

# ***“Is it legally their job to restrain someone?”* Examining Mock Jury Perceptions of Security use of Force**

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## **Abstract**

This research explores mock jury perceptions towards security personnels use of force in a genuine contested Grievous Bodily Harm case, replicated for the purpose of this study. This is the first study to date to examine jury decision making in such a case and in an effort to further improve on the limitations of previous mock jury research, juror decision making was examined through analysis of group deliberations, something which very few mock jury studies do. This study investigates what evidence and information is used by jurors during deliberations in their effort to determine the guilt of two security personnel accused of using excessive force. Two mock jury panels, consisting of twelve people, were asked to deliberate on a trial brief based on two security guards' questionable use of force; this was recorded with deliberation recordings later subjected to thematic analysis in an effort to better understand how decisions were reached in this case. Four main themes were identified across the two deliberations, with medial evidence substantially dominating mock jury deliberations, alongside pre-trial preconceived notions of security guards and the sort of conduct they are likely to engage in. This research contributes significantly to the existing literature on extra-legal influences on mock jurors in that it makes use of under-utilised mock jury deliberation to better understand juror decision making within a security use of force case which no prior jury research has sought to investigate. Implications and future research directions are discussed.

**Key Words:** *Juror decision making; Use of force; Security; Jury deliberations; GBH*

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## **Introduction**

*'No free man shall be seized, imprisoned, dispossessed, outlawed, exiled or ruined in any way, nor in any way proceeded against, except by the lawful judgement of his peers and the law of the land'. Magna Carta, 1215, Clause 39*

### *Background*

As explained in the quotation above, the concept of juries originates in the Magna Carta, where judgment by peers was cemented as a fundamental feature of modern justice. For example, in 2023, 197,007 jurors took part in trials in the UK (Singleton, 2024). The jury system has long been described as a cornerstone of the justice systems throughout the world (Miller et al., 2021). For some, juries are an essential feature of a fair and just trial process, permitting decision-making in the most serious cases to be adjusted by ordinary citizens (Willmott et al., 2021). Central to the perceptions of a fair jury is the inclusion of a broad cross-section of the community who are guided by evidence and law to reach a verdict (Diamond, 2023). Moreover, in one recent study, 68% of the public reported having trust in the criminal justice system (Lelii, 2022). However, this trust relies upon the assumption that the twelve jury members are considering the evidence impartially and using appropriate, non-biased judgements to reach a verdict. Importantly, this is a notion that some academic scholars dispute (Helm, 2024; Kapardis, 2021). Given the important role that juries have in administering justice and the growing concerns among academic scholars about the potential for bias impacting their decision-making, it remains crucial that research continues to examine the impartiality of their decision-making. However, there are numerous important difficulties in assessing jurors and jury decision-making, including knowing whether or not they have reached the 'right' decision (Bornstein & Greene, 2011). Section 8 of the Contempt of Court Act, 1981 restricts jurors from

ever disclosing what was discussed in the jury deliberation room (Legislation.gov.uk, 2019), and this prohibits researchers access to real jury discussion, making research very difficult. In most cases, it is impossible to tell whether juries have reached an accurate decision unless clear physical and other forms of evidence establish guilt or innocence- evidence often lacking in contested criminal trials where the defendants plead not guilty.

Much of the mock jury research has explored decision-making within cases of sexual offences, assault or burglary. Separately, studies beyond the jury literature have examined public perceptions towards the use of force among military personnel, the police and other authorities. A comprehensive literature review has shown ample studies on force and people of authority and much research into mock jurors' discussions of guilt; however, no study has examined these factors simultaneously. This is an important gap in the literature as heavy alcohol consumption and aggressive night lives (Van Steden, 2018) have led to increasing fears of risks associated with nightlife (Wadds, 2015), and an increase in door staff surveillance in the nighttime economy suggests their importance in perceived safety (Brands et al., 2015). Door supervisors make up a network that reduces violence in the nighttime economy (Polderman, 2018). However, there is a certain inevitability of an escalation to violence in the nighttime economy, considering the responsibility of door supervisors to manage alcohol-fuelled patrons in an establishment (Lister et al., 2000). This escalation and lack of research highlights the need for more academic work. This study aims to expand upon this topic and investigate extra-legal and the evidence's influences on jurors' deliberation.

### *Dissertation Overview*

This research seeks to explore jury decision making in an alleged case of security personnels excessive use of force against a customer in the nighttime economy. The aim is to investigate jurors decision making by analysing group deliberation discussions in a manner that is rarely carried out in mock jury research (Willmott et al., 2021). To do this, this study will

examine the different ways that jurors interact with each other and make use of the evidence they have been presented with during the mock trial in an effort to reach a group verdict. As a result, the research questions in this study are as follows:

- To examine what evidence jurors seem to make greatest use of in shaping their opinions about the case
- To what extent does extra-legal information and juror assumptions guide their deliberative discussion in the case
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### **Literature Review**

There has been extensive academic research and theorising on jury decision-making. These studies focus on a range of crime types and often utilise mock trial simulations to examine decision-making. Very few studies, however, feature actual jury deliberation components whereby mock jurors are given evidence and asked to discuss and come to a verdict. Much less of this literature has explored juror or jury decision-making involving security use of force. However, this paper focuses on these influences in the context of the security use of force. This literature review will explore security personnel's use of force and specific research into legal and extra-legal aspects of the jury decision, highlighting gaps in these two kinds of literature, which the present study attempts to fill in. Through the literature review, an analysis of all security-related jobs has been done, and the term 'security personnel' (SP) will be used as an umbrella term to denote any individual hired to protect a designated place unless a specific term is intended.

#### *Security Use of Force*

SP have an important presence in a place of aggression demonstrates the importance of understanding their role in the nighttime economy. Finney (2004) found that over one-third of

violent incidents inside licensed premises involve door staff and sometimes escalate conflicts between drunken patrons. Kammersgaard (2021) conducted a study into private security guards' authority in a public place in Denmark. He conducted interviews with branch owners and observers. He found that the guards received 20 complaints in 6 weeks as people had been excluded from public places and viewed it as illegitimate and unfair. Moreover, he reported that security would expel people from certain areas despite having no legal rights. He concluded that security guards would go beyond their rights and exert too much control over an area using illegitimate means, such as lying about having legal rights. This suggests that some security guards overstep into domains they should not, instead of just the establishment they are hired to. Berg's (2010) study mirrored this concept of overstepping as she interviewed and observed security guards in South Africa and found they adopt crime control measures and tactics from state police, for example, intimidation and negotiation, to encourage compliance.

