When Juries Fail to Comply With the Law: Biased Evidence Processing in Individual and Group Decision Making

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Two experiments examined individual and group decision making when decision criteria led to outcomes that violated distributive justice. In Experiment 1, noncompliant individual jurors in a civil trial biased their determinations of negligence to award damages when the decision criteria prohibited an award. Experiment 2 replicated this effect at the group level and revealed that juries also biased their attributions of negligence to justify reducing damages when the decision criteria required an excessive award. In both cases of noncompliance, juries recruited a biased subset of information during deliberations that sustained their decisions. Finally, noncompliant juries were marked by the advent of a "trigger" person who raised justice concerns. Implications for other decision-making groups and for the courts are discussed.

For two centuries in the United States, juries of ordinary people have been considered bulwarks standing between potentially oppressive governmental agencies and private citizens. The framers of the U.S. Constitution considered the jury in criminal trials to be among the basic safeguards against liberty-threatening incursions by a central government (Rakove, 1996). However, the power of the criminal jury to protect the prosecuted from the prosecutor, often despite overwhelming evidence of guilt, flies in the face of the judiciary's view of a circumscribed role for the jury as finders of the facts and nothing more. Although the fact-finder role of the jury is the judicially preferred model of jury functioning, juries may nevertheless act as a purveyor of commonsense justice, the application of a rough and ready sense of what is just and what is not (Finkel, 1995).

Jurors may not only disobey the law in criminal trials (Horowitz, 1985, 1988) but they may consider issues of fairness when determining negligence in a tort (civil) trial (Bourgeois, Sommer, & Horowitz, 1993; Wiener, Habert, Shkodriani, & Staebler, 1991). Civil juries are often confronted with outcome-determinative decision rules that require excessively harsh or meager monetary outcomes for the defendant or plaintiff, respectively. In the present studies, we sought to determine whether the application of unfair negligence rules would bias the decision-making strategies of jurors (Experiment 1) and juries (Experiment 2). The possibility that juries may recruit information to reach a desired rather than an objective result fits a small but growing body of literature suggesting that groups are as vulnerable to systematic judgmental biases as are individual decision makers (Gigone & Hastie, 1997; Kerr, MacCoun, & Kramer, 1996a; Tindale, Smith, Thomas, Filkins, & Sheffey, 1996).

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Motivational Influences for Individual Decision Making

There exists a rather extensive literature that suggests that when individuals are motivated to reach accurate or objective decisions they will recruit and consider information that supports and refutes various decision alternatives (e.g., Chaiken, Liberman, & Eagly, 1989). Tasks that demand accurate decisions tend to increase the number of alternatives or hypotheses considered (Kruglanski & Mayseless, 1988; Sanbonmatsu & Fazio, 1990) and facilitate greater attention to information that is strong and persuasive relative to information that is weak or undiagnostic (Johnson & Eagly, 1990; Petty & Cacioppo, 1986; Pyszczynski & Greenberg, 1987). Baumeister and Newman (1994) suggest that individuals motivated by accuracy goals function as "intuitive scientists," conducting a thorough search of information and correcting for the impact of potentially biasing information.

Nevertheless, other motives may operate concurrently with motives for accuracy. When individuals are motivated to reach specific outcomes, information search strategies often become biased such that greater attention is given to information supporting a desirable conclusion (Kunda, 1987; Lord, Ross, & Lepper, 1979). In several studies, Frey and colleagues (Frey, 1981, 1982; Frey & Rosch, 1984) have found that postdecisional information search strategies reflect a strong preference for decision-congruent information, especially when the decisions are irreversible. Individual decision makers may selectively attend to specific pieces of information in attempts to maintain "illusion(s) of objectivity" or beliefs that their inferences derive logically from the available data (Pyszczynski & Greenberg, 1987). Baumeister and Newman (1994) contend that individuals motivated to reach predetermined conclusions behave not as intuitive scientists but as "intuitive lawyers," searching for evidence that supports their case and counterarguing, ignoring, or discounting evidence that does not.

