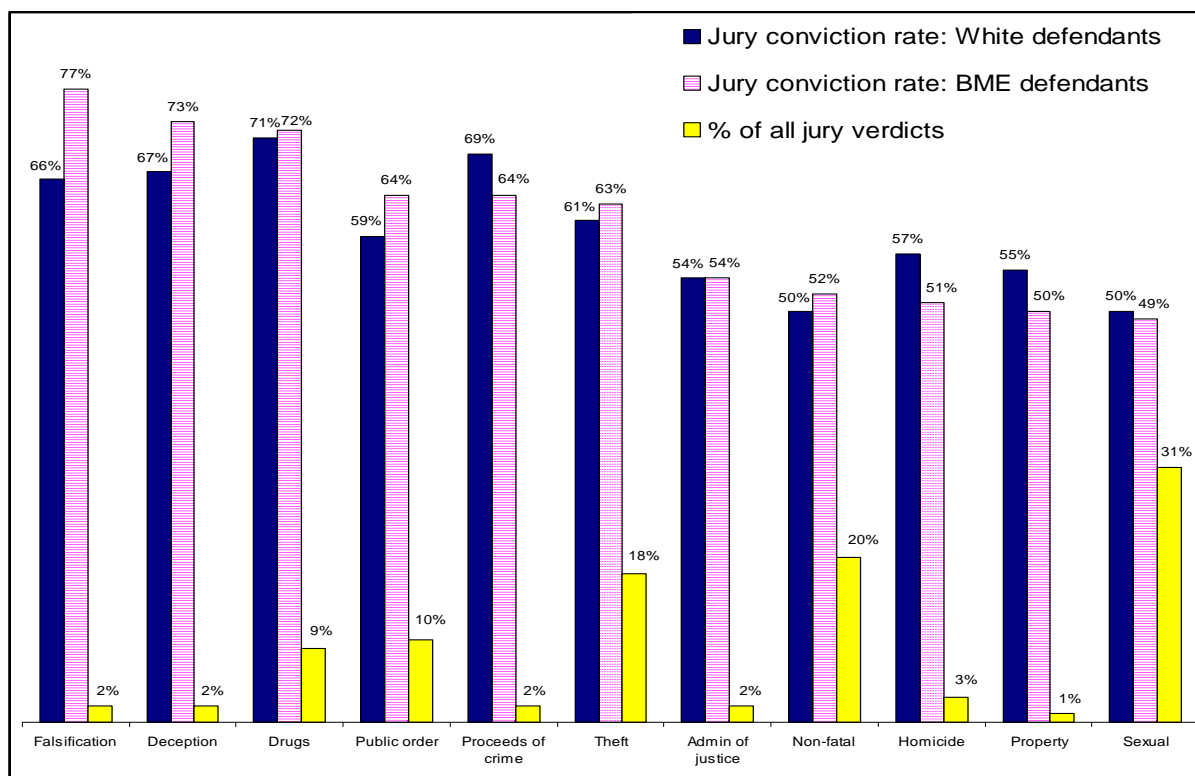


These conviction rates differ from recent government statistics on Crown Court conviction rates by defendant ethnicity (Jones & Singer, 2008), which reported that White defendants were found guilty more often (75%) than Black (71%) and Asian (69%) defendants. However, unlike this study, government figures do not distinguish between defendants who pleaded guilty and those found guilty by a jury. As this study has shown, White defendants are consistently more likely to plead guilty than BME defendants, and this appears to account for the higher conviction rate for White defendants in the government statistics.

To explore whether jury conviction rates were similar for defendants from different ethnic groups across all offence types, a multilevel analysis examined the likelihood of a guilty jury verdict based on defendant ethnicity and Blackstone's offence types. The analytical model also controlled for the possibility that jury verdicts may cluster by trial.²⁷ The analysis found little variation in jury conviction rates for White and BME defendants on offence types that comprise the overwhelming majority of all jury verdicts (figure 3.7). Sexual offences, theft-related offences and offences against the person comprise over two-thirds (69%) of all jury verdicts. Jury conviction rates for sexual offences are almost identical for White (50%) and BME (49%) defendants. Little difference was also found in jury conviction rates for non-fatal offences against the person (BME 52%, White 50%) and for theft-related offences (BME 63%, White 61%). BME defendants have substantially higher jury conviction rates than White defendants only on offences that make up less than 2% of all jury verdicts (falsification and deception offences). These are also offences with the highest level of unknown ethnicity.

²⁷ See technical annex 8 for description, output and equation for the multilevel binary logistic regression model.

Figure 3.7: Jury conviction rate by defendant ethnicity and offence type (n=66,889)



KEY FINDINGS ON BME DEFENDANTS IN ALL CROWN COURT CASES 2006–08:

- Even though jurors do not racially stereotype defendants as likely to commit certain offences, White and BME defendants are in fact charged most often with very different types of offences.
- BME defendants consistently plead not guilty more often than White defendants.
- Jury conviction rates show only small differences based on defendant ethnicity.
- For offences that make up over two-thirds of all jury verdicts jury conviction rates were almost identical for White and BME defendants.
- One stage in the criminal justice process where members of BME groups appear not to be treated disproportionately is when a jury reaches a verdict.

Appearance of jury fairness

Despite the lack of evidence of actual discrimination by all-White juries, concerns about the appearance of fairness may still arise with all-White juries in two particular instances. First, BME defendants may still perceive unfairness when there are no BME jurors in their cases. The study identified courts where this concern is most likely to arise. This was done by comparing findings from the Jury Diversity Project (Thomas, 2007) on BME jurors and BME representation in each Crown Court catchment area with CREST data on the proportion of

BME defendants tried at each court (see appendix 4 for a full breakdown for each Crown Court and region). This revealed that at every Crown Court, the proportion of BME defendants is greater than the proportion of BME groups living locally or serving as jurors. In some courts this disparity is particularly large. A concern might be that BME defendants will fare worse than White defendants at courts where there are a large number of BME defendants and very little ethnic diversity in the local population. A multilevel analysis was conducted looking at jury conviction rates for BME defendants at courts with a large discrepancy between the proportion of BME defendants in court and the proportion of BME groups in the court’s juror catchment area.²⁸ There was no evidence that BME defendants were any more likely to be found guilty than White defendants at these courts.

Second, concerns about the appearance of jury fairness are also likely to arise when all-White juries try White defendants accused of racially aggravated offences against BME victims. Victim ethnicity is not routinely recorded in Crown Court cases. But 78% of all jury verdicts for racial offences involved White defendants in 2006–08 (CREST), and it is highly likely that most of these involved BME victims. The Jury Diversity Project (Thomas, 2007) identified those Crown Courts where all-White juries are the norm (non-ethnicity courts) and those where racially mixed juries are the norm (high ethnicity courts). Drawing on these earlier findings, jury conviction rates for White defendants charged with racially aggravated offences at courts with all-White juries were compared with jury conviction rate at courts with racially mixed juries. Table 3.2 shows that White defendants accused of racial offences appeared to be convicted more often in courts where juries were likely to be all-White (44%) compared to courts where racially mixed juries are the norm (34%).

Table 3.2: Jury verdicts for White defendants charged with racial offences: 2006–08

Type of court and jury	Total	Guilty	Not guilty	Hung jury
High ethnicity courts (racially mixed juries)	226	76	150	0
	46%	34%	66%	0%
Non-ethnicity courts (all-White juries)	263	115	146	2
	54%	44%	56%	<1%
Total:	489	191	296	2

²⁸ See appendix 5 and technical annex 5 for full description of the analytical model, equation and output.

KEY FINDINGS:

- **BME defendants are not more likely than White defendants to be found guilty by juries at courts where there is a large proportion of BME defendants and a very low level of ethnic diversity in the local population.**
- **White defendants accused of racially motivated crimes are not more likely to be acquitted by all-White juries than racially mixed juries.**

3.2 General trends in jury trials 2006–08

The CREST dataset was examined in more detail in order to provide a more complete picture of jury trials beyond the specific issue of the ethnicity of the defendant. This analysis of over half a million charges in all Crown Courts in England and Wales from 1 October 2006 to 31 March 2008 explores the scale and efficiency of jury trials and whether there is consistency in jury decision-making. Specifically, it examines juries' ability to reach a verdict, and whether jury conviction rates are associated with the type of offence, the severity of the offence, the court where the case is tried or the number of charges in a case.²⁹

Scale of jury trials in Crown Courts

Juries deliberate and reach a verdict on only a small proportion (12%) of all charges at Crown Courts because most charges are dealt with prior to a jury being sworn.³⁰ Most charges (59%) resulted in a guilty plea. In most of these guilty pleas (76%), defendants pleaded guilty at the time of plea. In the remainder, 19% were changes of plea from not guilty to guilty before a jury was sworn, 3% were guilty pleas to a lesser offence, and in less than 1% of all guilty pleas defendants pleaded guilty only after a jury had been sworn.

Defendants pleaded not guilty to 35% of all charges, potentially giving rise to a jury trial on these charges. But the proportion of defendants who pleaded not guilty varied considerably depending on the general type of offence. Analysis of not guilty pleas by Blackstone's 12 offence types showed that defendants were most likely to plead not guilty to offences related to homicide (68%), proceeds of criminal conduct (55%) and sexual offences (50%).

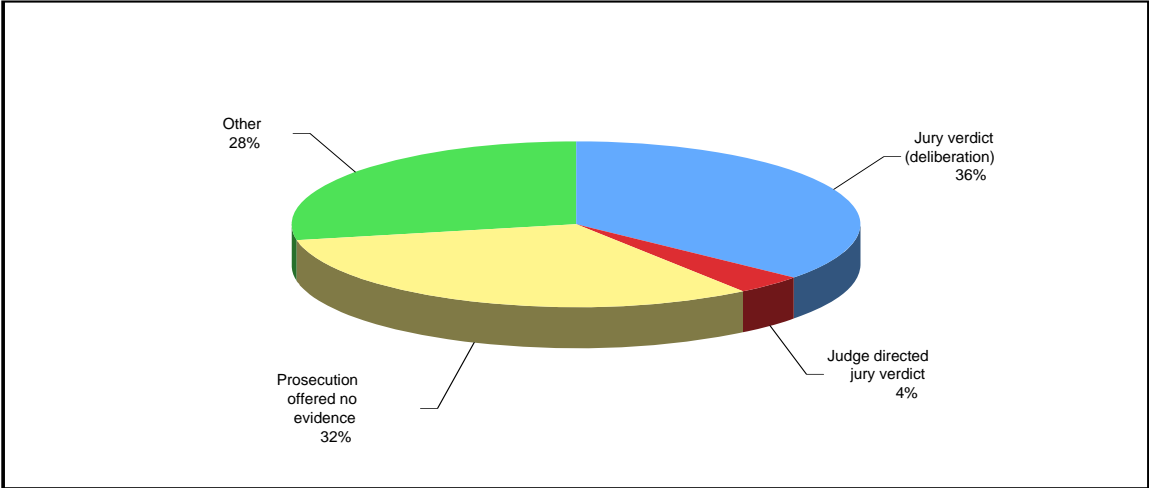
Where defendants pleaded not guilty, jury verdicts by deliberation accounted for just over a third (36%) of all outcomes (figure 3.8). Judges directed juries to reach a verdict on 4% of not guilty pleas. The prosecution offered no evidence in 32% of charges where the defendant

²⁹ All findings are by charge unless otherwise stated. Juries reach verdicts on individual charges, and analysis of jury decision-making by case or defendant may not reflect the fact that a single jury is often presented with multiple charges or multiple defendants in a case. See chapter 2 for full details of analysis methodology.

³⁰ For a full breakdown of pleas and verdicts see appendix 3.

pleaded not guilty.³¹ Among the 27% of outcomes on not guilty pleas recorded as “other”, 17% were quashed and 28% were stayed,³² but the largest proportion (40%) were charges ordered to “lie on file”. This usually occurs when a defendant is charged with multiple offences, found guilty or acquitted on some charges and the remainder stay on file and cannot be reopened without leave of the Court of Appeal.

Figure 3.8: Outcomes of all not guilty pleas: 2006–08 (n=191,140)



Jury efficiency and conviction rates

Once sworn, juries almost always deliberate and reach a verdict: 89% of charges initially presented to a sworn jury were decided by jury deliberation. Those juries that have been sworn but do not deliberate are ones directed to reach a verdict by the judge (11%) or are the rare juries that have to be discharged before reaching a verdict (less than 1%). Where juries do deliberate, they convict defendants more often than they acquit. Juries returned guilty verdicts by deliberation on almost two-thirds (64%) of all charges (table 3.3).

Table 3.3: All charges, pleas and verdicts in Crown Courts: 2006–08

	Charges	Guilty pleas	Not guilty pleas	Verdicts by deliberation	Guilty jury verdicts	Not guilty verdicts	Hung juries
Total:	551,669	325,544	191,140	68,874	43,760	24,691	423
% of charges		59%	35%	12%	8%	4%	0.08%
% not guilty pleas				36%	23%	13%	0.2%
% jury verdicts					63.5%	35.9%	0.6%

Juries are rarely unable to reach a verdict. Less than 1% of all charges where a jury deliberated resulted in a hung jury. Hung juries occurred most often with sexual offences (44%) and assaults (17%). Almost three-quarters of all hung juries (72%) occurred in trials

³¹ Technically recorded as not guilty under section 17 of the Criminal Justice Act (1967).
³² Quashed charges are set aside as if they never existed. Stayed are stopped proceedings.

involving multiple charges where the jury did reach a verdict on at least some of the charges (technical annex 13). So it is extremely rare for a jury to be unable to reach any verdict in a case. Juries may reach unanimous or majority verdicts. But it is difficult to assess when and how often majority verdicts occur because majority verdicts are only recorded for guilty verdicts. Juries return majority verdicts in 19% of all guilty verdicts.