However, using public surveys, the Security Industry Authority (2024) conducted a first-of-its-kind study into public trust and confidence in SP. This reported that 6 in 10 people trust SP, suggesting an alternate concept of trust opposing the two studies presented above. In 2021, Hannah Thomson, a survivor of injection spiking in a club, submitted a petition to the British government to increase security checks conducted on entry to night clubs and to ensure that every person admitted entry is subjected to a mandatory search beforehand (Ryan et al., 2021). This would suggest that the public perception of SP is that they are not doing enough and could have more power rather than take some away, as suggested by the above studies.

### *Perceptions of Security Personnel and Police Use of Force*

In managing patrons, SP often contact the police (Liempt & Aalst, 2015). However, it is seldom considered by the public that police operate within codes and legal maxims different from those of SP. For example, The Criminal Law Act, 1967, section 3 states that force is lawful in the prevention of crime or the assisting of a lawful arrest; however, the Night Time Industries

Association (2023) states that door supervisors may use force, but never more than reasonable or off the property they have been commissioned to protect. Therefore, if a door supervisor uses force to remove someone from an establishment, this force must end as soon as they have left the premises.

Whilst the public may trust SP to enforce safety, it is still debatable whether the public views this avenue positively. Hayes-Jonkers (2015) suggests that SPs, in particular club bouncers, are viewed as large thugs who look for violence due to extensive media coverage. This was agreed upon by Polderman (2018), who analysed SP and suggested that door security is viewed as stern and intimidating and is often the cause of violence by the public. Most notably, Lister et al. (2000) conducted interviews with security guards. They reviewed similar case studies to reveal that violence is often dealt with outside formal channels, such as not involving the police when they encounter violence and instead dealing with it themselves, and this can lead to a distorted idea of violence caused by SP in the nighttime economy. This negative interpretation can potentially have a massively detrimental impact on the validity of juries if they enter the deliberation with a preconceived negative view.

Bellas (2022) reviewed influential factors on jurors in police use of force cases. They wanted to examine the psychological processes jurors went through to decide whether the police used excessive force. They analysed the literature and found that if a juror reviewed the evidence and thought that the police used excessive force to protect the community from harm, they saw these actions as morally justified; they called this moral disengagement. Another mechanism to facilitate this is shifting blame and responsibility to the victim's actions. Similar conclusions may be drawn about SP, but they are viewed in very different ways, so one cannot be sure. No study has explored jury decision-making on SP use of force, therefore showing it is an area that needs expansion. This study will examine whether these processes can be applied to SP, as Liempt and Aalst (2015) suggest that door supervisors should be viewed differently.

## **Factors Affecting Jury Deliberation**

### *Juror Demographics*

Whilst no research into juror decision-making has been done regarding SP use of force, much research has been done into juror demographics and the effect this could have on decision-making across a wide range of case types. Increased jury diversity positively impacts trial validity as they tend to engage in more critical and thorough discussions (Bergold & Bull Kovera, 2022). The research suggests that intersections of age, gender, race and ethnicity impact jury interactions as diversity impacts the quality of discussions. (Cornwell & Hans, 2011) If one ethnicity or demographic is dominant, they can dominate the conversation, bringing their unique ideas to the centre of the discussion and not collaborating. Therefore, other academics argue that it is not always a positive impact. Status hierarchies shape group interactions so that higher-status individuals may have more influence over those with lower status (Hasenour, 2023), which can manifest through demographic inequalities such as having more men than women. Gender dynamics have different power dynamics in social situations. Similarly, different generations have contrasting ideas.

### *Gender*

The genders have different life experiences, and the diversity this brings can greatly impact a jury trial (Rotenstein & Hans, 2022). There is ample research into gender disparities in jury decision-making and sentencing. Studies suggest that men often find defendants more reliable and trustworthy than women (Pozzulo et al., 2010) and, coinciding with previous research, women are more likely to return guilty verdicts (Barnes, 2021). Dunlap et al. (2012) conducted mock juries to investigate how gender impacted trial judgment. They conducted several mock juries and found that, like Barnes (2021), women returned much fewer guilty

verdicts and formed much more positive victim perceptions than men. Again, this reiterates the vast differences between the interpretation of evidence by the different genders. Afsahi (2021) conducted a study into gender involvement in deliberation and found that power dynamics have an influence, with men often found to display negative deliberation behaviours, such as interrupting and dominating speaking. This was supported by Hasenour (2023), who suggested that hierarchies have an influence and that women are disadvantaged in social interactions, such as injuries. This suggests that there are key, fundamental differences between the genders, and an imbalance can result in a massive alteration to a verdict.

### *Age*

Similarly, there is a documented age disparity in decision-making. Ruva and Hudak (2013) studied pretrial publicity (PTP) and its impact on age and decision-making. They found that positive PTP had an impact on older participants, and only negative PTP had an influence on younger generations. This shows the vastly different interpretations of the same information between ages. This was supported by Anwar et al. (2014), who found that age has a causal effect on trial outcomes as older generations were more likely to convict than younger generations. This divergence raises the concern that a jury of a majority of one age group will result in a biased outcome compared to one made with a majority of another.

### **Personality traits**

Predicting how jurors will vote based on psych-social make-up is central to debates within the field of psychology and law (Willmott, 2018). Some authors suggest that personality can impact a juror's decision-making (Curley et al., 2022). Personality influences such as arrogance or empathy may have some impact on decision-making. Empathy is an automatic response to emotional situations and can often lead to cognitive distortions such as a narrow perspective or over-valuing perspectives (Cormack, 2021). Empathy plays a vital role in jury



verdicts as those who empathise, often with rape victims, sentenced defendants to longer prison terms and hold positive opinions about victims (Bellas, 2010). This supports earlier claims that the ability to empathise is linked to the amount of responsibility they place on those in negative situations.