Systematic Biases in Group Decision Making

Fewer studies have examined the effects of motivational factors on group decision making. Although research shows that individuals may process evidence in a biased manner to reach desired conclusions, it is possible that when individuals function in a group setting, the group may correct or mitigate these biases. Some evidence suggests that groups are less susceptible to bias because discussion allows members to work through misunderstandings and clarify issues that initially may have been ignored (Saks, 1981). For example, Kaplan and Miller (1978) varied the degree of obnoxiousness displayed by the prosecutor and defense attorney in a criminal case. Predeliberation jurors rendered higher guilt ratings when the defense attorney was obnoxious relative to when the prosecutor was obnoxious, whereas jurors' postdeliberation did not reliably distinguish between the two conditions. Kaplan and Miller (1978) concluded that juries were able to attenuate the predeliberation biases of individual jurors and ignore the potentially biasing behavior of the attorneys.

Kerr, MacCoun, and Kramer (1996b) offered an alternative interpretation of Kaplan and Miller's (1978) findings. Kerr et al. asserted that a majority-wins social decision scheme, which characterizes most cases of jury decision making (Davis, 1973), causes initial response tendencies among individuals to become polarized. Although mean predeliberation verdicts in the Kaplan and Miller study differed according to whether the prosecutor or defense attorney was portrayed as obnoxious, mean verdicts in both conditions leaned toward guilt. Kerr et al. maintained that deliberations polarized guilt ratings and closed the gap between experimental conditions. Kaplan and Miller's findings thus reflected a ceiling effect wherein the absence of differences in postdeliberation ratings did not necessarily reflect attenuation of bias. Instead, Kerr et al. note that

> Kaplan and Miller (1978) would have reached precisely the opposite conclusion about the biasing effect of jury deliberation had they examined the effect of the biasing information (viz., counsel obnoxiousness) with a stimulus trial producing less extreme guilt judgments among individual jurors. (p. 122)

This analysis suggests that evidence for the amplification of group bias will emerge most clearly under conditions in which individual judgments are not extreme.

Other research similarly suggests that group discussion may perpetuate or even amplify initial biases among individual members (Gigone & Hastie, 1997; Janis, 1977; Lamm & Myers, 1978). For example, Frey, Schulz-Hardt, Lüthgens, and Moscovici (1995) found higher levels of confirmation bias among groups than individuals, with homogeneous groups (i.e., those consisting of individuals with the same prediscussion opinions) demonstrating the greatest bias in their searches for decision-congruent information. In a similar vein, Stasser and Titus (1985) showed that information was more likely to enter a group's deliberations when it was consistent with members' initial preferences; the higher the percentage of individuals favoring a particular conclusion, the more likely information supporting that conclusion was recalled and discussed. These researchers varied the extent to which the distribution of information among prediscussion group members was biased toward a particular choice. Compared with individuals in relatively

unbiased discussion groups, those in biased discussion groups recalled more information supporting their preferences and less information opposing their beliefs. Instead of correcting for prediscussion biases, discussion served only to increase the salience of information supporting initial decisions. However, Stasser and Stewart (1992) showed that groups given a decision-making task that presumably had a correct answer were motivated to conduct an unbiased information search. Thus, tasks that are judgmental versus intellective in nature may increase the potential for oversampling of shared information.

The goal of the present research was to examine, first at the individual and then at the group level, how decision makers use information when the decision criteria support results that may conflict with desires to reach outcomes that are perceived as fair, just, or equitable. To put it another way, we were concerned with situations in which distributive justice norms were violated by the stipulated decision criteria. Pyszczynski and Greenberg (1987) suggest that when people believe that their decisions may result in unfair (e.g., overly punitive) outcomes for others, these decision makers may augment the importance of information leading to particular (i.e., fair) conclusions. In a similar vein, the group research on judgmental tasks finds that groups give disproportional attention to evidence supporting desired and commonly shared decision alternatives (Kerr, MacCoun, & Kramer, 1996a; Laughlin & Ellis, 1986; Tindale et al., 1996). We will examine the hypothesis that individuals and groups that experience conflict between legally constrained outcomes versus morally fair judgments recruit information in a manner that will enhance distributive justice outcomes.