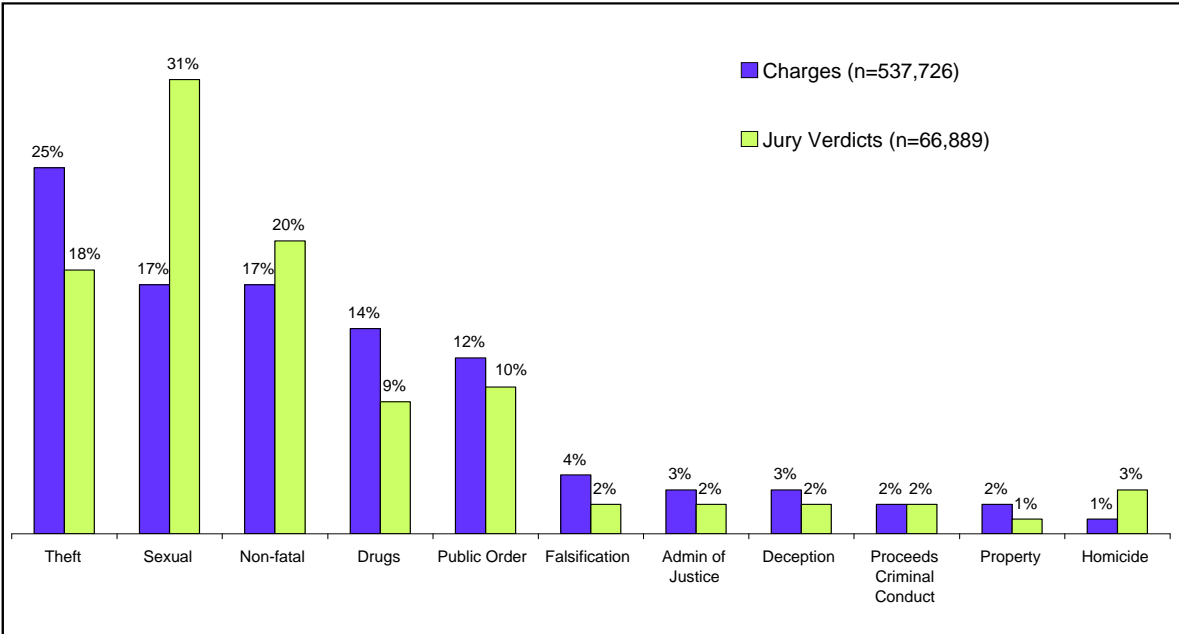
KEY FINDINGS:

- **Juries are efficient. Once sworn they almost always deliberate. Once they deliberate, they reach a verdict more than 99% of the time.**
- **Even when a hung jury occurs, in most instances the jury has reached a verdict on at least some charges.**

Offence type

Certain types of offences are presented to juries to decide more often than others (figure 3.9). So while theft offences make up the single largest proportion of charges in the Crown Courts (25%), the single largest proportion of jury verdicts are for sexual offences (31%).

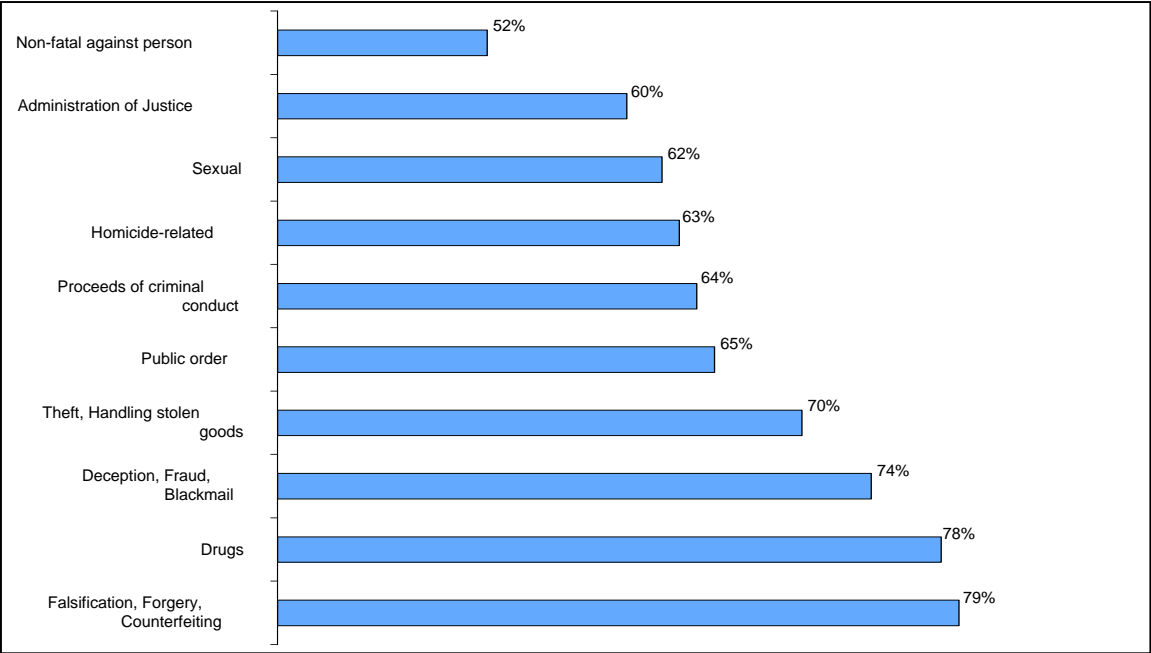
Figure 3.9: Proportion of Crown Court charges and jury verdicts by offence type: 2006–08*



* Total numbers are charges and verdicts minus unknown offence types and customs & excise offences.

Figure 3.10 shows that falsification, drugs, deception and theft offences are most likely to result in a jury guilty verdict. Non-fatal offences against the person are least likely to result in a jury conviction, but juries still reach guilty verdicts more often than not for these offences.

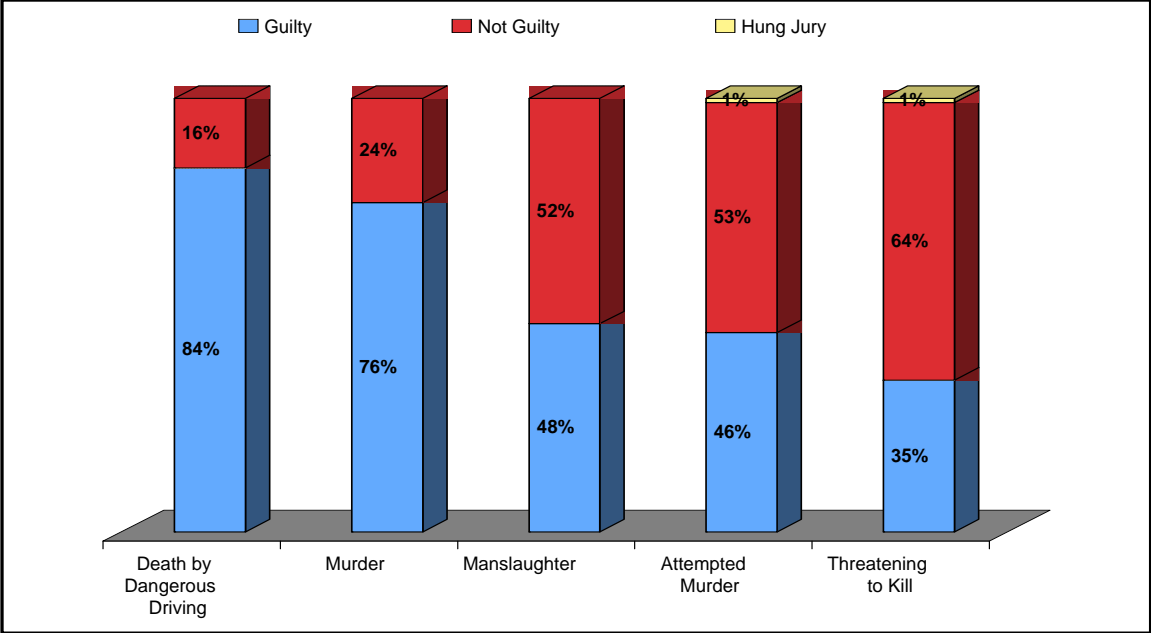
Figure 3.10: Jury conviction rates by Blackstone’s criminal offence type (n=66,889)



Trying the case on the evidence and the law?

The general offence types with the highest jury conviction rates (theft, drugs, falsification, deception) appear to be those where strong physical evidence is most likely to be presented against the defendant. Offence types with the lowest conviction rates (non-fatal offences against the person, sexual offences) appear to be ones where the jury has to choose between conflicting versions of events often in the absence of strong corroborating evidence.

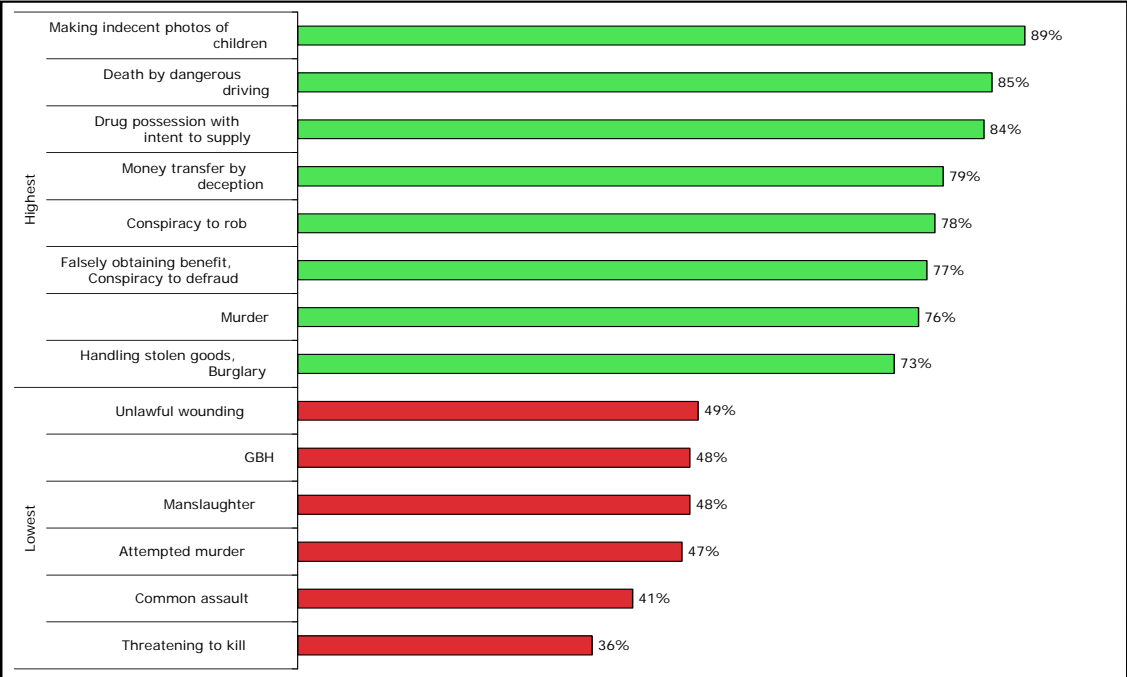
Figure 3.11: Jury conviction rates in homicide-related offences: 2006–08 (n=2,040)



But Blackstone’s criminal offence types are broad categories, and a closer analysis of jury conviction rates within each of these categories shows that conviction rates can vary considerably within a Blackstone’s general offence type. For instance, within “homicide-related offences” (figure 3.11), jury conviction rates for specific offences range from very low (35% for threatening to kill) to extremely high (84% for death by dangerous driving).

A comparison of jury conviction rates for all specific offences (figure 3.12) reveals that threatening to kill, manslaughter and attempted murder are offences with some of the lowest jury conviction rates, along with unlawful wounding, GBH and common assault.³³ Death by dangerous driving and murder are offences with the highest jury conviction rates, along with possession of illegal drugs with intent to supply and making indecent photographs of children. These variations suggest that jury conviction rates are associated with the nature of the legal questions a jury must answer to convict a defendant on specific offences and the nature of the evidence likely to be presented to a jury in those cases.

Figure 3.12: Specific offences with highest and lowest jury conviction rates: 2006–08



Those offences where juries acquit more often than convict are generally recognised as presenting difficult questions for juries to answer. Crown Prosecution Service (CPS) legal guidance acknowledges the difficulty of securing convictions for threatening to kill and attempted murder.³⁴ Threatening to kill requires the jury to be sure of the state of mind of the

³³ See technical annex 9 for a more complete list. Common assault charges (usually tried in magistrates’ courts) are tried in the Crown Court as part of multiple charges against a defendant.
³⁴ See www.cps.gov.uk/legal/l_to_o/offences_against_the_person .

alleged victim: that he or she genuinely feared the threats to kill would be carried out. Attempted murder also requires a jury to be sure that the defendant intended to kill someone, not just cause harm or injury. In these cases there is likely to be conflicting testimony about what happened and the jury must choose one person's version of events over another's.