### *Extra-Legal Factors Affecting Jury Deliberation*

This section of the paper will explore legal factors, such as comprehension of instructions, eyewitness testimony, and confidence, as they influence the frameworks to which jurors apply evidence. These factors can mislead and confuse jurors, leading to inadequate evidence application.

### *Complexity*

Guidance and instructions are given to jurors to aid them in examining the evidence (Baguley et al., 2020). Academics argue that the assumptions jurors make after these instructions to understand complex concepts and reach a verdict form the basis of the judicial system (Sklansky, 2013). Jurors will often encounter things they do not understand, so this can help them make sense of it. Standardised instructions intend to ensure jurors make legally accurate decisions. However, the complexity of some legal standards raises concerns about lay jurors' ability to perform their primary duties to examine the evidence and conclude on guilt (Kramer and Koenig, 2014). There may be confusion over judicial instructions, and when this occurs, jurors cannot apply the law efficiently to the evidence they are examining (Rogers, 2020). This may result in unfair or inaccurate sentencing decisions. Boginskaya (2020) conducted a paraphrasing experiment in which uncommon, legal phrases were replaced with familiar terms and recorded a much-improved comprehension among jurors. This highlights that complex, unfamiliar terms may lead to confusion and misunderstandings among jurors. However, there is currently no standardised test of juror comprehension, making it difficult to

address (Baguley et al., 2020). This is relevant in this study as there is potential for mock jurors to misunderstand the legality of SP, as suggested prior, or struggle to comprehend the complexity of the case, which can negatively impact their verdict.

### *Eyewitness Testimony*

Another legal issue that often plagues jury processes is the impact of eyewitnesses. A juror's key role is assessing witness credibility (Chalmers et al., 2022); however, many academics argue that eyewitness testimony is fallible (Kenchel, 2022) and can confuse and mislead jurors (Puddifoot, 2020). Puddifoot (2020) suggests jurors give inappropriate credibility to eyewitness testimony as they are unaware of the negative aspects. Garrett et al., 2020 agree with this and found in a survey of 1,684 mock jurors that many are unaware of eyewitness testimony's limitations and issues. The inappropriate over-credibility and misinformation effect has a detrimental effect on the validity of trials. However, Evans and Schreiber Compo (2010) found that the majority of 1448 university student mock juries were aware of the effect of intoxication on witnesses' cognitive ability. Similarly, Chalmers, Leverick and Munro (2022) studied jury decision-making and witness credibility. They found that jurors consider the level of detail of witness claims, consistency and the extent to which a witness may have been motivated to lie. This illustrates that mock jurors are aware of some drawbacks of eyewitnesses; however, they can still have a misleading effect.

### *Character Evidence*

At the heart of modern criminal court trials is the human truth. Jurors inherently judge each other's characters (Offit, 2021). The Criminal Justice Act 2003 (sections 98-113) allows proof of a defendant's bad character to be used by the calling of evidence regarding their reputation. One way this is done in modern courts is through the admission of character evidence. This shows that someone is acting in alliance with their predisposition to commit certain acts

(Sevier, 2018). Many researchers believe that CE is fundamentally rooted in biases about cognition, impression, and personality (Hunt and Bodenheimer, 2004) and can potentially be unfairly used against trial witnesses and defendants who no longer behave in the manner they once did. One of the most influential researchers in this field is Bavli (2023). Bavli found that jurors judged based on a perceived idea of the defendant's character. They do this using Bayes rules that see prior beliefs of the jury combined with new evidence for a new conclusion, known as a posterior.

### *Trials with multiple defendants*

This study focuses on a case involving two defendants. Some research has found that joint trials typically involve more evidence and possibly confusion; therefore, jurors are more likely to rely on peripheral or heuristic reasoning (Goodman et al., 2016). Interpretations of joint defendants are influenced by how each defendant is viewed and compared with each other (Wilford et al., 2018). This may be due to association with other criminal links affecting outcomes and perceptions of guilt (Rerick, 2021). However, Leipold and Abbasi (2006) analysed nearly 200,000 criminal trials comparing single and multiple defendants and found no significant difference in verdict outcomes. This may suggest that the concept of prejudice or misunderstandings in connection to multiple defendants' trials remains unclear.

### **Theories on Jury Deliberation**

Devine's (2012) book, *Jury Decision Making: The State of the Science*, was a breakthrough piece of literature on the psychology of jury deliberation. He described the main areas of jury deliberation that should be focused on when investigating how jurors reach their decisions. One of these areas was the thoroughness of evidence review and understanding. There are many theories on how jurors perform. The two this paper will focus on are Bayesian

influences and the storytelling model. Emphasis will be placed on how jurors apply their own knowledge and experience to evidence.

### *Heuristic-Systematic Model*

During a trial, a jury is exposed to many persuasive messages from legal counsels, witnesses and other jurors during their decision-making (Goodman et al., 2016). To filter these messages, personal ideas and facts, jurors, on an individual level, use cognitive heuristics when making complex judgements about the probability of evidence (Bornstein and Greene, 2013). Heuristics refers to cognitive shortcuts that people use daily to make decisions without considering all the information, relying on cues instead (Peer and Gamliel, 2013). The heuristic-systematic model (Chaiken, 1980), a peripheral route to decision-making, is a commonly used theory explaining how individual jurors decide trials based on evidence and stereotypes. If jurors lack motivation or resources, they will rely on their heuristic processes and focus on evidence consistent with their heuristic cues, known as the bias hypothesis. Peer and Gamliel (2013) suggested that confirmation bias is the tendency for people to favour information that aligns closest to their preconceived ideas and ignore data to the contrary (Peer and Gamliel, 2013). These are all individual processes that jurors go through. However, it is important to understand how these affect individuals and is shown at the group level as people's heuristic biases will lead them to different conclusions. Mercier (2017) suggests the importance of 'counter beliefs' in group discussions.

