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## The impact of jury experience on perception of the criminal prosecution system

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### ABSTRACT

The present study tested the impact of jury experience on citizens' perceptions of the criminal prosecution system. Based on deliberative democratic theory which predicts the beneficial impact of jury experience on citizen-jurors' confidence and knowledge in law and the justice system, it was hypothesized that jury experience would be associated with favorable impression of the criminal prosecution system and that jury experience would have a positive impact on citizens' perceived knowledge of the criminal prosecution system. The present study through analyzing data collected by the American Prosecutors Research Institute (APRI), examined the effect of jury experience (versus no jury experience) on perceptions of the criminal prosecution system. Results show that jury experience positively influences citizen-jurors' impression and perceived knowledge of the criminal prosecution, supporting an attitudinal and educational impact of jury experience. Potential limitations of the study and policy implications are discussed.

### 1. Introduction

Despite the decline in the number of jury trials in the United States, they play vital roles in American society and culture (Hans, 2007; Vidmar, 2000). The jury trial is deeply related to many Americans' feelings of essential protection of their democracy and cultural tradition (Abramson, 2000; Marder and Hans, 2015). Although the United States jury system has a symbolic significance, little research has investigated the impact of the jury trial system as a democratic institution on citizens who serve as jurors. Many existing studies have explored jury/jurors' legal experiences as a decision-maker, or their judgment processes and/or judgment outcomes about a legal case (e.g., Bornstein et al., 2017; Devine, 2012; Devine and Caughlin, 2014). However, the impact of citizens' legal experiences in jury service on their beliefs and attitudes has been less well researched. Studies have ignored the question of the influence jury service has on citizen-jurors' perceptions toward the legal institutions/systems, even though its influence may bring broader social and political changes (Marder and Hans, 2015). The present study aims to contribute to filling this void by examining the impact of jury experience on citizens' perceptions of the legal system, especially focusing on the criminal prosecution system.

Public trust and confidence in institutions of social control can reflect the perceived legitimacy of law and the justice system, which is closely connected with people's compliance with the law and willingness to cooperate with legal institutions (Sunshine and Tyler, 2003). Jury service allows citizens to have a potentially positive first-hand experience of participating in the legal system. Measuring the impact of civic legal experiences as a juror on their attitudes and beliefs can provide a more sensitive indication of public views and confidence in the legal institutions/systems than does any generic opinion poll (Gastil et al., 2014; Hans, 2014). The findings of the current study can have important implications for policy makers and social commentators seeking ways to improve public support and confidence in legal and other public institutions as well as governmental legitimacy more broadly. Moreover, findings on how jury experience shapes citizens' perspectives, especially toward legal process would be useful for other countries

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(e.g., Taiwan and Mexico) that have recently considered implementing the citizen jury trial system (Gastil et al., 2014).

*Deliberative democratic theory* (Cohen, 1989; Elster, 1998; Pincock, 2012) predicts the beneficial impact of jury experience on public confidence and knowledge in law and the justice system. Central to deliberative democratic theory is that the experience of reasoned discussions among citizens about public concerns or common good helps develop their attachment to legal, political, and other public systems. Drawing on this theory, the present study supposes that the jury experience can stand in for such discussions, and have a positive impact on lay citizens' confidence and knowledge about the criminal prosecution system. Assuming that deliberation is central to the jury experience and has an attitudinal and educational impact on citizen-jurors, this study examined effects of citizens' legal experiences as a juror on their perceived confidence and knowledge about the criminal prosecution system. Using public survey data collected by the American Prosecutors Research Institute (APRI), this study compared respondents with and without jury experience within five years, in terms of their perceptions (impression and perceived knowledge) of the criminal prosecution in their communities.