In contrast, offences with very high jury conviction rates appear to be offences where compelling physical evidence is likely to exist to prove in law that the offence was committed. As a result they leave the jury with less opportunity to accept an alternate explanation of events. Death by dangerous driving only requires the jury to accept that a defendant's driving was "a" (not "the") cause of death and the driving was dangerous. For possession of illegal drugs with intent to supply, the jury will almost certainly be presented with clear evidence of possession, and intent to supply can be proved either by direct evidence (surveillance, eye witness) or inferred (drug quantity inconsistent with personal use, drugs prepared for sale).

KEY FINDING:

- **Juries appear to try cases on the evidence and the law. Offences where the strongest direct evidence is likely to exist against a defendant appear to have the highest conviction rates. Cases where juries must be sure of the state of mind of a defendant or complainant appear to have the lowest jury conviction rates.**

Misconceptions about juries and rape cases

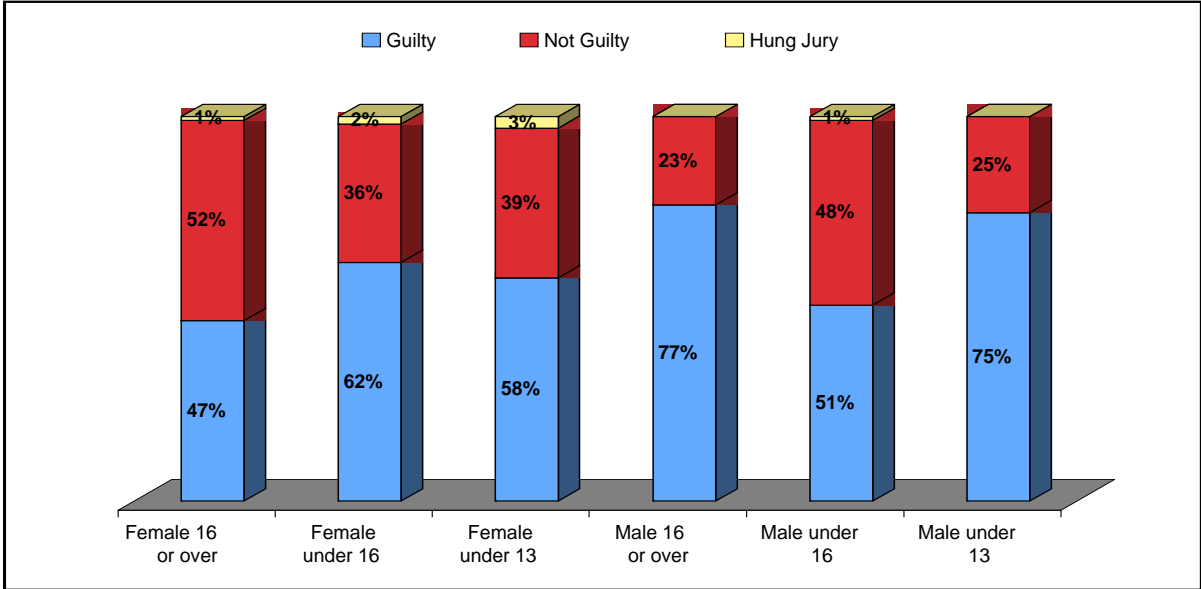
Some findings run counter to common perceptions about jury conviction rates. The sexual offence of rape is widely perceived and claimed to have a very low jury conviction rate (Temkin & Krahe, 2008). However, this study shows that rape does not in fact have one of the lowest jury conviction rates. Juries convict defendants more often than they acquit in all rape cases (55% conviction rate). Most jury verdicts for rape involve female complainants, and juries convict 54% of the time here. Other serious offences such as attempted murder, manslaughter, GBH and threatening to kill have lower jury conviction rates than rape.

These findings differ from figures published by the Home Office (HO) (Kelly *et al.*, 2005), which claimed that where a full rape trial took place an acquittal was more likely than a conviction. However, that claim was based on a very small number of verdicts (181) in a small number of courts. The current findings are based on the most recent data available involving all 4,310 jury verdicts for rape in 2006–08 across all courts in England and Wales.

The most serious criticism of juries in rape cases is that they fail to convict because of jurors' prejudicial attitudes towards female complainants, not because of the difficulty in proving

allegations which hinge on juries believing one person’s version of events over another’s (Temkin & Krahe, 2008). However, an analysis of jury conviction rates in rape cases by both age and gender of the complainant (figure 3.13) raises doubts about a general jury bias against female complainants.

Figure 3.13: Jury conviction rates for rape by complainant age and gender (n=4,310)



Jury conviction rates are not low for some female complainants (62% for females 13 to 15) or some male complainants (77% for 16+ and 75% for under 13), and the lowest jury conviction rates in rape cases involve male complainants (under 16: 51%) as well as female complainants (over 16: 47%). This suggests that a jury’s propensity to convict or acquit in rape cases is not necessarily due to juror attitudes to female complainants. There is no doubt the proportion of rape allegations reported to police that end in conviction is extremely low, but it is also clear that this not due to any widespread jury failure to convict in rape cases.

KEY FINDING:

- **Contrary to popular belief and previous government reports, juries actually convict more often than they acquit in rape cases. Other serious offences (attempted murder, manslaughter, GBH) have lower jury conviction rates than rape.**

Court

The analysis of CREST found that the average jury conviction rate for all courts on all charges combined was 63.7%. Concerns have been expressed in the past and more recently that juries in certain courts hardly ever convict (Hansard, 1982; BBC, 2002), and an analysis

of jury conviction rates by court was conducted to determine if, in fact, this is true. To ensure the reliability of results, analysis was conducted only with courts where at least 1,000 jury verdicts were returned during 2006–08. Court conviction rates ranged from a high of 69% (Teesside) to a low of 53% (Preston).³⁵ This analysis exposes the myth that there are courts where juries hardly ever convict. No court had a higher jury acquittal rate than conviction rate; and the court with a long (but unsubstantiated) reputation for juries that do not convict (Snaresbrook) in fact had an above average jury conviction rate (65%).

Previous research has attributed other court-based differences in criminal cases to “court culture” (Duff & Leverick, 2002). For instance, variations between courts in bail decisions (Hucklesby, 1997) and sentencing (Erez & Rogers, 1999) have been linked to the beliefs and practices shared by personnel working at particular courts. But as juries are formed on an ad hoc basis and are not part of the existing personnel of a court, court culture is not an obvious explanation for court variations in jury conviction rates.

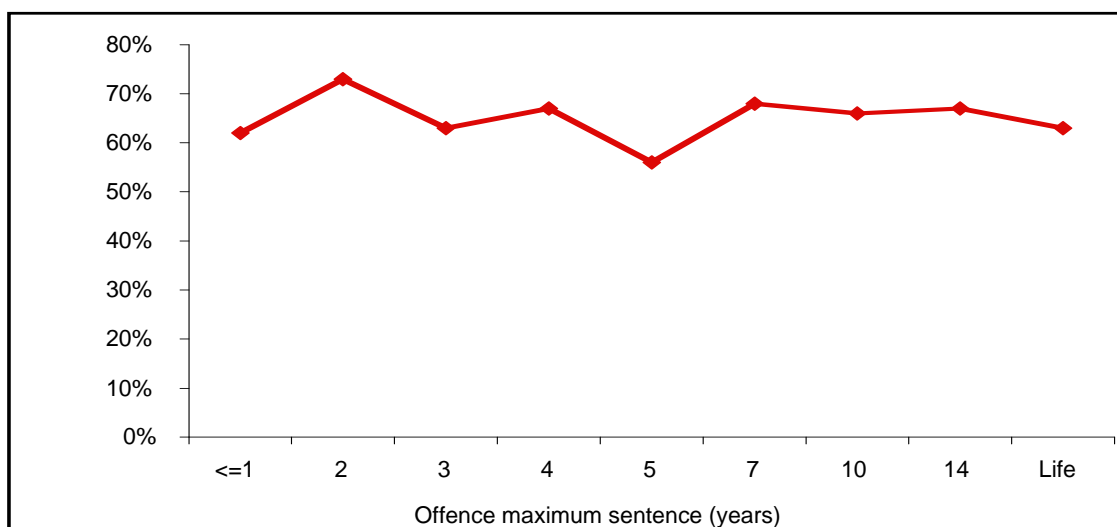
Instead, differences between courts in jury conviction rates could be due to a number of factors. It could be that offences with high conviction rates are presented to juries at certain courts more often than others. Variations in jury conviction rates could also reflect differences in jurors’ conceptions of crime and justice in different communities. Alternatively, differences may reflect variations in the quality of police evidence gathering, prosecution or judicial handling of jury cases in different Crown Courts. It was not within the scope of this study to answer which of these factors provide a clear explanation for the variations in jury conviction rates between courts, and this is an area where further study is recommended.

Severity of offence

The study also examined whether jury conviction rates varied in relation to the severity of the offence. Offence severity was measured by the possible maximum sentence of the offence. An analysis of all jury verdicts where the maximum sentence for the offence was known (98%) found that there were not substantial variations in jury conviction rates based on offence severity, and that conviction rates did not necessarily increase as the severity of the offence increased. As figure 3.14 shows, jury conviction rates were highest for offences that carry a maximum sentence of 2 years (73%) and lowest for offences that carry a maximum sentence of 5 years (56%). Offences that carry the highest maximum sentences had very similar jury conviction rates: 10 years (66%), 14 years (67%) and life (63%).

³⁵ See technical annex 10 for a full breakdown of jury conviction rates by court.

Figure 3.14: Jury conviction rates by severity of offence (n=66,801)



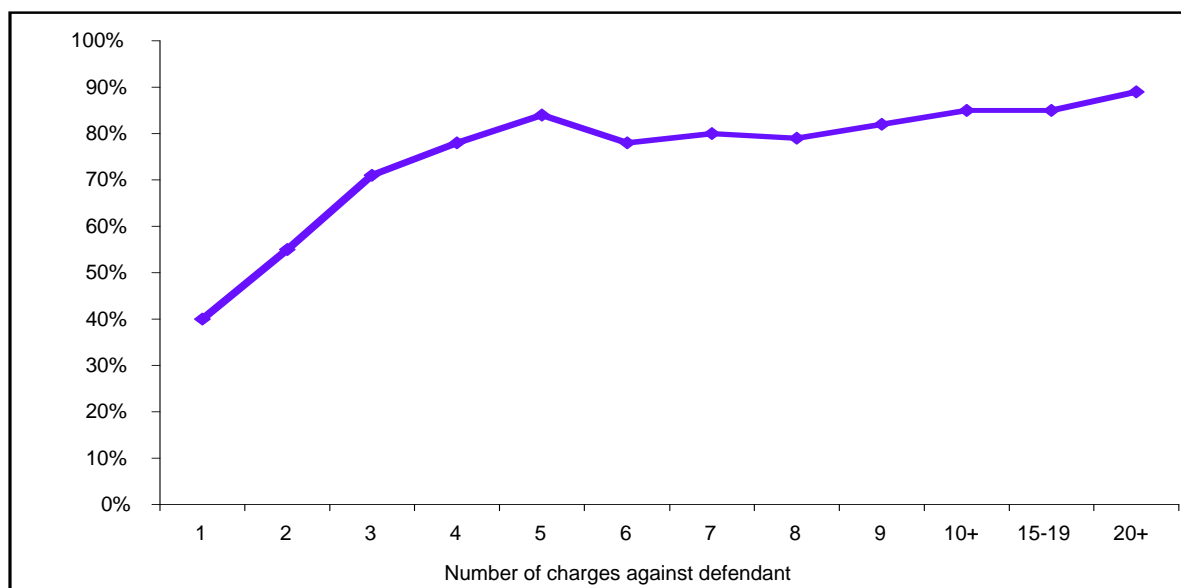
Multiple charges

All of the preceding analysis of CREST was conducted at the charge level because juries reach verdicts on individual charges and the analysis was designed to examine how the nature of the offence was related to jury verdicts. However, almost two-thirds (63%) of the time juries are asked to reach multiple verdicts for a defendant.³⁶ Therefore, in order to examine how the likelihood of a jury returning a guilty verdict against a defendant varied by the number of charges against the defendant, in this instance a defendant-based analysis was conducted. The jury verdict data was first aggregated to the defendant level, and then the number of charges against the defendant was related to whether the jury returned any guilty verdict against the defendant on any of the charges.

As figure 3.15 shows, the likelihood of a jury returning at least one guilty verdict against a defendant increased with the number of charges against the defendant. This increase was particularly marked from one to five charges. Jury conviction rates averaged 40% when a defendant was charged with only one offence but rose sharply to 80% where there were five charges. Beyond five charges the conviction rate does not increase substantially. Juries are also rarely asked to reach more than five verdicts for a single defendant (11% of the time).

³⁶ See technical annex 12 for full breakdown of defendants with multiple charges and jury conviction rates.

Figure 3.15: Jury conviction rate by number of charges (n=22,907)



KEY FINDINGS:

- Differences exist in jury conviction rates between Crown Courts, but it is a myth that juries rarely convict at certain courts. All courts have a jury conviction rate of 53% or higher.
- The reason for variations in jury conviction rates between courts is not known. It may reflect differences in the types of offences presented to juries at different courts, differences in local attitudes to crime and justice, or variations in police, prosecution or judicial handling of cases.
- There were no substantial differences in jury conviction rates based on the severity of the offence (defined by maximum sentence).
- Two-thirds of all juries are presented with more than one charge on which to reach a verdict. The likelihood of a jury returning any guilty verdict against a defendant increased with the number of charges against a defendant.