### *Bayesian Explanation*

In his 2023 paper 'Character evidence as a conduit for implicit bias', Bavli explained Bayesian influence or 'Bayes rule' as combining a prior belief with new evidence presented and creating a new conclusion or belief, known as a 'posterior'. It is based on mathematical probability. The Bayesian Model outlines that jurors enter the courtroom with an initial assumption surrounding the defendant's guilt. New evidence is judged and this information,

along with jurors opinion on guilt increases or decreases (Willmott, 2018). Evidence examines whether it could still exist if the defendant were genuinely guilty. Bavli (2023) explained the concept of reflecting on prior opinions and beliefs as the 'reflective model'. When jurors hear evidence, they combine prior beliefs with the new evidence to form an opinion. However, jurors do not use all their prior ideas; the shrinkage principle refers to the statistical concept of weighing up the proportion of a prior belief and how it answers the question. For example, the use of bad character evidence activates a juror's prior regarding ideas around a lousy character and is more likely to lead to a guilty verdict.

### *The Story Model*

Jurors create a plausible story based on the evidence about what occurred, (Pennington & Hastie, 1992), known as the *story model*. This model suggests that jurors individually impose personal experience and common sense to piece together pieces of evidence they do not understand and create a narrative they deem realistic. In their study, Ellison and Munro found that jurors quickly identified gaps and issues in the trial narrative, so they formed hypothetical explanations, informed by common sense and personal experience, to fill in these gaps. For example, in cases of excessive alcohol consumption, jurors may see them as partly responsible for outcomes of behaviours based on their experience of drinking Munro, (2019). Rossner (2019) support this and conducted research into jury dynamics and storytelling processes. She found that a trial is a process in which information can be broken down, out of order, and confusing. Therefore, a juror's job is to translate this information into something they understand: a narrative. One narrative that is dominant in much literature is that of a 'perfect victim' in which they have no contributory responsibility (Munro, 2019). The primary case type in which the idea of a 'credible victim' is challenging is sexual assault and rape. Chalmers et al. (2021) found that jurors have unfounded assumptions about how 'real' victims act during and

after sexual assault. This is useful as this is often the rationale behind individual jurors explanations they present in deliberation.

### *Group Dynamics*

After hearing the facts of a case and forming their individual ideas, jury deliberation becomes an open discussion in which jurors share their interpretations (Spruill and Hans, 2024). Social conformity is the idea that people can be coerced to act in a certain way, often through group thinking (Brown, 2014). Two significant influences can sway someone in a group setting to change their views: normative influence and informational influence (Lively, 2017).

### *Normative and Informational Influence*

Jurors who express opinions first in deliberation can often exert normative influence on others as outliers may feel they should agree with the group, with or without pressure (Peter-Hagene et al., 2019). Normative influence means people want to act in accordance with social norms and standards, therefore, they one may change their opinion to fit what the majority have agreed with (Lively, 2017). This originates from the basic human desire to fit in and is not exclusive to the courtroom (Garcia, 2021). One example of normative influence is group thinking, which is the tendency to agree with the group's majority view (Brown, 2014). Garcia et al. (2021) found that normative influence does not work alone. Instead, informative influence also significantly impacts whether members of a group or jurors change their minds. Informational influence occurs when one changes their opinion as they believe someone else possesses more information or knowledge than them (Lively, 2017). This may manifest in deliberation when one juror's view involves other information or evidence that other jurors still need to consider. It is believed that informational influence has more sway on opinion than normative influences, as information is more rational and based on facts. Fret and Van de Rijt (2021) found that informational influence can have positive effects, as sharing knowledge can

improve the accuracy of individual voters. Baddeley and Parkinson (2012) conducted mock jury investigations into the impact of social influences. They found that the deliberation process may help highlight individual jurors' gaps in logic or memory of evidence. Therefore, jury deliberation reflects a collaboration to converge on one verdict. They found this is achieved through adjusting views to align with the majority view. However, Baddeley and Parkinson (2012) pointed out some issues with their data. They briefly discuss the influence of personality on the ability to compromise and have meaningful discussions. A more empathetic juror would be more likely to comprise than a stubborn juror, which can substantially impact the results.

### **Mock Trial Methods**

Mock juries are the dominant method for studying jury deliberation (Ross, 2024). They allow researchers to examine the how and why of jury decision-making (Bornstein et al., 2017), giving researchers valuable insight into a rarely seen process. Mock jury studies simulate the experience of being a juror and, therefore, are the closest a researcher can get to investigating jury deliberation; the more realistic a mock jury is, the higher the generalisability (Leverick, 2020). According to Ross (2024), despite their usefulness, there are many issues to consider when recreating a jury, and many mock jury studies fail. He found that many mock jury studies involve "stimulus that is very different from the experience of participating in a real trial" (p.328). This directly impacts the external validity of those studies and shows that the realism of a mock jury is paramount in gaining valid insights into mock jury perceptions.

Another issue that affects the realism and validity of the findings of mock jury studies is that many mock jury research projects do not feature a deliberation aspect. This removes the finding. This means that nuanced conversations and processes resulting from a verdict are not investigated as genuine juror decision-making is removed (Willmott et al., 2021). This coincides with Leverick (2020), who suggests that mock jury research varies in realism, affecting generalisability.

Mock jury research is often unrepresentative of the public jury pool as they often use students due to their ease of access (Manzo, 2019). Students are usually of a higher socio-economic status than the general population and younger; therefore, they are. Nevertheless, Manzo (2019) states that mock juries share many essential features despite this massive impact on representativity. One of the most important similarities is deliberation processes and social interactions. Bornstein et al. (2017) stated that many mock juries are made of students as they are more available to researchers rather than generating a sample from the public. All student juries are more homogeneous than a jury pulled from the general public (Bornstein et al., 2017). This has an impact on the generalisability of the findings of this study. Not only is the generalizability affected by the student population, but it is affected by the sampling technique. Convenience sampling results in bias, affecting generalizability (Emerson, 2021).