## 2. Literature review

### 2.1. *Deliberative democratic theory*

According to deliberative democratic theory, an ideal citizen regularly takes part in local community activities, discuss public issues with one another, interact with government officials, and participate in periodic elections (Elster, 1998; Mathews, 1999; Pincock, 2012, as cited in Gastil et al., 2002, p. 585). The notion of deliberative democracy is rooted in the intuitive ideal of a democratic association whose affairs are governed by public deliberation and reasoning among equal citizens. It suggests that collective decision-making focused on common advantage can improve a sense of equality among its members, and shape the identity, interests, and attitudes of citizens in ways that lead to a deeper entry into public affairs. Deliberative democratic theory posits that considerable civic benefits can be accrued through experience of reasoned discussions among citizens about public concerns (Eveland et al., 2011).

Central to this theory is that the experience of civic discussion and deliberation about public concerns through public forums, conventions, and panels leads the citizens to develop their attachment to legal, political, and other public systems. Jury service can be regarded as a particularly potent form of deliberative democracy as "it engages citizens in deliberation with one another to resolve important social and political disputes" (Hans et al., 2014, p. 698). In this regard, the theory and practice of deliberative democracy has implications for the question of what impact citizens' experience of jury deliberation might have on their actions and beliefs. One key implication which has previously been tested by some jury scholars is that citizens' experience of jury service can generate greater civic engagement, thus producing a behavioral impact of jury experience. This can be defined as individual and collective actions designed to identify and address issues of public concern and which can take many forms from individual volunteerism to organizational involvement to electoral participation ("Civic engagement," n. d.). Based on the deliberative democratic perspective, studies have established the link between civic political engagement (i.e., electoral participation) and an institutionalized form of citizen deliberation (i.e., jury deliberation). For example, Gastil and colleagues' studies examining jury service and voting rates show that the experience of serving on a jury increases individuals' likelihood of future political engagement (Gastil et al., 2002; Gastil et al., 2008; Gastil et al., 2010). Results revealed increased voting in subsequent elections, suggesting a 'civic impact' of jury service which may promote citizens' sense of civic responsibility and their interests in civic engagement.

Another important but rarely explored implication derived from deliberative democratic theory is that through jury deliberation lay citizens develop confidence in legal institutions and become more educated about the law and the justice system. In other words, citizens' experience of jury deliberation can lead them to hold more positive views about the legal system along with substantial increases in knowledge about the law and the judicial branch. This suggests an educational and attitudinal impact of jury service in addition to its civic engagement effect.

However, the impact of citizens' legal experiences in jury service on their perceptions toward the legal institutions/systems has not been sufficiently addressed in jury research. Previous studies demonstrated the impact of jury service, mostly focusing on individuals' post-jury political participation or voting frequency (i.e., behavioral impact) (e.g., Gastil et al., 2002; Gastil et al., 2008; Gastil et al., 2010). Research has paid less attention to the relationship between the jury experience and citizens' perceptions toward law and the justice system (i.e., attitudinal impact).

### 2.2. *Existing studies on the impact of jury experience on perceptions of the legal system*

Only a few studies have considered the question of what influence jury experience has on citizen-jurors' perceptions toward legal institutions/systems. Through a series of post-jury service interviews, Consolini (1992) found that citizens who had participated on even one criminal jury tend to have more favorable attitudes toward the jury system and the courts. This was accompanied by considerable increases in knowledge about the judicial branch (e.g. knowledge of due process principles, how the process works). Similarly, Gastil et al. (2010) also suggest that jury service can influence citizens' attitudes toward the courts by showing that the vast majority of jurors in their post-jury trial surveys expressed satisfaction with their jury duty and positive views about the courts. A more recent study conducted by Gastil et al. (2014), tested the hypothesis that civic legal participation would change individual jurors' perceptions of the jury system as well as of the courts and judges. Jurors were interviewed before and several months after serving on a jury service. Findings showed quite persistent attitude and opinion changes (greater than four months) flowing from jury service. Many citizen-jurors showed a greater confidence in the jury system and state and local court judges than they did before

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