3.3 Juror comprehension

Judicial directions on the law

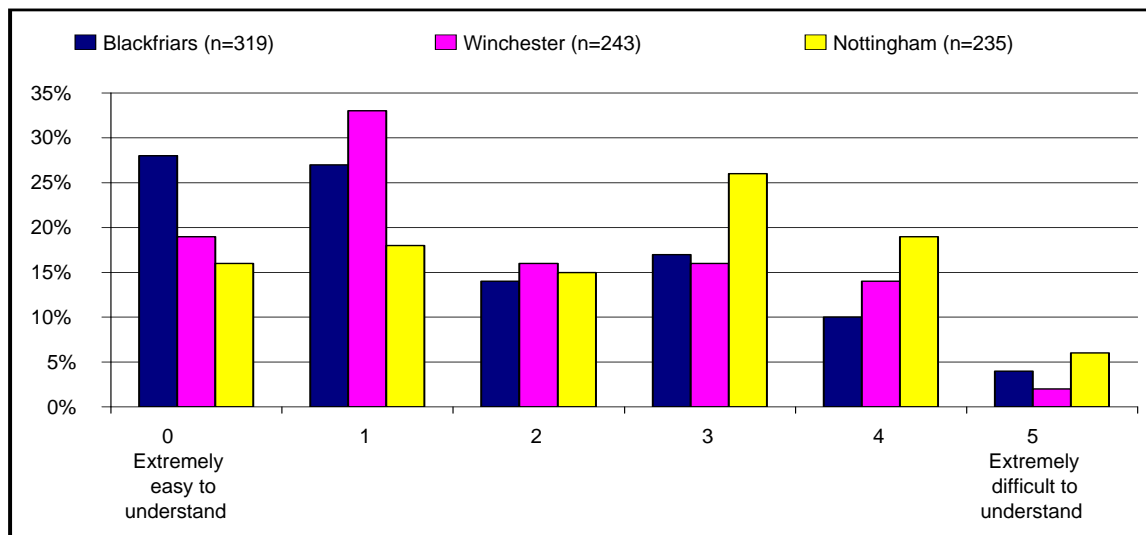
There is no empirical research in this country on the extent to which jurors understand directions on the law delivered by the judge at the end of the trial. Both the current and most recent Lord Chief Justices have recently raised the issue of the best approach to directing juries to ensure understanding (Judge, 2008; Phillips, 2007). During the case simulation, the research explored this issue in relation to the judge's direction on self-defence by examining:

- jurors' perception of their ability to understand the judge's legal directions;

- jurors' actual comprehension of the judge's legal directions; and
- whether juror comprehension is improved by a written summary of legal directions.

All jurors who took part in the case simulation studies at Nottingham, Winchester and Blackfriars (797 jurors) were asked to indicate (on a scale of 0 to 5) how easy or difficult they felt it was to understand the judge's oral directions on ABH and self-defence. All jurors heard the exact same instructions. But as figure 3.16 shows there was not a consistent view among jurors at all courts about their ability to understand the judicial directions. Most jurors at Blackfriars and Winchester (69% and 68%) felt they were able to understand the directions (scoring 0–2), while most jurors at Nottingham (51%) felt the directions were difficult to understand (3–5). There were no major differences in juror gender, age, employment or profession in these three different groups of jurors that might account for these differences.

Figure 3.16: Jurors' self-reported understanding of judge's directions



The study at Winchester was the last case simulation conducted. As the results from Blackfriars and Nottingham showed differences in juror perceptions of comprehension, the research at Winchester explored juror comprehension in more detail. All the jurors who took part in the study at Winchester were also asked to identify the two questions the judge explicitly directed them to answer to determine if the defendant had acted in self-defence (did the defendant believe it was necessary to defend himself and did he use reasonable force?). This provided an objective measure of how well jurors actually understood the directions on the law. Only 31% of jurors accurately identified both questions. A further 48% correctly identified one of the two questions,³⁷ and 20% did not correctly identify either question.

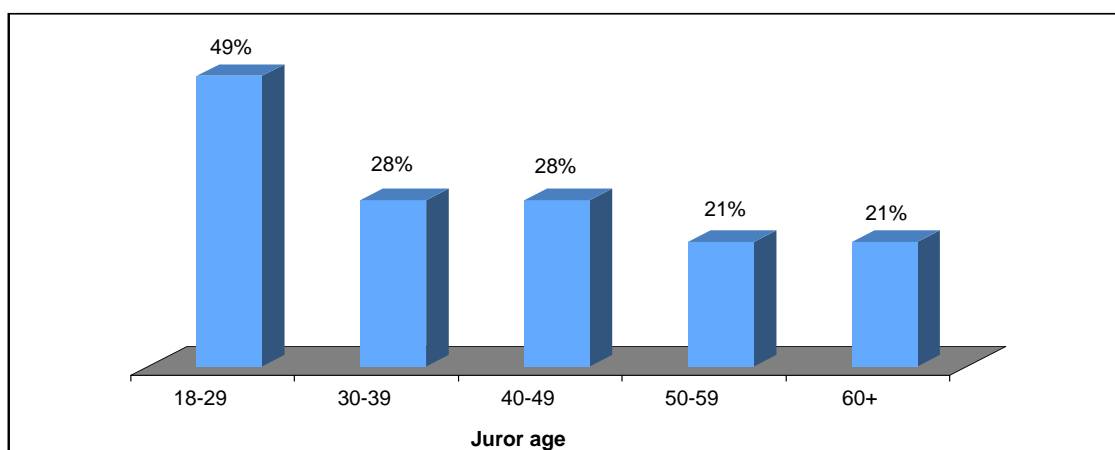
³⁷ Among jurors who identified 1 of the 2 legal questions, more jurors (29%) identified the second question (did the defendant use reasonable force?) than the first (did the defendant believe he had to defend himself?) 20%.

So while over half of the jurors at Winchester (68%) perceived the judge's directions as easy to understand, only a minority fully understood the directions in terms used by the judge.

It is important to point out that the other question options presented to jurors in this exercise were reasonable questions for jurors to consider in reaching a verdict (eg, did the victim push the defendant first, did the defendant run away because he saw the police, did the victim lie in the witness box, was the victim drunk when the defendant punched him?). But they were not the specific legal questions presented by the judge. Among jurors who did not correctly identify both legal questions, the question chosen most often (17%) was "did the victim push the defendant first before he was punched?". This question has a logical connection to the correct legal question "did the defendant believe it was necessary to defend himself?". So the findings should not be seen as suggesting that jurors had no understanding of the issues in the case, just that jurors did not necessarily see the issues in the legal terms presented to them in the judge's directions. In 20 of the 21 juries at least one juror on the jury correctly identified both legal questions, and on average four jurors per jury correctly identified both questions. The study did not examine how juror understanding of the legal questions affected deliberations, but no relationship was found between jury verdicts and the number of jurors on the jury who correctly identified the two legal questions.

The Lord Chief Justice recently expressed concern that the younger "internet generation" may find the oral presentation of information in jury trials unfamiliar and this may ultimately have a negative impact on jurors' ability to follow information presented orally at trial (Judge, 2008). The study found, in fact, that younger jurors at Winchester had the highest level of understanding of the oral instructions on the law (figure 3.17). This is perhaps not surprising, as studies of memory and recall of oral information show that younger people are best able to recall oral information even when presented over relatively short periods of time (Craik & McDowd, 1987; Duchek, 1984). Young jurors are also most likely to have recent experience of formal education, where oral learning is routine.

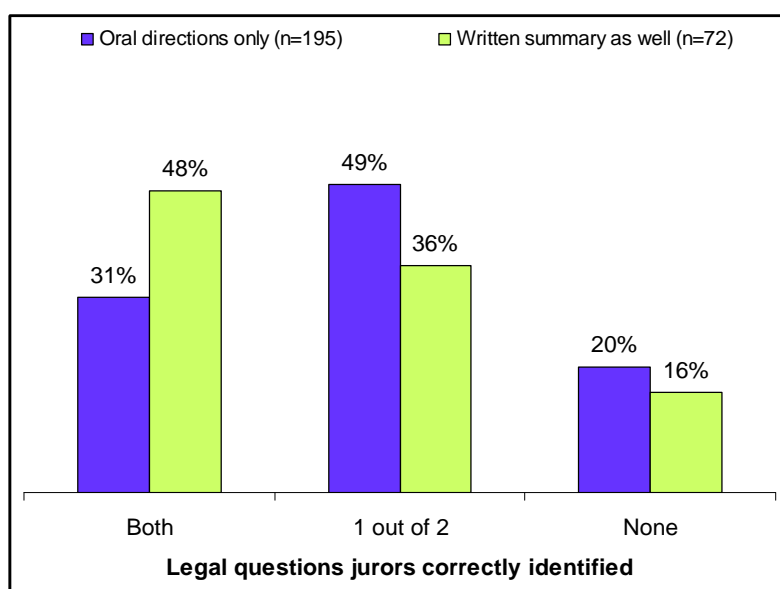
Figure 3.17: Age groups who fully understood oral instructions on the law (n=195)



Written directions on the law

A random selection of juries in the case simulation at Winchester (6 out of 23 juries)³⁸ was also provided with a one-page written summary of the judge's legal instructions. The summary was taken directly from the judge's verbal directions on ABH and self-defence and was distributed to each juror at the start of the judge's legal directions. There was no other difference in the case presented to these juries except the provision of this one-page *aide memoire*. More jurors who received the written summary (48%) than those who only heard oral instructions (31%) were able to correctly identify the two specific questions the judge said needed to be answered in order to find the defendant guilty or not guilty (figure 3.18).

Figure 3.18: Juror comprehension with oral and written directions



³⁸ Two additional case simulations were run at Winchester to test the impact of written instructions, making a total of 23 juries in the sample.

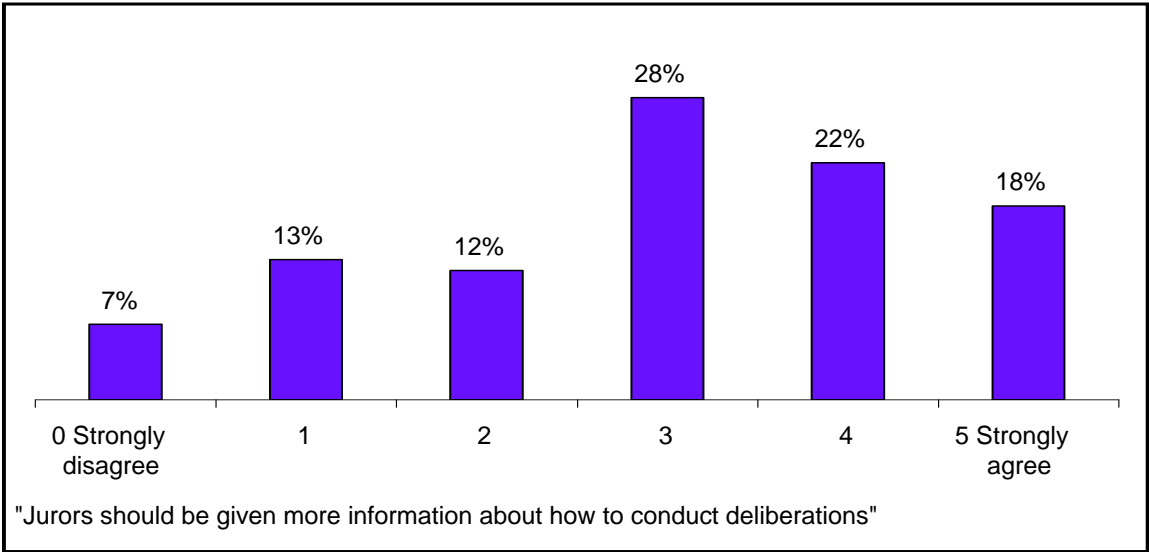
When given a written summary during oral directions, there was also a closer relationship between jurors' perception of their understanding of the legal directions and their actual understanding. When jurors had written directions, 60% of those who said the directions were extremely easy to understand correctly identified both legal questions; when jurors only received oral directions only 34% of those who said the directions were extremely easy to understand correctly identified both legal questions.

Jury deliberations and impropriety

Following the *Mirza* ruling in 2004, new Practice Directions were issued to judges to ensure that jurors raise concerns about improper jury behaviour before a verdict is returned. All jurors included in this part of the study at Winchester had served on a trial and would therefore have been instructed by a judge on impropriety. They had received the instructions recently (within days of the survey). All these jurors were asked to express a level of agreement or disagreement with several statements about juror conduct and deliberations.

When asked about whether they would know what to do if something improper occurred during jury deliberations, almost half of the jurors (48%) said they either would not know what to do or were uncertain. The study also explored how these jurors felt about the information currently given to jurors about jury deliberations and the prohibitions imposed on discussing what occurs in deliberations. Jurors clearly support the current secrecy rule for jury deliberations. When asked if it was correct that jurors should not be allowed to speak about what happens in the deliberating room, a large majority (82%) agreed, with half strongly agreeing (selecting number 5 on a 0 to 5 scale). But most of these jurors (67%) also felt jurors should be given more information about how to conduct deliberations (figure 3.19).