### **Current Study Rationale**

Despite the growing presence of SP in the public sector and academic interest in this, there remains a gap in the literature regarding how jurors perceive incidences of the use of force. This is an important gap, as SPs are emboldened with perceived public trust to protect the public (UK Government, 2023), yet some research shows they may not always act in accordance (Kammersgaard, 2021). Factors affecting juror decision-making, such as age or gender, can influence perceptions and verdicts. Moreover, individuals' prior experiences and personal beliefs affect how mock jurors access trial information. According to Goodman et al. (2016) and Bavli (2023), individuals use their preconceived ideas and form opinions on the information. What is interesting is how these beliefs are expressed in a group setting. Peter-Hagene et al. (2019) suggest that some people may dominate conversations whilst others conform to these ideas and reach a verdict instead of pushing their opinions. Many factors in the case of evidence, such as complexity and the fallibility of eyewitnesses (Rogers, 2020; Puddifoot, 2020), may lead to an unjust verdict. However, these studies have been based on



various crime types, none involving SP. No prior study has examined juror or jury decision-making within cases related to SP use of force, even though it is an area of growing importance. This study is further unique in its exploration of mock jurors using deliberation. Deliberation and the depth of findings are often omitted from the mock jury. Ultimately, this project aims to inform policymakers and academics on the intricacies of mock jury perceptions of SP use of force as accurately as possible.

## **Methods**

### *Sampling*

Participants for this study were recruited through convenience sampling from a population of undergraduate university students aged 20-22. This utilized the researchers network and allowed for ease of access to participants. Participants were asked if they would participate through word-of-mouth and a total of twenty-four participants were recruited, forming two separate mock juries of twelve each. Inclusion criteria required participants to be over 18 years of age and eligible for jury service in the United Kingdom (UK Government, 1974). This study used two mock juries. These mock juries (MJ1 and MJ2) were conducted in an attempt to understand if different, randomly compiled groups of mock jurors would have different opinion and ultimately reach different verdict. Two separate 12-person mock jury groups were decided to be a sufficient sample for this research project given the time and recruitment restrictions within an undergraduate research project. This study's randomised allocation meant that any differences between the groups were minimised.

### *Data Collection*

A real case of the use of force was anonymized and used to create this trial brief. All the key case information, witness testimonies and medical evidence were identified, and the participants were given pseudonyms, see the paragraph below for the case information. This

was then compiled into a mock trial brief containing the indictment, judge's instruction, undisputed case information, the prosecutions and defence case, witness testimonies from two defendants, complainant and three witnesses, the judge's final instructions and legal directions (see appendix 10). Then, actors were recruited from Loughborough University staff and students to read the trial brief as a script and record the information to create a video trial brief. It is approximately 20 minutes long; see Appendix 7. This increased realism is important for securing high generalizability in mock juries (Stolle, 2008). Before deliberation, mock jurors were given a printed trial brief on blank paper and shown the video trial brief. They were then asked to deliberate for as long as needed. No prompt or explanation were offered, and jurors had to work together to understand the evidence and reach a verdict, like a real jury. This was audio recorded, and a transcript was made, in which each juror was allocated a number to represent them. The entire participation time varied based on deliberation; however, both were completed in less than an hour and a half.

The case featured two door staff, pseudonyms Dan Jones and David Phillips, who were accused of Grievous Bodily Harm by the complainant, Calum Moore; on the ground, they stamped, kicked and punched the complainant. The complainant was refused access to the nightclub, given the name Luna Luxe, where the defendants worked. He came back with glass bottles and threw them at the building, resulting in one hitting another 17-year-old patron. The defendants then gave chase to the complainant, in which the complainant was struck by a car. After this, one defendant tackled the complainant and restrained him on the floor. Calum Moore sustained a broken jaw and nose. Three witnesses reported seeing an altercation between the three men in which one witness says one bodyguard in orange kicked and punched the man on the ground. Two witnesses were intoxicated and together when they witnessed the encounter, another in a restaurant, and one defendant claimed all three were talking when police arrived.

CCTV was recorded of the encounter by a police officer who signed a written statement in which he claimed to have seen no violence. However, the CCTV was deleted.

### *Data Analysis Procedures*

The audio recordings of the mock juries were transcribed and analysed using thematic analysis. Thematic analysis (TA) is used to analyse and interpret qualitative data themes (Clarke and Braun, 2017). TA focused on identifying codes and themes within qualitative data to identify key themes guided by the research questions. The data analysis process was inspired by Braun and Clarke (2006), who described five steps of thematic analysis. Step one was transcribing and familiarisation of the data, this was mainly done through the transcribing of the data. Step Two generated initial codes. These codes were the topics the mock jurors discussed in the deliberation, the different evidence or facts they discussed were highlighted so it became apparent what topics dominated the conversations. Then, step three was searching for themes among these codes. Once the topics that featured heavily in discussion were identified, then the analysis of the way in which these were discussed began. Step four was reviewing these themes and accessing how codes and ideas fit into them. This resulted in four main themes emerging, many of which had subthemes within. Finally, these themes were named.

### *Ethical Considerations*

Assessment of risk to participants due to the potentially sensitive subjects discussed in the deliberation were considered in preparation for the mock juries. An extensive risk assessment (see appendix 4) was filled out prior to the mock juries in an attempt to minimise this risk. All ethics safeguarding as stipulated by Loughborough University ethics board were adhered to and ethical clearance was approved by Loughborough University before any data was collected. Participants were all informed of the potentially upsetting nature of the mock juries before partaking. They were then asked to sign the participant informed consent form to

before being shown any potentially upsetting material in the mock jury (see appendix 3). This detailed what the information gained in the mock jury would be used for, their right to anonymity, their rights as participants to withdraw at any stage of the deliberation, and afterwards. It also detailed any impartial support they may require if the deliberation or trial information was upsetting. Anonymity in a real-life jury is necessary to guard privacy, shield from harassment and is vital in maintaining an impartial jury (Petersen, 2023). This information was clear, and all participants willingly volunteered to take part (Manandhar and Joshi, 2020). Moreover, after deliberation, all participants received a study debrief reminding them again of the services available if they needed support and their right to withdraw consent. This also contained researcher contact information should they need it.

## **Findings**

The deliberations were thematically analysed, and four main themes emerged. The first mock jury returned a guilty verdict for both defendants however, the second mock jury returned a guilty verdict to Dan Jones and not guilty to David Phillips. No key differences were found between the two mock juries in terms of the evidence and extra-legal evidence that they focused on, so they are presented together. Each quotation is labelled by the juror unique number and the mock jury panel they participated (e.g. J1, MJ1 represents juror one on mock jury one).

### *Theme 1: Questioning the use of force*

The debates in the deliberation surrounding the use of force was a prominent discussion amongst the jurors. Many factors were viewed as influential such as, their rights, experience and the general opinion of bouncers.