Figure 3.19: Jurors' view of need for information about deliberations (n=196)



While these findings present some insight into the current jury process, this research formed only one part of a larger study of jury decision-making and was therefore necessarily a limited exploration of these issues. For instance, the juror comprehension study did not examine whether other methods of presenting legal directions might increase juror understanding even further, or why written instructions improve comprehension. In examining jury impropriety it would be helpful to know what jurors understand improper juror behaviour to be, what they would do if it occurred, how comfortable they would feel reporting improper behaviour, and when they believed it was possible to report it. And while it is interesting to know that jurors would like more information about how to conduct deliberations, it would be useful to know why and what type of information they feel they need. All these issues can easily be addressed through a similar juror survey.

KEY FINDINGS:

- **Most jurors thought the judge's legal instructions were easy to understand, but a majority in fact did not completely understand them in the terms used by the judge in his instructions.**
- **A written summary of the legal directions given to jurors during the judge's oral directions improved juror comprehension of the law.**
- **Younger jurors had the highest level of comprehension of legal directions.**
- **Almost half of all jurors did not feel they would know what to do about improper jury conduct.**
- **A majority of jurors wanted more information about how to conduct deliberations.**
- **Almost all jurors supported the existing rule requiring jury deliberations to remain secret.**

3.4 Media reporting and internet use

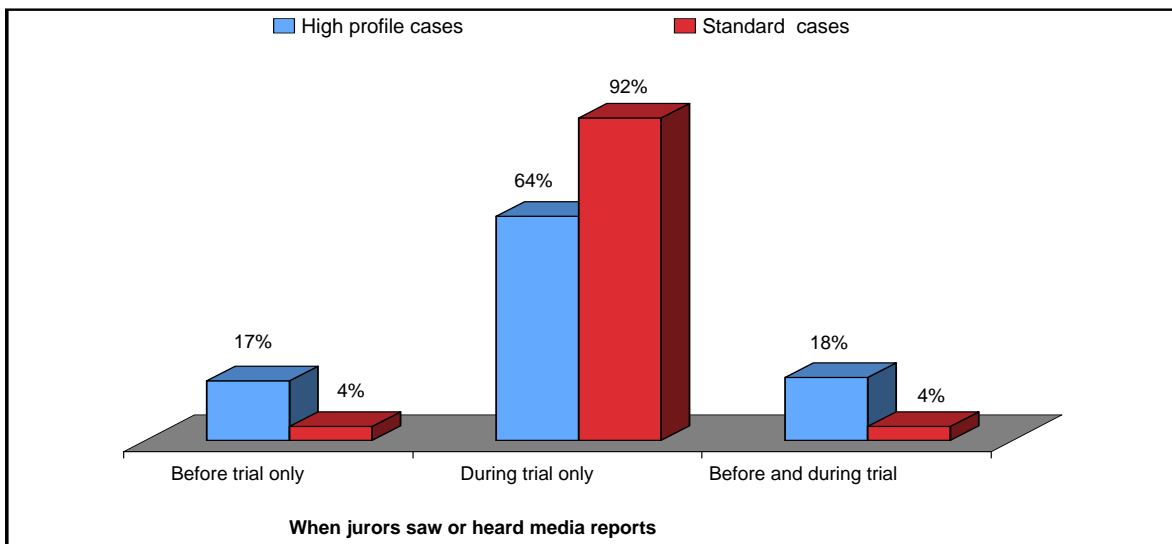
Concerns about the effect of media coverage on jury trials are frequently raised, and juror use of the internet has recently resulted in a number of mistrials. As part of the wider study of jury fairness, the research included an initial exploration of jurors' recollections of media coverage of their cases as well as jurors' use of the internet during trial.

A survey was conducted with 668 jurors who served on 62 trials at courts in three different locations: London, Nottingham and Winchester. All jurors that took part had served on a trial. The study intentionally included standard cases (those lasting less than two weeks with little media coverage) and longer, high profile cases (those lasting two weeks or more with

substantial pre-trial and in-trial media coverage). Perhaps unsurprisingly, jurors serving on longer, high profile cases were almost seven times more likely (70%) to recall media coverage of their case than jurors serving on standard cases (11%).

In assessing whether media reports create a substantial risk of serious prejudice to a case (strict liability contempt), there is a legal presumption that a “fade factor” exists. This is the belief that the further away media reports are from the trial, the less likely they are to create a substantial risk of serious prejudice because they are more likely to have faded from jurors’ memories. The study found that most jurors recalled seeing or hearing media reports of their case during the time their trial was going on, not before they served on the jury (figure 3.20).

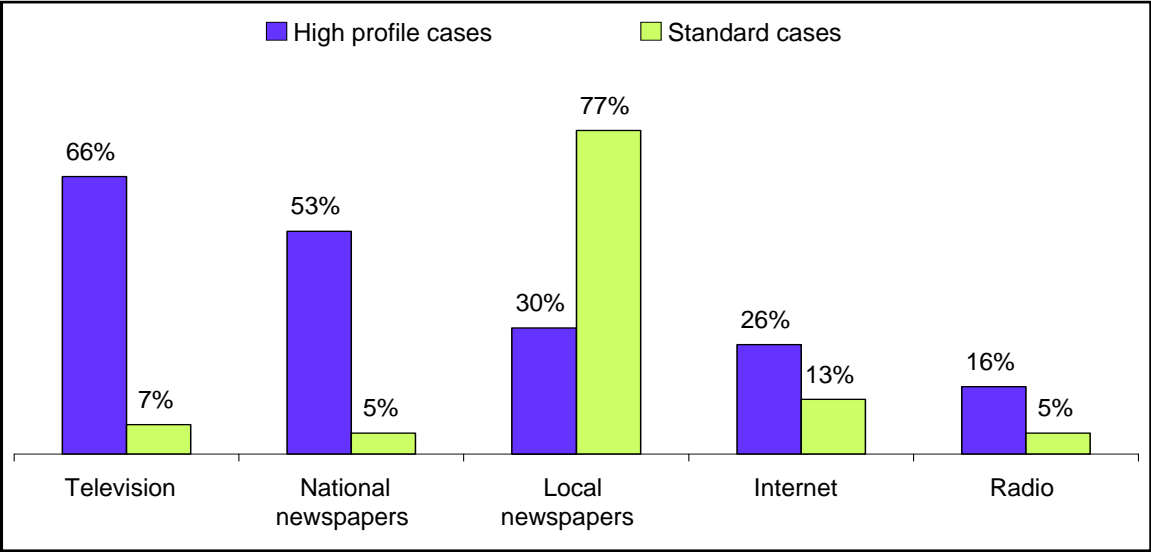
Figure 3.20: Juror recall of pre-trial and in-trial media coverage (n=157)



An assessment of the level of pre-trial and in-trial media coverage of all cases was also conducted. In almost all of the high profile cases there was at least as much pre-trial media coverage as in-trial coverage of the case. So jurors were not simply aware of more media coverage during trial because there was more. This provides the first empirical evidence in this country that the “fade factor” is a legitimate presumption in jury trials. But in high profile cases there clearly was some recall of pre-trial media reports. Over a third (35%) of jurors on these cases recalled pre-trial reports (17% only recalled pre-trial reports, while 18% recalled both pre-trial and in-trial reports). In high profile cases, 50% of jurors said they saw or heard a small amount of coverage, 39% a moderate amount and 11% a large amount.

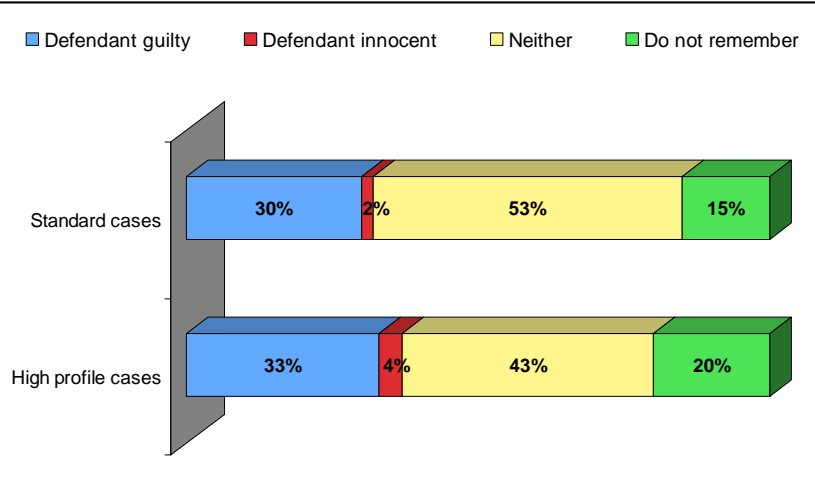
Jurors in high profile cases recalled media reports of their cases from a range of media outlets, with television (66%) and national newspapers (53%) the two main sources. This contrasts with jurors serving on standard cases, where local newspaper reports accounted for almost all (77%) the coverage jurors recalled (figure 3.21).

Figure 3.21: Where jurors saw or heard media reports (n=265)



In both high profile and standard cases most jurors did not recall the media coverage having any particular emphasis (figure 3.22).

Figure 3.22: Emphasis jurors recalled in media coverage (n=163)



Where jurors did recall some emphasis, almost all remembered the coverage suggesting that the defendant was guilty. In high profile cases, 20% of jurors who recalled media reports of their case said they found it difficult to put these reports out of their mind while serving as a juror. Interestingly, however, less than half of these jurors (43%) could identify any particular emphasis in these reports; among those that did almost all (89%) remembered the coverage suggesting the defendant was guilty.

Juror use of the internet

Jurors are directed by the judge at the start of a trial not to look for any information about the case themselves. In this study, jurors on both high profile and standard cases were asked if they looked for any information about their case while it was going on and if so where they looked. All jurors who took part in the study were guaranteed anonymity, but it should be borne in mind that they were being asked to admit to doing something they may have remembered being told not to do by the judge. As a result the following figures may reflect the minimum numbers of jurors who looked for information on the internet during cases.

All jurors who said they looked for information about their case said they looked on the internet. On standard cases, 5% of all jurors said they looked for information about their case while it was going on, but almost three times as many jurors serving on high profile cases (12%) admitted doing so. And as figure 3.23 shows, in both types of cases a much higher proportion of jurors said they saw media reports of their case on the internet during the trial compared to those who admitted looking for information about the case on the internet.

Figure 3.23: Juror use of internet during trial (n=643)



It might be expected that younger jurors would be more likely to look for information on the internet, but this is not borne out by the research. Most jurors who said they looked for information on the internet (68%) were over 30 years of age, and a higher percentage (81%) of jurors on high profile cases who looked for information on the internet were over 30.³⁹

³⁹ In high profile cases, 76% of all jurors were over 30.

As part of a wider study of jury decision-making, this research could only provide an initial look at jurors and media coverage of cases. The findings point to a number of questions that should be explored further. The findings on media reporting in general show that in reality most cases tried by most juries (standard cases) will not have any substantial media coverage. But in high profile cases almost three-quarters of all jurors will be aware of some media coverage of their case. It would be helpful to know how jurors perceive coverage of high profile cases and what particular types of media coverage jurors find difficult to put out of their minds. And while it is true that the fade factor exists for most jurors in high profile cases, a third of jurors on these cases did recall some pre-trial coverage. It would be useful to know the nature of pre-trial coverage jurors are most likely to recall.

The findings on juror use of the internet also raise a number of important questions. First of all, did jurors realise they were not suppose to use the internet? Secondly, how did jurors use the internet?: did they simply “Google” the defendant or did they look for information on the law or evidence presented in the trial, did they look for information about other participants (legal counsel, judge, witnesses) or use social networking sites to discuss the case? Similar concerns over juror use of the internet exist in other jurisdictions (Brickman *et al.*, 2008) and indicate that the issue is one of growing importance and complexity.

KEY FINDINGS:

- **The fade factor exists. Most jurors that recalled media coverage of their case recalled coverage published during, not before, the trial. But a third of jurors on high profile cases recalled some pre-trial coverage.**
- **Most jurors who recalled media coverage did not recall any emphasis in the coverage. A fifth of jurors on high profile cases said it was difficult to put the media coverage out of their minds.**
- **More jurors said they saw information on the internet during the trial than admitted looking for information on the internet during the trial.**
- **More jurors on high profile cases admitted to looking for information about their case on the internet during trial than jurors in standard cases.**
- **Most jurors who looked for information on the internet during trial were over 30.**

4. Implications

The research findings have implications for a wide range of groups including: MoJ, Office for Criminal Justice Reform (OCJR), HMCS, the judiciary, Home Office (HO), CPS, Judicial Studies Board, local criminal justice boards, Criminal Cases Review Commission, police and the media. The implications are presented here in order of the reported results.

Juries and racial discrimination

The case simulation study at Nottingham and Winchester looked specifically at the question: Do all-White juries discriminate against BME defendants? It found that all-White jury verdicts do not discriminate against BME defendants. In an identical trial in which the race of the defendant was altered, 41 juries at Nottingham and Winchester did not convict the Black or Asian defendant any more often than the White defendant. This finding was supported by additional findings on juror decision-making, which showed that White jurors on all-White juries had the same general pattern of decision-making towards White, Black and Asian defendants as White jurors serving on racially mixed juries. The study also found that jurors in general (both White and BME jurors) do not racially stereotype defendants.

The finding that all-White juries do not discriminate is an extremely important conclusion, which is highly reliable. The research was conducted under controlled conditions with real jurors. The findings were also supported by an analysis of actual jury verdicts at all Crown Courts in 2006–08, which showed no significant differences in jury verdicts for White, Black and Asian defendants. This analysis also found that all-White juries did not acquit White defendants charged with racial offences more often than racially mixed juries. In finding that all-White juries drawn from different communities did not discriminate against BME defendants or victims, the research should lay to rest any lingering concerns that racially balanced juries are needed to ensure fairness in trials of BME defendants or racial offences. Both the Auld Review and the Runciman Commission recommended the use of racially balanced juries in such cases, but acknowledged that they did so in the absence of reliable research on the impact of race on jury decision-making in this country.

Disproportionality in jury trials

MoJ, OCJR and local criminal justice boards all have a duty to address any evidence of race disproportionality in the criminal justice system. It is already known that members of BME groups are disproportionately more likely to be stopped, searched, arrested, charged and in prison than their White counterparts. This study showed that, BME defendants are disproportionately more likely to face a jury verdict in the Crown Court. However, despite this

disproportionality, jury verdicts showed remarkably small differences for BME and White defendants: White and Asian defendants had a 63% conviction rate, Black defendants 67%. In the overall picture of disproportionality, this indicates that one stage in the criminal justice system where BME groups do not face persistent disproportionality is in the hands of a jury.

Appearance of jury fairness

The appearance of fairness in the jury system is also important for confidence in the criminal justice system. Even if the evidence shows that all-White juries do not discriminate against BME defendants or BME victims, this study found that at every Crown Court in England and Wales the proportion of BME defendants being tried is greater than the proportion of BME groups in the local population and serving as jurors at court. It is likely, therefore, that concerns may still be raised about the racial imbalance in jury trials. To address these concerns, HMCS should ensure that court users (defendants, victims, witnesses, legal counsel and jurors themselves) at all courts understand why all-White juries may be trying BME defendants (or White defendants in racially motivated crimes). This can be done by providing information about how representative jury pools are of the local population.

Consistency of jury verdicts

MoJ, OCJR and local criminal justice boards also have a duty to increase public confidence in the fairness and effectiveness of the criminal justice system. This study's large-scale analysis of jury verdicts (CREST) suggests that juries overall are efficient and effective. Once juries are sworn they are rarely discharged (less than 1% of all sworn juries), and they deliberate on 89% of all charges initially put to them. Once juries deliberate they reach a verdict on virtually all charges. Hung juries occur on only 0.6% of all charges where juries deliberate; and even when a hung jury occurs, in most cases these are juries that have reached verdicts on at least some charges put to them.

Where juries deliberate, they convict on almost two-thirds (64%) of all charges. Jury conviction rates vary substantially depending on the offence charged, and these differences suggest that juries try defendants on the evidence and the law. In order to convict, juries must be sure of the defendant's guilt based on the evidence presented and the legal standard required to prove guilt. Offences where the strongest direct evidence is likely to exist against a defendant appear to have the highest conviction rates (making indecent photographs of a child, drug possession with intent to supply, death by dangerous driving). Offences where juries must be sure of the state of mind of a defendant or complainant to convict appear to have the lowest conviction rates (threatening to kill, attempted murder).

Some findings contradict common perceptions about jury conviction rates. Contrary to popular belief and previous official reports, juries convict more often than they acquit in rape cases (55% conviction rate). Other serious offences (attempted murder, manslaughter, GBH) have lower jury conviction rates than rape. Previous HO reports, which claimed that jury acquittals were more common than convictions, were based on less reliable data than the current study. Rape conviction rates by juries vary according to the gender and age of the complainant. Jury conviction rates are high for some female complainants and low for some male complainants, and these findings challenge the view that rape conviction rates are low due to juror bias against female complainants. And while there is no doubt that the proportion of rape complaints to police that end in conviction is extremely low, it is also clear that this cannot be attributed to juries' failure to convict in rape cases.

Variations in jury conviction rates by court exist. Court culture is not an obvious explanation for these differences because juries are ad hoc groups not intrinsically part of any common approach to cases by court staff. But differences in jury conviction rates could be due to variations in police evidence gathering or prosecution or judicial handling of jury trials. Alternatively, variations in conviction rates by court could be due to differences in the types of offences presented to juries at different courts. Or variations may reflect differences in public attitudes to crime and justice in different communities. The underlying reasons for any substantial variations in jury conviction rates between Crown Courts should be examined further. However, one thing is clear: there are not Crown Courts where juries rarely convict. All courts had a jury conviction rate of 53% or higher, and one court long accused of having "easy juries" (Snaresbrook) in fact has an above average conviction rate.

Data collection and reporting of jury trials

Previously published Crown Court conviction rates indicated that White defendants have higher conviction rates than Black or Asian defendants, and this differs from the study's findings. However, government conviction rates do not distinguish between guilty outcomes that were decided by a jury and those that occurred by other means (ie, defendants who pleaded guilty). This study has shown that White defendants plead guilty consistently more often than BME defendants, accounting for the higher conviction rate in government statistics. In reporting conviction rates in the Crown Courts in future it would be helpful if it is explained that these conviction rates do not distinguish between verdicts reached by jury deliberation and case outcomes arrived at by other means.

General government statistics on Crown Court conviction rates (eg, Marais, 2008) make clear how multiple offences are taken into consideration in calculating overall conviction rates. However, it is not clear whether government Section 95 statistics on race and court

conviction rates (eg, Jones & Singer, 2008) use the same method, and clarification in future reports would be helpful to aid understanding of these statistics.

There is also inconsistent data collection for majority verdicts. Majority verdicts (and the ratio of guilty to not guilty votes) are only recorded when a jury returns a majority guilty verdict. This prevented a more complete analysis of where juries have the most difficulty reaching a verdict, and whether any particular case factors are related to these outcomes. It is recommended that all majority jury verdicts (guilty and not guilty) be recorded in future.

Juror comprehension

Under controlled conditions, the research was able to explore a number of specific questions about juror comprehension of legal instructions:

- Did jurors feel they understood the judge's legal directions?
- Did they actually understand the legal directions?
- Can written legal instructions improve juror comprehension of the law?

Most jurors believed they understood the judge's direction on the law. However, a substantial proportion of these jurors in fact did not fully understand the directions in the legal terms used by the judge. A written summary of legal directions improved juror comprehension of the law. This indicates that the Lord Chief Justice's concern about oral presentation of cases in general is well founded (although it is not younger jurors that have particular difficulty with oral instructions). It also suggests that recommendations by the Auld Review for altering the way judges' direct juries have substantive value and should be explored further. Some judges already provide jurors with written legal directions in some cases. But there is no information about when and how often this occurs or its effectiveness.

There is no reason for judicial instructions to be overly complex, and it must be the responsibility of the criminal justice system to determine how best to ensure that jurors fully understand the law that needs to be applied in all cases. Such understanding is crucial to ensure that miscarriages of justice do not occur as a result of jury misunderstanding of legal instructions. The study did not examine juror comprehension of complex or specialist evidence, but these are also current issues of concern (Law Commission, 2009). This study indicates that a better understanding is needed of how to ensure juror comprehension in general. It is recommended that as a matter of priority more detailed research is carried out to identify the most effective means of increasing juror comprehension both of the law and evidence.

Jury impropriety

A survey was conducted with jurors who had served on a trial and should therefore have been directed by a judge on improper jury conduct. It asked:

- Do jurors feel they would know what to do if something improper occurred on a jury?
- Do jurors want more information about how to conduct deliberations?
- Do jurors feel current restrictions on speaking about deliberations are correct?

This research highlighted some potential problem areas for jurors. A substantial proportion of jurors said they would not know or were uncertain what to do if something improper occurred while serving on the jury. Most jurors said they would like more information on how to conduct deliberations. But most jurors also felt strongly that they should not be allowed to discuss what is said in the deliberating room.

The question of whether jurors understand the fact that they must bring any concerns to the court's attention (and only the court's attention) before a verdict is returned is crucial on a number of grounds. First, it is vital in terms of ensuring that no miscarriages of justice occur as a result of the jury process that becomes difficult if not impossible to examine later. And second, it is important so that jurors avoid committing contempt. Jurors' understanding of the impropriety rule and their desire for more information about conducting deliberations should be investigated further to determine the most effective ways of addressing these concerns.

Media reporting of jury trials and juror use of the internet

A survey was conducted with jurors on both standard and high profile cases asking:

- Did jurors recall media coverage of their case? If so what, where, when and how much did they recall?
- Did jurors look for information on the internet about their cases during the trial?

Where jurors recalled media coverage, most recalled reports published during, not before, trial. This validates the legal presumption that a "fade factor" exists with media reporting of jury trials. But jurors on high profile cases were more likely to recall pre-trial reports and were also more likely to say they found media reports of their case difficult to put out of their mind.

Jurors in high profile cases were also more likely to look for information on the internet about their case than jurors on standard cases. But it should not be assumed that jurors' use of the internet only affects high profile cases. It should also not be assumed that jurors who look for information on the internet about their cases are primarily younger jurors. The overwhelming

majority of jurors who looked for information on the internet were over 30. It should also not be assumed that all jurors who looked for information on the internet were wilfully disregarding judicial instructions. As the study's findings on jurors' understanding of impropriety instructions showed, it may well be possible that some jurors did not clearly understand either the judicial instruction or the reasons for it.

Jurors' use of the internet is an issue of growing importance. It has recently led to mistrials in a number of cases here and has clear implications for fair trials. The judiciary should consider a new fuller instruction to jurors with a concrete example of why jurors should not look for information about their case on the internet. Even though there is higher exposure to media reports and use of the internet in high profile cases, the judiciary should consider giving a revised direction on media coverage and internet use in all cases. Both directions could be incorporated into judicial directions to accompany the proposed written guidelines for serving jurors (see below).

Written juror guidelines

The jury system imposes a duty on citizens to participate in the criminal justice system and to decide the most serious criminal cases in this country. It is therefore incumbent on the system to ensure that jurors are provided with the most effective tools to carry out that responsibility. The findings on jurors' comprehension of the law, impropriety and jurors' views about deliberations suggest that serious efforts should now be made to identify the most effective means of ensuring that jurors fully understand the process.

HMCS and the judiciary should consider issuing all jurors serving on a trial with written guidelines outlining their responsibilities as soon as they are sworn. The judge should review these guidelines with jurors at this stage. The guidelines should be clear and concise.

- They could be provided to each juror on a single card, which jurors would be required to keep with them throughout the trial.
- The card would inform jurors of the requirements of being a juror, including the prohibition on internet use and disclosure of information about jury deliberations.
- It would acknowledge the value of the juror's role and clearly explain what to do about improper behaviour, including when and how to report it.

Issuing written guidelines to each individual juror and reviewing them with the jury at the outset of the trial would provide a stronger guarantee that all jurors were both told and understood the rules for serving on a jury.

5. Further research

This study demonstrates the large scope of jury research that can be conducted in this country within the restrictions of Section 8 of the Contempt of Court Act 1981. It also highlights the importance of not relying on findings from research in other jurisdictions, which may be misleading for understanding juries here. Despite the scale of the findings in this study, some specific further research into jury decision-making is recommended for two reasons. In some instances, the findings of this research have raised new questions about the fairness of the jury system that need to be explored. In other instances, limitations in the current research meant certain issues could not be examined in more detail in this study. The research outlined below should be conducted only with actual jurors at court and in close cooperation and consultation with HMCS and the judiciary. Section 8 of the Contempt of Court Act 1981 presents no obstacle to any of the further research recommended here.

Court differences in jury conviction rates

- An attitude survey of serving jurors should be undertaken at a sample of Crown Courts where the jury conviction rate is substantially above and below the norm. This would be designed to determine if differences in conceptions of crime and justice among jurors in different communities explains differences in jury conviction rates at different courts.
- A more detailed analysis of offences decided by jury verdicts in individual courts should also be undertaken to determine if this can account for variations in jury conviction rates.
- If no differences in jurors' attitudes or offences decided by juries in individual courts are found, then this will indicate that the explanation is likely to lie with police evidence gathering or prosecution or judicial handling of cases.

Juror comprehension of legal instructions and evidence

- Case simulation research should be undertaken to determine the most effective tools to improve jurors' comprehension of legal rules and application of the law.
- Surveys of Crown Court judges should be conducted to establish the extent to which judges already provide written instructions to jurors (which cases?, how often?, court or regional differences?).
- Surveys or interviews with members of the legal profession should be undertaken to explore the possible implications of introducing written directions in all jury trials.
- Case simulation research should also examine whether tools to improve juror comprehension of legal directions can also aid juror comprehension of evidence.

Jury impropriety

- Additional juror surveys should be carried out to pinpoint the extent of jurors' misunderstanding of the impropriety rule and to assess what jurors currently perceive of as improper behaviour.
- Case simulation research should then be carried out to determine the most effective tools and procedures that can be introduced to improve jurors' understanding of when and how to report impropriety.

Media reporting

- Further post-trial surveys with jurors on high profile cases should be conducted to establish more precisely what types of media reports were most difficult for jurors to put out of their minds, and the nature of pre-trial media reports they recall.
- Further post-trial surveys with jurors on both standard and high profile cases should be conducted to establish more precisely the ways in which jurors use the internet during trials. Is it primarily to look for information about the defendant or do they look for more general background information about the case, information about other participants in the case, or do jurors discuss cases on social-networking sites?
- Case simulation research should be carried out to assess the most effective form of judicial instructions to jurors on why it is important not to look for information about cases.

Written juror guidelines

Piloting of written juror guideline cards should be carried out in a representative sample of courts to determine how to introduce them most effectively.