## ***Rights***

*“Was it legally their job to restrain someone when they’re not inside the nightclub” J6, MJ1*

As the quotation above shows, some jurors questioned the legitimacy of bouncers actions outside where they are employed to protect. As seen in their discussion, the questions of legitimacy of the defendants' rights to use excessive force was highly influential. Some jurors mentioned a confusion about the rights of SP beyond the place they are employed to protect. This promoted debates amongst the jurors over ‘doing a job’ and the necessary violence used by the defendants. As mentioned in the legal directions given to the jurors, SP are allowed to use ‘reasonable force’; however, this generated different definitions of reasonable in the deliberations between participants, *“They’ve got a job to do so they’re allowed to detain him”* (J3, MJ1).

*“He was already on the floor... to use all this force to constrain him when he was already on the floor... especially if you’ve been hit by the car... none of the witnesses said that so I just feel like that’s a lie”, J4, MJ2*

Moreover, many other factors, such as the witness statements and being hit by the car, were utilised by the jurors to illustrate that the complainant was not an active threat and, therefore, some jurors reasoned that. unjust force was used. Some of the jurors, on the other hand, viewed the complainant as a legitimate threat, one that justified an extreme use of force, and this influenced their decision-making.

### ***Experience***

Similarly, the defendant's experiences as professional bouncers were questioned. Many jurors believed a professional bouncer would know legitimate restraint techniques and use them to prevent injuries to the person they are restraining. These jurors viewed the techniques used by the defendants as illegitimate, and therefore, any injuries caused were their responsibility.

*“if they’re not doing particular tactics like not tactics particular restraining order that is actually an offence” J8, MJ2*

However, a counterargument to this in the deliberation was that the complainant received the injuries due to his resistance to the restraints. They argued that the injuries were likely due to resistance not excessive force and given that the complainant remained a threat, more resistance and force was needed.

*“him trying to resist it is also probably contributed to the injuries though” J1, MJ2*

### ***General opinion of bouncers***

*“On a night out, people are always against the bouncer’ J2, MJ1*

Another influential factor on the use of force was the general opinion of bouncers on a night out. Most jurors suggested that people are ‘against’ or harsher in relation to bouncers. This was seen in the deliberation as having an influence on the witnesses, possibly making them harsher in their view of the incident. These jurors as a result, wanted to give the defendants the benefit of the doubt in regard to this by viewing the evidence in a more positive light with this concept in mind.

## **Theme 2: The role of medical evidence**

*“Did that violence cause the broken nose and broken jaw that’s the question” J2, MJ2, pg7*

One of the key themes that dominated the mock jury was the discussion of medical evidence. The medical evidence was recurrently discussed in the deliberation due to its perceived objectivity because “medical evidence and CT scans that’s science” (J10, MJ2). A key debate was surrounding the causes of the injuries as “he could have broken his nose or his jaw on impact to the car” (J1, MJ2); however, other jurors disagreed with this and instead suggested it was the defendants that caused the injuries. The jurors used ample methods to dissect the medical evidence and make sense of it to inform the verdict—the main ways being examining the severity and location of injuries.

### ***Severity and location of injuries***

*“if you’ve been hit by a car you’re going to fall one way so how can the left side of your chest hurt but then your right jaw be broken” J2, MJ2*

A reoccurring theme in juror assessment of the medical evidence was the lack of other injuries and the severity of injuries incurred. Some jurors were puzzled by the lack of other injuries in other parts of the body because it was deemed to be “*unlikely that the car would have fractured a jaw and not done any other injuries*” (J2, MJ2) and this, in their view, was tantamount to reasonable doubt that the defendants did not cause the injuries, but the car did. Moreover, jurors sharing this perspective questioned the severity of the injuries as they suggested being hit by a car and assaulted, as the witness statements suggest, would result in the complainant having

“had a lot worse injuries” (J3, MJ1), again reinforcing that the injuries resulted from the car not the defendants.

### **Theme 3: Reliability of the Witness Statements**

*“We can’t really rely on the witnesses anyway because they’ve spoken... some of them are under the influence of alcohol so they’re not really impartial”* J3, MJ2

The witness testimonies were discussed at length and both mock juries highlighted the influence of alcohol and collaboration on their testimony as making them unreliable. Both of these factors were used to motivate the idea that without reliable witness testimony *“that’s doubt so then you... got to sat not guilty”* (J5, MJ2).

#### *Intoxication*

One of the first aspects mentioned in the first mock jury was the intoxication levels of the witness statements and this resulted in them being completely discounted in this mock jury. They believed this *“might influence what they perceive to have seen it so they’re quite unreliable”* (J3, MJ1). Whilst MJ2 acknowledged that the *“alcohol could have been in their system and how could that have impacted”* (J2, MJ2) their statements. They did not discount the information provided by the witnesses.

#### *Collaborating*

Moreover, another influential factor that made the witnesses testimony unreliable was the perceived collaboration of the witnesses, as *“all three of them seem to talking together”* (J1, MJ1). This concern was highlighted by both mock juries as this collaboration would affect the validity of what each witness is saying. They *“might have subconsciously aligned”* (J4, MJ2)



their testimony and again made them unreliable, as one cannot then be sure what was seen or by who.

### *Sympathy*

Moreover, another aspect of the witness statements that proved influential is the concept of sympathy making witnesses unreliable as *“They’ve only seen him being restrained so they would have more sympathy for him”* (J10, MJ1). The witnesses *“didn’t see the prior actions”* (J7, MJ2) and the jurors interpreted this as having an impact on the witnesses’ opinion of the defendants, again making them unreliable.

### *Conflicting Statements*

Some jurors gave considerable weight to the conflicting nature of the witness statements, which undermined their reliability again.

*“One says they punched him, and the other says they kicked”* J7, MJ2

The witness statements conflicted in areas or actions of the defendants, again reinforcing to MJ1 that they were not reliable. The inconsistencies made it difficult for the mock jurors to distinguish between what was true and what was not, and this doubt made it impossible to pass a guilty verdict in some jurors opinion. *“we have to be 100% sure to convict ...there’s so many inconsistencies”* (J2, MJ2). Similarly, MJ2 noted there are *“inconsistencies between the two”* (J5, MJ2) witness statements. This resulted in more focus on the perceived objective medical evidence and not the witnesses.