- This would involve examining what form of guidelines is most comprehensible to sworn jurors and ensures that jurors take the guidelines seriously.
- It would also examine the most effective form of judicial instructions to accompany these guidelines.

The case for further research is especially strong in relation to juror comprehension of judicial instructions, including directions on the law, impropriety and internet use. It is incumbent on those responsible for the criminal justice system to ensure that jurors are fully equipped to fulfil this crucial role, and further empirical research with jurors at court can help achieve this.

6. Additional resources

Judicial and Court Statistics 2007 (MoJ, 2008) tables 6.8, 6.9 and 7.2 indicate that in 2007 over 1.73 million defendants were proceeded against in magistrates' and Crown Courts. Of these 28,391 were potential jury trials in the Crown Courts where the defendant pleaded not guilty. Juries appear to have reached a verdict by deliberation in 57% of instances (16,190).

Public attitudes to juries in this country have been explored in a survey by the legal profession (Bar Council, 2002), which found that over 80% of the public trusted a jury to come to the right decision and felt trial by jury is fairer than being tried by a judge. A MORI survey (Thomas, 2007) found that both White and non-White members of the public had equally high levels of confidence in the jury system. Surveys for the Rowntree Foundation in 1999 and 2004 found that the right to trial by jury was top of the British public's list of rights that should be enshrined in a written Bill of Rights (ICM, 2007).

Two studies of juries, although conducted in previous decades, remain important resources. Baldwin and McConville's (1979) study of jury trials at Birmingham Crown Court is an important model of a holistic approach to understanding jury trials, involving not just juries but all participants in the jury trial process. Zander and Henderson's (1992) *Crown Court Study* provides a comprehensive approach to post-verdict surveys of jurors. This study surveyed over 7,000 jurors about their experience of jury service, covering issues such as perception of evidence, legal instructions and jury service more generally.

The Jury Diversity Project (Thomas, 2007) provides the most up to date information on the representative nature of the jury summoning system in England and Wales. It identifies Crown Courts where racially mixed juries will most likely try defendants and those where all-White juries are the norm. It also examined decision-making by racially mixed juries for the first time in this country. The study at Blackfriars Crown Court in London found that BME jurors were significantly less likely to convict a BME defendant than a White defendant. This corresponds to similar findings in America (Sommers & Ellsworth, 2000; Abwender & Hough, 2001). Psychological studies suggest that this "same race leniency" may reflect a greater tendency for non-White jurors to perceive racial inequalities in the criminal justice system (Sellers & Shelton, 2003). Most BME jurors (68%) in the Blackfriars study believed that courts treat BME defendants more harshly than White defendants. Ultimately, however, this same race leniency did not affect the **verdicts** of juries on which these jurors sat.

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Appendix 1: Demographics of jurors and local populations in case simulations at Nottingham and Winchester Crown Courts⁴⁰

	Nottingham Crown Court Jurors no.	Nottingham Crown Court Jurors %	Nottingham Crown Court Catchment area	Winchester Crown Court Jurors no.	Winchester Crown Court Jurors %	Winchester Crown Court Catchment area
Ethnic Group (White):						
White British	231	98.7%	97.5%	242	99.5%	97.1%
White Irish	2	0.9%	0.9%	0	0%	0.8%
White Other	1	0.4%	1.6%	1	0.5%	2%
Total:	234			243		
Gender:						
Male	113	48%		113	47%	
Female	121	52%		129	53%	
Total:	234			242		
Age:						
18–29	39	17%	22%	43	18%	20%
30–59	158	67%	59%	144	59%	62%
60+	37	16%	19%	56	23%	18%
Total:	234			243		
Profession:						
Professional	64	28%	26%	88	38%	
Managerial	27	12%	15%	43	18%	
Clerical	31	14%	14%	35	15%	
Sales or services	30	13%	16%	26	11%	
Supervisor	16	7%	-	6	2%	
Skilled manual	23	10%	14%	19	8%	
Semi-skilled manual	22	10%	15%	12	5%	
Other	14	6%		5	2%	
Total:	227			234		

⁴⁰ For full details of demographics for jurors at the earlier case simulation study at Blackfriars Crown Court and full details of the representative nature of jurors at all Crown Courts see Thomas (2007).

	Nottingham Crown Court Jurors no.	Nottingham Crown Court Jurors %	Nottingham Crown Court Catchment area	Winchester Crown Court Jurors no.	Winchester Crown Court Jurors %	Winchester Crown Court Catchment area
Religion:						
None	75	32%	21%	81	33%	17%
Christian	158	67%	75%	159	65%	81%
Buddhist	1	0.5%	.2%	1	0.4%	.2%
Hindu	0	0%	.5%	0	0%	.4%
Jewish	0	0%	.2%	2	0.8%	.1%
Muslim	0	0%	1.7%	0	0%	.4%
Sikh	0	0%	.6%	0	0%	.3%
Other	1	0.5%	.2%	0	0%	.3%
Total:	235			243		
Employment status:						
Economically active ⁴¹	199	85%	64%	187	77%	72%
Economically inactive ⁴²	35	15%	36%	56	23%	28%
Total:	234			243		
Income:			Average household income*			Average household income*
<£10,000	20	9%		10	4%	
£10,000 – £19,999	44	19%		24	10%	
£20,000 – £34,999	76	33%	£23,300	59	25%	£24,441
£35,000 – £49,999	44	19%		55	23%	
£50,000 – £64,999	28	12%		44	18%	
£65,000+	17	7%		47	20%	
Total:	229			239		

* NUTS2:1 Headline gross disposable household income (GDHI) by NUTS2 area at current basic prices, ONS Regional Household Income, Economic trends 633 August 2006 (results for Derbyshire and Nottinghamshire; Hampshire and Isle of Wight).

⁴¹ Full-time employed, part-time employed and self-employed.

⁴² Retired, student, looking after family, looking for work and any other.

Appendix 2: Case simulation juror decision-making data analysis

Three-level multilevel binary logistic regression models were fitted. Multilevel models were used since the data was hierarchical, with jurors' decisions nested within juries and juries nested within courts (Blackfriars, Winchester or Nottingham). Models were fitted using MLwiN (Rasbash *et al.*, 2004). Multilevel models (Goldstein, 2003) were used in order to correctly model the hierarchical structure of the datasets, acknowledging that jurors' decisions would be likely to cluster within juries and may cluster within courts. Note, that throughout final decision models, a highly significant jury random effect is observed, confirming that decisions tend to cluster within juries after deliberation (post-deliberation). All equations are found in technical annex 2.

A2.1. Does victim or defendant ethnicity have an impact on jurors' decisions?

The three analyses examine the impact of defendant and victim ethnicity on final jurors' decisions (post-deliberation). Section 1.1 uses all data; section 1.2 is restricted to ABH cases only (i.e. simulations without the additional racially-aggravated ABH charge); 1.3 is restricted to White jurors only.

Overall

Model output is shown in equation TA2.1 (technical annex 2), showing parameter estimates and standard errors for each term in the model. Defendant and victim ethnicity had a highly significant impact on jurors' decisions. In particular, White defendants accused of assaulting a BME victim were far more likely than other defendant/victim combinations to be found guilty and significantly more likely than the reference category (White defendant with White victim); testing the White defendant/BME victim term in the model, $\chi^2_1 = 5.40$, $p = 0.020$. In percentage terms (simulated from the model), White defendants would be expected to be found guilty 53% of the time with a BME victim compared to 28% of the time with a White victim. BME defendants would be expected to be found guilty around 27% of the time with a White victim and 31% with a BME victim.

ABH only

This section fits an identical model to equation TA2.1 (technical annex 2) but restricts data to ABH cases only (removing simulations with the additional racially-aggravated ABH charge). This ensures that findings are not simply a function of the additional racially-aggravated charge impacting upon jurors' decisions for the ABH charge. The model is shown in equation TA2.2 (technical annex 2). Findings remain much the same as for the full dataset, with White defendants accused of assaulting a BME victim still significantly more likely to be found guilty. In percentage terms (simulated from the model), White defendants would be expected to be found guilty 56% of the time with a BME victim compared to 29% of the time with a White victim. BME defendants would be expected to be found guilty around 23% of the time with a White victim and 30% of the time with a BME victim.

White jurors only

This section fits an identical model to equations TA2.1 and TA2.2, but restricts data to White jurors only. This ensures that findings are not overly influenced by a relatively small number of BME jurors (from Blackfriars). The model is shown in equation TA2.3 (technical annex 2). Again, findings remain much the same as for the full dataset, with White defendants with BME victims still significantly more likely to be found guilty. In percentage terms (simulated from the model), White defendants would be expected to be found guilty 52% of the time with a BME victim compared to 27% of the time with a White victim. BME defendants would be

expected to be found guilty around 29% of the time with a White victim and 33% of the time with a BME victim.

A2.2. The impact of the racially-aggravated charge on ABH decisions

Some specific defendant/victim ethnicity combinations were removed (i.e. White defendant with White victim, Black defendant with Black victim, Asian defendant with Asian victim) as there was no version of the simulation involving the additional racially-aggravated charge with these ethnicity combinations. The sample size was 532 jurors out of the total of 797 jurors. Overall, as shown in equation TA2.4 (technical annex 2), whether or not the simulation was ABH only ('selected') rather than ABH with an additional racially-aggravated charge had little impact on final decision. Testing the 'ABH only' term, $\chi^2_1 = 0.11$, $p = 0.74$. Equation TA2.5 (technical annex 2) adds a binary defendant ethnicity term and defendant ethnicity by 'ABH charge only' interaction term to the model in equation TA2.4. The model confirms that guilty decisions are more likely for White defendants, but the additional racially-aggravated charge does not appear to have a greater impact on ABH decisions for White defendants compared to BME defendants; testing the interaction term, $\chi^2_1 = 1.17$, $p = 0.28$.

A2.3. The impact of deliberation

Overall

Equation TA2.6 (technical annex 2) uses a simple constant only multilevel model to highlight the impact of deliberation. The model is a multinomial multilevel binary logistic regression model, with two response variables (decision pre and post deliberation). It is a three-level model, with decisions nested within juror, and juror within jury. The constant terms show some difference between first and final decisions, with final decisions slightly less likely to be 'guilty' (in raw percentage terms: 33.6% vs. 38.3% guilty). More importantly however, while there was some evidence of significant clustering of jurors' decisions pre-deliberation (testing the first vote/final vote variance term (0.341); $\chi^2_1 = 7.30$, $p = 0.01$), the effect was far larger post-deliberation: (1.87); $\chi^2_1 = 19.49$, $p < 0.001$. This suggests that deliberation had a highly significant impact on decisions, resulting in highly significant clustering of decisions within juries.

Gender and deliberation

The model in equation TA2.7 (technical annex 2) fits an identical model to equation TA2.6, but adds a gender fixed effect for both first and final decisions. Again, as the covariance matrix shows, clustering was far more significant for final decisions (1.82) compared to first decisions (0.33). For the gender fixed effect, female jurors were significantly more likely than male jurors to reach a guilty decision pre-deliberation; $\chi^2_1 = 4.30$, $p = 0.038$. However, post-deliberation this effect disappears, with female jurors' and male jurors' decisions very similar; $\chi^2_1 = 0.018$, $p = 0.89$. It appears that deliberation has the effect of bringing male and female decisions closer together: by simulation from the model in equation TA2.7; pre-deliberation – 36% guilty for male jurors vs. 43% guilty for female jurors, post-deliberation – 34% guilty for male jurors vs. 34% guilty for female jurors.

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Appendix 3: All pleas and jury verdicts at all Crown Courts 2006–08 by defendant ethnicity (at charge level)

Table A3.1: All pleas on charges by defendant ethnicity

	Pleas	Total	Category	%	White	Black	Asian	Other	Unknown
Not guilty	Not guilty	190,774			113,445	20,351	12,931	8,622	35,425
	Changed plea from guilty to not guilty	366	191,140	35%	197	42	15	26	86
Guilty	Guilty	248,885			161,218	20,835	12,474	9,268	45,090
	Changed plea of not guilty to guilty before jury sworn	61,957			39,233	4,999	3,724	2,318	11,683
	Pleaded guilty to lesser offence	10,745			7,245	722	580	282	1,916
	Changed plea of not guilty to guilty after jury sworn	2,019			1,086	237	155	89	452
	Pleaded guilty to alternative offence	1,938	325,544	59%	1,325	145	94	58	316
Other	No plea taken	26,846			15,156	2,753	1,744	1,229	5,964
	Other	8,131			5,050	645	421	231	1,784
	Autrefois acquit	3			1	1	0	0	1
	Autrefois convict	3			2	1	0	0	0
	Pardon	2	34,985	6%	2	0	0	0	0
Total:		551,669	551,669		343,960	50,731	32,138	22,123	102,717

Table A3.2: All outcomes where juries deliberated by defendant ethnicity

	Verdicts	Total	Category	%	White	Black	Asian	Other	Unknown
Not guilty	By deliberation	24,650			14,814	2,804	1,653	1,146	4,233
	On retrial by jury deliberation	41	24,691	35.8%	25	3	4	0	9
Guilty	By deliberation	43,638			24,935	5,740	2,884	2,056	8,023
	On retrial by jury deliberation	122	43,760	63.7%	52	54	1	3	12
Total verdicts:	All not guilty and guilty verdicts		68,451		39,826	8,601	4,542	3,205	12,277
Other outcomes	Hung jury (jury unable to agree)	423	423	0.6%	256	45	43	9	70
Total:		68,874	68,874		40,082	8,646	4,585	3,214	12,347

Appendix 4: Relationship between defendant, juror and local population ethnicity for all Crown Courts in England and Wales

Results for BME population, BME summoned and BME serving at each court are the results of detailed model analysis of the summoning process and census data carried out in Thomas (2007). See this report for full details of the data collection and analysis methodologies. Full details of BME defendants at each court (including a breakdown of Black, Asian and Other defendants) are found in technical annex 4.

Table A4.1: BME population, jurors and defendants in the London Region

Crown Court	% BME in population	% BME summoned	% BME serving	% BME defendants
Harrow	37.4	38.2	27.9	73.3
Southwark	33.5	33.8	29.4	66.1
Blackfriars	33.2	29.2	24.4	68.4
Isleworth	32.5	28.4	25.0	61.5
Snaresbrook	30.4	26.4	26.1	55.8
Wood Green	29.5	33.1	30.6	53.0
Middlesex	28.9	35.0	29.7	61.2
Central Criminal Court	27.0	27.2	23.1	62.3
Inner London	23.4	20.2	21.1	66.8
Croydon	17.7	24.6	23.9	53.8
Woolwich	15.6	13.6	14.3	48.9
Kingston-Upon-Thames	12.5	12.5	10.0	52.0

Table A4.2: BME population, jurors and defendants in the South Eastern Region

Crown Court	% BME in population	% BME summoned	% BME serving	% BME defendants
Luton	12.0	14.5	11.3	29.1
Reading	10.0	10.7	9.4	27.7
Aylesbury	9.3	7.7	0.0	27.8
St Albans	6.4	3.9	12.5	20.1
Peterborough	5.1	3.7	0.0	29.8
Oxford	5.0	0.0	0.0	18.0
Guildford	4.7	7.8	8.6	7.8
Cambridge	4.4	1.9	0.0	13.2
Maidstone	4.1	1.6	2.0	13.6
Basildon	3.7	4.4	4.3	15.8
Chelmsford	2.8	2.4	0.0	8.4
Canterbury	2.5	3.7	2.6	13.8
Lewes	2.4	0.0	0.0	13.0
Chichester	2.0	0.0	0.0	7.7
Norwich	1.6	0.0	0.0	11.0

Table A4.3: BME population, jurors and defendants in the Midlands Region

Crown Court	% BME in population	% BME summoned	% BME serving	% BME defendants
Birmingham	22.3	22.0	14.7*	54.4
Leicester	14.8	20.2	18.6	33.1
Wolverhampton	13.7	10.9	10.8	31.9
Coventry	13.2	15.0	17.7	26.1
Nottingham	6.5	0.0	0.0	19.2
Derby	5.8	0.0	0.0	17.6
Warwick	4.8	5.4	0.0	31.0
Stoke-On-Trent	3.3	1.8	2.2	10.2
Shrewsbury	3.0	0.0	0.0	7.5
Worcester	2.0	1.1	1.4	10.2
Stafford	1.9	0.0	0.0	12.8
Lincoln	1.5	3.1	2.2	4.2

* statistically significant differences

Table A4.4: BME population, jurors and defendants in the North East Region

Crown Court	% BME in population	% BME summoned	% BME serving	% BME defendants
Bradford	14.2	16.1	7.3	29.5
Leeds	6.3	3.6	0.0*	19.4
Sheffield	6.3	0.0	0.0	23.6
Newcastle-Upon-Tyne	2.9	0.7	1.0	4.2
Teesside	2.5	3.5	0.0	8.0
Kingston-Upon-Hull	1.9	3.0	0.0	9.8
Doncaster	1.8	0.0	0.0	2.6
Great Grimsby	1.8	7.1*	5.0	10.8
Durham	1.4	0.0	0.0	1.4
York	1.4	0.0	0.0	5.0

* statistically significant differences

Table A4.5: BME population, jurors and defendants in the Northern Region

Crown Court	% BME in population	% BME summoned	% BME serving	% BME defendants
Manchester (Minshull Street)	10.6	11.6	11.9	13.1
Burnley	9.8	0.0	0.0	33.8
Manchester (Crown Square)	9.3	1.8*	1.2*	45.4
Bolton	6.2	3.4	2.6	22.0
Preston	6.0	7.4	5.4	9.1
Liverpool	2.9	6.1	4.3	7.7
Carlisle	0.7	0.0	0.0	4.1

* statistically significant differences

Table A4.6: BME population, jurors and defendants in the Wales & Chester Region

Crown Court	% BME in population	% BME summoned	% BME serving	% BME defendants
Cardiff	4.7	4.0	2.9	6.6
Swansea	1.7	1.0	1.6	2.8
Chester	1.6	0.0	0.0	5.3
Merthyr Tydfil	1.1	0.0	0.0	1.0
Mold	1.0	0.0	0.0	6.5

Table A4.7: BME population, jurors and defendants in the Western Region

Crown Court	% BME in population	% BME summoned	% BME serving	% BME defendants
Southampton	4.8	2.0	2.6	17.1
Bristol	4.5	2.5	0.0	22.7
Portsmouth	2.9	1.7	2.4	7.2
Swindon	2.9	0.0	0.0	14.5
Gloucester	2.8	0.0	0.0	9.2
Winchester	2.8	0.0	0.0	9.6
Bournemouth	2.4	3.9	3.4	16.8
Plymouth	1.4	0.0	0.0	4.2
Newport IOW	1.3	0.0	0.0	2.7
Exeter	1.2	0.0	0.0	2.6
Taunton	1.2	0.0	0.0	1.6
Truro	1.0	0.0	0.0	4.4

Appendix 5: Analytical model for analysis of impact of ethnicity on verdict (court effects)

This analysis is in three stages. Section A5.1 examined whether juries at different courts tend to be more or less likely to find BME defendants guilty compared to White defendants. The A5.1 model looks at the likelihood of guilty jury verdicts versus not guilty jury verdicts on the basis of offence type (Blackstone's), defendant ethnicity and court. Part of this analysis was then used to allow difference between jury verdicts for White and BME defendants (from the model) to be compared to BME representation in the court catchment area population (A5.2 and A5.3).

A5.1: Ethnicity by court interactions

Analysis modelled probability of a jury guilty verdict on the basis of offence type, binary ethnicity (with defendants with unknown ethnicity removed), court and the interaction between court and defendant ethnicity. Offence type was entered as a main effect to attempt to control for differences being a function of a different breakdown of offences for different courts. Blackstone's 12 categories were used, which while not particularly sophisticated does highlight marked differences in conviction rates by offence type. Court was included as both a main effect and interaction with binary ethnicity. A handful of courts were removed due to lack of data for BME defendants. In this instance simple binary ethnicity was used (White vs. BME). Ethnicity was included as a main effect and interaction term with court.

A multilevel binary logit model was fitted, with verdicts nested within cases. Specifying the hierarchical structure in the data was particularly important, given very strong evidence of clustering in verdict by case. Having fitted the model, the customised predictions function within MLwiN (Rasbash, Charlton & Jones, 2008) was used to obtain mean predicted responses ($p(\text{guilty verdict})$) by simulation using the model, for each combination of court and ethnicity. The model equation and all output are found in technical annex 5.

A5.2: Ethnicity in the court catchment area

The analysis then considered whether there was any relationship between jury conviction rates at each court and the ethnic make up of the court catchment area population (from which jurors are summoned). A simple bivariate correlation indicated that there was no evidence of a relationship between ethnicity in the catchment area and the extent to which BME defendants were more or less likely than White defendants to be found guilty; correlation coefficient (Spearman's) = 0.044, $p = 0.72$. (See tables TA5.2 and TA5.3 in technical annex 5 for details).

A5.3: Relationship between defendant and catchment area ethnicity

This analysis explored whether BME defendants were more likely than White defendants to be found guilty where there was a larger discrepancy between the proportion of BME defendants at court and the proportion of BME groups in the court catchment area population. There was no evidence of BME defendants fairing increasingly worse than White defendants where BME defendants made up an increasingly disproportionate percentage at court compared to the catchment area. This is confirmed if a simple bivariate correlation is conducted; correlation coefficient (Spearman's) = 0.027, $p = 0.83$.

Table A5.1 shows the discrepancy between BME defendants in each court and BME representation in the catchment area. This is simply the percentage BME in the court catchment area (column B) divided by percentage BME defendants (column A). A value of 1 would indicate that the percentage of BME defendants and percentage BME in the

catchment area were the same. The extent to which BME defendants are more likely than White defendants to be found guilty by a jury is seen in column D.

Table A5.1: Discrepancy between BME defendants in each court and BME representation in the court catchment area population

Court	Column A	Column B	Column C	Column D
	% BME defendants	% BME in catchment	Col. B/Col. A	% change
AYLESBURY	27.8	9.3	3.0	16.0
BASILDON	15.8	3.7	4.3	36.5
BIRMINGHAM	54.4	22.3	2.4	-0.2
BLACKFRIARS	68.4	33.2	2.1	22.6
BOLTON	22.0	6.2	3.5	3.0
BOURNEMOUTH	16.8	2.4	7.0	30.7
BRADFORD	29.5	14.2	2.1	8.3
BRISTOL	22.7	4.5	5.0	-8.7
BURNLEY	33.8	9.8	3.4	-2.7
CAMBRIDGE	13.2	4.4	3.0	-20.7
CANTERBURY	13.8	2.5	5.5	-10.4
CARDIFF	6.6	4.7	1.4	-5.1
CARLISLE	4.1	0.7	5.9	9.4
CENTRAL CRIMINAL COURT	62.3	27.0	2.3	3.0
CHELMSFORD	8.4	2.8	3.0	10.8
CHESTER	5.3	1.6	3.3	-22.5
CHICHESTER	7.7	2.0	3.9	-39.5
COVENTRY	26.1	13.2	2.0	-7.3
CROYDON	53.6	17.7	3.0	-0.2
DERBY	17.6	5.8	3.0	2.3
DONCASTER	2.6	1.8	1.4	-28.1
DURHAM	1.4	1.4	1.0	4.0
EXETER	1.0	1.2	0.8	16.4
GLOUCESTER	9.2	2.8	3.3	-11.2
GUILDFORD	7.8	4.7	1.7	-26.4
HARROW	73.3	37.4	2.0	20.4
INNER LONDON	66.8	23.4	2.9	-0.9
ISLEWORTH	61.5	32.5	1.9	9.3
KINGSTON-UPON-HULL	9.8	1.9	5.2	-5.8
KINGSTON-UPON-THAMES	52.0	12.5	4.2	-6.2
LEEDS	19.4	6.3	3.1	5.9
LEICESTER	33.1	14.8	2.2	-0.6
LEWES	13.0	2.4	5.4	-4.9
LINCOLN	4.2	1.5	2.8	20.7
LIVERPOOL	7.7	2.9	2.7	4.8
LUTON	29.1	12.0	2.4	16.5
MAIDSTONE	13.6	4.1	3.3	7.9
MANCHESTER (CROWN SQ)	45.4	9.3	4.9	-0.6
MANCHESTER (MINSHULL ST)	13.1	10.6	1.2	-0.3
MIDDLESEX GUILDHALL	61.2	28.9	2.1	29.1
NEWCASTLE-UPON-TYNE	4.2	2.9	1.4	-29.1
NORWICH	11.0	1.6	6.9	-14.0

Court	Column A	Column B	Column C	Column D
	% BME defendants	% BME in catchment	Col. B/Col. A	% change
NOTTINGHAM	19.2	6.5	3.0	12.5
OXFORD	18.0	5.0	3.6	21.3
PETERBOROUGH	29.8	5.1	5.8	-15.0
PLYMOUTH	4.2	1.4	3.0	-22.1
PORTSMOUTH	7.2	2.9	2.5	4.2
PRESTON	9.1	6.0	1.5	5.4
READING	27.7	10.0	2.8	4.5
SHEFFIELD	23.6	6.3	3.7	1.2
SHREWSBURY	7.5	3.0	2.5	-1.5
SNARESBROOK	55.8	30.4	1.8	2.6
SOUTHAMPTON	17.1	4.8	3.6	4.4
SOUTHWARK	66.1	33.5	2.0	-4.7
ST ALBANS	20.1	6.4	3.1	6.9
STAFFORD	12.8	1.9	6.7	33.4
STOKE-ON-TRENT	10.2	3.3	3.1	12.0
SWANSEA	2.8	1.7	1.6	-4.4
SWINDON	14.5	2.9	5.0	0.3
TAUNTON	1.6	1.2	1.3	-11.3
TEESSIDE	8.0	2.5	3.2	-18.2
WARWICK	31.0	4.8	6.5	11.7
WINCHESTER	9.6	2.8	3.4	-4.7
WOLVERHAMPTON	31.9	13.7	2.3	2.4
WOOD GREEN	53.0	29.5	1.8	-13.4
WOOLWICH	48.9	15.6	3.1	30.6
WORCESTER	10.2	2.0	5.1	-45.9
YORK	5.0	1.4	3.6	48.8

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Are juries fair?

This research asks: is jury decision-making fair? Specifically, it examines whether all-White juries discriminate against Black and minority ethnic defendants, whether juries rarely convict on certain offences or at certain courts, whether jurors understand legal directions, are aware of media coverage or look for information on the internet about their cases. The empirical study involved over 1,000 actual jurors in three areas of the country and over 68,000 jury verdicts across all Crown Courts in England and Wales. The study found little evidence of jury unfairness but that jurors want and need better tools to understand the jury process.

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