#### **Theme 4: Questioning the character of the complainant**

One central theme that emerged from the thematic analysis was the questions of character surrounding the complainant. As explained in the undisputed fact information, the complainant threw a glass, which hit a 17-year-old, and this resulted in the chase. Many jurors saw these actions and concluded that the complainant was a threatening and violent character, one that deserved harsh restraints to stop because *“he’s a threat to others”* (J2, MJ1). Behaviours such as ‘shadow boxing’ and returning after being asked to leave the club were also examples of the complainants ‘character’ J1, MJ1. Some mock jurors link this to the idea of a *“character of person on a night out”* (J1, MJ1). This resulted in a less sympathetic view of the complainant.

*“I’m basing mine on actions ...they’re factual someone that’s been kicked out tonight because he’s hurt people ... that person does seem like someone that should have been restrained”* J5, MJ2

Moreover, a moral dilemma as to the rights of a threatening or violent complainant directed the discourse of mock juries. Some jurors, in both mock juries, suggested that this threatening character did not deserve to be defended, something met with a lot of criticism from other mock jurors.

*“He hit someone he’s tried to hurt another person... are we really saying that we want to defend this kind of person”* J1, MJ1

However, some jurors did not have this point of view, instead insisting *“it is not about character”* (J6, MJ1) and the prior actions of the complainant should be disregarded. They

should focus on the facts of what occurred to the complainant, not what he did. Moreover, there was some linking to personal experience from jurors who admit “*when you’re drunk you do things*” (J4, MJ1).

*“I don’t think it’s reasonable regardless of what they were doing” J7, MJ2*

## **Discussion**

### *Introduction*

This study aimed to investigate two main interactions between mock jury deliberation and the literature gap of security use of force: to examine what evidence jurors seem to make greatest use of in shaping their opinions about the case and to what extent does extra-legal information and juror assumptions guide their deliberative discussion in the case. Firstly, this research found that jurors use many external ideas to justify their point of view and persuade other disagreeing mock jurors, further supporting previous research. Moreover, the findings illustrate that jurors will interpret evidence differently from each other due to their pre-existing ideas, and this poses an issue in deliberation. Witness reliability also came under great scrutiny by the jurors. Finally, it is clear from this research that pre-existing beliefs greatly affect mock jurors. However, ideas of the legitimacy of actions, in this case SP, inform mock jurors, as suggested in the research. This discussion section will adopt an interpretive epistemological position as it explores the subjective nature of truth and how mock jurors use their own experience to understand it (Ryan, 2018). This chapter will critically evaluate these research findings and the contemporary literature and theories.

*To what extent does extra-legal information and juror assumptions guide their deliberative discussion in the case*

Devine (2012) suggested that investigating the jury's understanding of the evidence is crucial. In this study, mock jurors used preconceived ideas on topics to inform their decision-making process in this study. Mock jurors used external ideas, such as the agreed-upon idea of a 'type of person' on a night out and ideas of 'realistic injuries', to inform how they view the evidence and people involved. There was confusion on legality, which led to a gap in knowledge filled with preexisting ideas, as Rogers (2020) agreed. This is consistent with Chaiken (1980) and Goodman et al. (2016), as it is an agreed-upon concept that jurors utilise their 'outside-world' knowledge and heuristic cues to inform their decision-making. The moral dilemma posed by the complainant featured a myriad of character judgements informed by preconceived notions of people in clubs, and this links to Munro's (2019) concept of a 'perfect victim'. The complainant was not a perfect victim; therefore, they judged him more harshly. This further supports Offit's (2021) idea that people constantly judge each other's characters.

Interestingly, preexisting ideas were used to make sense of the confusion the medical evidence created. This study highlighted that mock jurors may not understand medical evidence; therefore, they use their heuristic cues or common sense to understand it. This can result in many misinterpretations and a misinformed verdict. The mock juries used common sense concepts on 'realistic' areas and the severity of injuries to conclude whether the defendants caused them or the car. This contributes to the story model (Pennington & Hastie, 1992).

*To examine what evidence jurors seem to make greatest use of in shaping their opinions about the case*

Medical evidence was one of the most influential elements of the evidence on the mock jurors. Many jurors interpreted it differently, finding their explanations based on their heuristic cues to make sense of the injuries. This highlights the importance of an explanation for injuries. The mock jurors would have benefitted from a doctor explaining their theory for the likely cause of injuries, as this would have used medical knowledge and not a juror's uneducated guess. Moreover, this perspective is supported by the myriads of works on complexity confusing jurors (Kramer and Koenig, 2014). Moreover, this study contributes to the wider academic research regarding witness misinformation. This study contradicts what Puddifoot (2020) suggested that mock jurors are unaware of the issues associated with witnesses, the opposite was found in this study. Many jurors are aware of misinformation, intoxication and collaboration that may affect the credibility of witness testimony. For example, this agrees with Evans and Schreiber Compo (2010) who found university students are aware of the effects of intoxication on witnesses. This is beneficial to the wider context as mentioned by Chalmers et al (2022), who believe it is a crucial role of jurors to assess the credibility of witnesses.

*What extent does opinions on legitimacy of authority influence mock jury opinions?*

This study addresses security use of force, identifying a gap in the current literature to investigate the intersection between security and mock jury perceptions. As mentioned by Kammersgaard (2021) and Berg (2010) concerning opinions on SP, the general view that SP may 'overstep' its role emerges which is found in this study's results. Some mock jurors were

concerned regarding the legal rights security guards had outside of the club they were employed to guard, as mentioned, Rogers (2020) finding of confusion of laws was also found in this study. However, not all the jurors took this view. This contributes to the discourse that security may 'overstep' their role and highlights the confusion among the general public and potential jurors regarding these legal rights. This suggests expanding upon legal rights to other potential juries may be beneficial. This contributes to the concept of complexity discussed previously, again reiterating the concern it causes. Furthermore, this study disagrees with the UK Governments (2023) concept of trust in security personnel. The mock jurors did not view SP positively, instead, they assumed they were lying to cover themselves. This demonstrates that more work is needed to uncover public opinion concerning SP, as an altered opinion can harm a jury's validity. To expand on this, mock jurors could have been given a questionnaire to elaborate on their opinions of SP.

### *Limitations*

This study used a mock jury format and thus suffers from the limitations this research design offers. The face-to-face aspect affecting a mock juror and increasing anxiety, which may result in less participation and increased reliability on stereotypes (Curtis, 2013). Although the findings are compelling, they lack generalisability due to the demographics of the sample, a common issue of mock juries. The sample was taken from a demographically limited university population aged 20-22 years old. Stolle (2008) suggested that thirty-six was ample sample size for a mock jury research project as many more begin to draw similar conclusions. However, this project used twenty-six meaning there are ample results to be further explored by another study. However, Emerson (2021) suggested that a larger sample size can counter this weakness. Replications of the research project using a more generalisable sample would be beneficial to extend the findings of this study (Peterson and Merunka, 2014), however, that does not negate the information presented from this study. The internal validity of convenience-

sampld mock juries, such as this study, benefit from using convenience sampling due to the random selection of jury members (Sedgwick, 2013), possible reducing the anxiety as one would not have relationships with the people in the room. Moreover, another issue is that the jurors were aware of the project title, '*mock jury perceptions of security use of force*'. The concept of demand characteristics may have had an influence on how jurors behaved as they may have exaggerated behaviours (McCambridge et al, 2012). However, this was one of the first studies to investigate the intersection of mock juries and opinions of security use of force. Therefore, more research is needed in this area, and these future studies can refine practices to ensure optimum accuracy and reliability. However, unlike other mock jury research projects, the focus of this was the deliberation and the findings have provided ample understanding of the research project.

### *Strengths*

One of the main strengths of this project was the inclusion of deliberation. This introduced a myriad of information on what it is that jurors talk about when deliberating. This is a much-needed area as the Contempt of Court Act 1981 restricts researchers access to real jurors deliberation. As discussed previously, SP and mock juries are a much lacking field of research, and the inclusion of group deliberation begins filling in this gap and sets this study apart from many others that feature individual deliberation. The thematic analysis used also best suits areas lacking empirical analysis due to the depth of information it offers, making it highly suitable for the topic of security and force. Another major strength of this study, that is often an issue with mock juror's, is the seriousness of the mock jurors. One issue that persists in much literature surrounding mock juries is that jurors are aware they are not in a 'real' jury and, therefore, their verdict will not have real-world consequences (Ellison and Munro, 2015). This, in turn, affects the validity of the results. This concern was also agreed upon by Ormston et al. (2019), who found that mock jurors know their actions do not have a real-life effect. This

was not an issue in this project. In this investigation, all the mock jurors took the upmost seriousness when considering their verdict, they contemplated the severity and real-world implications their verdict could have, a concern for other mock juries (Ellison and Munro, 2015). This added to the validity of the findings. Moreover, something that may have contributed to this, was the realism of the mock jury experience as the more realistic the mock jury, the more validity those results have (Leverick, 2020).

### *Implications and Future research recommendations*

The findings from this study propose two main policy recommendations. First, more explanation of unfamiliar or specialist evidence, such as medical evidence, is vital in ensuring jurors make informed decisions. When not explained, jurors resort to their heuristic cues to make sense of the evidence, resulting in misinformed verdicts. To counter this, policy makers should ensure that all specialist evidence is explained by a specialist to best make sense of it. Jurors should not be left to make sense of evidence they are not knowledgeable to make sense of. Secondly, this study highlights that it is not only necessary to remind jurors to not use preconceived ideas to inform decisions, as they were in this study, but also more education is needed on the severity of the impacts. The results of this study indicate there are many external influences on jurors that may alter their decision making. Possibly, something as simple as the introduction of a short video before deliberation explaining the severity of using pre-existing concepts to drive

However, one hurdle in improving jury validity is the Contempt of Court Act 1981, which prohibits disclosure from within the jury room. This makes it difficult to assess actual jury experiences; however, introducing a short survey after deliberation on their experience in the courtroom could aid in academic understanding. No questions would be asked on the facts or topics discussed in the deliberation room; instead, short questions on personal experiences, such as how well they understood the evidence and how clear the trial information was, would



be beneficial in helping ensure evidence is explained efficiently to jurors and they are not confused. This would also be cheap and easy to introduce. Furthermore, this study contributes to the wider research as it provides further evidence of many key theories, such as the story model (Ellison and Munro, 2015) and heuristic cues (Chaiken, 1980; Goodman et al., 2016). This study, however, also begins to examine the intersection of these jury elements and their interaction with security use of force. The general view of security ‘overstepping’ emerged, and this is an interesting concept that needs further research. To improve future research,

### **Conclusion**

Security guards have had an increasing presence in the public domain in recent years, however, have stayed an under-researched topic in regard to the general opinion and influence on mock jurors. This paper begins to fill the academic void of security use of force and mock jurors yet leaves a foundation for other studies to improve upon. This study set out to examine what, of the evidence presented in court and external ideas, has an influence in the deliberation room and the verdicts. Twenty- four participants were divided into two mock jurors and each of them experienced a realistic mock jury, examining evidence and deliberating to come to a verdict. These discussions were transcribed and analysed using thematic analysis. The findings suggest that there is a weakness in public understanding on rights of security guards. The jurors were confused and debated rights of security guards outside of the area they are employed to protect. This suggests more is needed to be done to educate the public, and potential jurors, on the legality of security guards and possibly other professions. Similarly, different interpretations of the medical evidence also highlighted the use of preconceived notions of realism in the deliberation room. This supports the Story Model (Ellison and Munro, 2015) that preconceived ideas inform jurors when they do not understand the evidence. Confusion is made sense with using preconceived ideas of a ‘type of person’ or realistic injuries. This support

strengthens the need for more research into confusion of mock jurors and legislation to help explain evidence more. Another contribution to literature offered by this paper is the inclusion of deliberation proved invaluable in illustrating what it is jurors discuss and how they discuss evidence. Jury deliberation is a wildly under researched aspect of mock juries and this study highlights the importance of future research to better examine the external ideas that inform decision making.

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