Civil Juries and Distributive Justice

In many situations, ranging from organizational settings (Skarlicki & Folger, 1997) to interpersonal relations (Barrett-Howard & Tyler, 1986), individuals employ a logic of distributive justice, a general rule of Equity Theory that suggests that assessments of justice may be based on the perceived fairness of outcomes (Homans, 1961; van den Bos, Vermunt, & Wilke, 1997). Although civil juries are often "blindfolded," denied information such as whether the defendant carries liability insurance, the various negligence standards applicable in tort trials (strict liability, contributory and comparative negligence) are outcome-determinative legal rules whose fairness jurors may question (Diamond, Casper, & Ostergren, 1989; Fidel, 1991). Central to a finding of negligence are attributions of blame and responsibility. For example, jurors are asked to apportion blame in some form under all three negligence standards. The comparative negligence standard requires that blame be apportioned and that monetary awards follow precisely that apportionment, such that an allocation of 40% of the blame to the plaintiff results in an award reduction by 40%, or the amount of plaintiff blameworthiness. However, jurors may not be informed by the court that if the plaintiff sustains some of the blame, no award will be given. In a contributory negligence standard, any blame attached to the plaintiff may entirely bar an award. Legal scholars have long speculated on the tendency for juries to mete out distributive justice-based verdicts by eliding or ignoring the mandated rule (Diamond et al., 1989).

Whereas much research has focused on the importance of procedural justice in a variety of organizational and personal contexts (Lind & Tyler, 1988), distributive justice concerns have been less salient in the literature (van den Bos et al., 1997). The decision-making group of interest in this study, the civil jury, more probably will be motivated by distributive justice concerns if the outcomes are perceived as inconsistent with the (distributive) norms of justice. Violations of these distributive justice norms often result in a desire to rectify the perceived injustice (Cropanzano & Folger, 1989; Homans, 1961; Skarlicki & Folger, 1997).

In many social or decision-making contexts, there is enough information to justify any conclusion as long as the perceiver focuses on a subset of information (Pyszczynski & Greenberg, 1987). Jurors who wish to avoid unfair laws or outcomes without openly rebelling against the law as specified by the trial judge can simply attach more weight to the evidence presented by one side. This biased weighing of the evidence allows decision makers to maintain the cloak of objectivity by recruiting only information that fits the desired outcome.

EXPERIMENT 1

The aim of Experiment 1 was to examine individual juror's assessments of negligence and awards when the stipulated negligence rule may lead to a decision that was deemed unfair to one of the parties. All jurors listened to the same set of evidence and determined the proportion of plaintiff harm that could be logically attributed to the plaintiff and the defendant. Under the comparative negligence rule, jurors are instructed to reduce the monetary award in strict proportion to that percentage of negligence contributed by the plaintiff. This is our baseline condition against which we can compare the decision-making processes and outcomes derived from the other negligence standards. Under the contributory negligence rule, any negligence on the part of the plaintiff precludes the plaintiff from receiving any damages. Finally, under the strict liability rule, any negligence on the part of the defendant leads to full damages for the plaintiff. The strict liability standard, under which most plaintiffs sue because it reduces the burden

of proving the defendant acted negligently, holds that a manufacturer is strictly liable when it places an article on the market that is defective and is unreasonably dangerous to the consumer (Restatement [Second] of Torts).

To pretest how each negligence rule met the norms of distributive justice, a separate pool of 60 participants was randomly assigned to read a description of one of the three negligence rules and indicate, on 10-point Likert-type scales (1 = *not at all fair*, 10 = *very fair*), the fairness of the rule. The results showed that the rules of contributory negligence ($M = 4.0$) and strict liability ($M = 3.5$) were viewed as less fair than the rule of comparative negligence ($M = 6.2$), $F(2, 59) = 7.64$, $p < .05$. Planned comparisons revealed that the comparative negligence rule differed significantly from both the contributory negligence rule ($p < .05$) and the strict liability rule ($p < .05$), whereas the contributory negligence and strict liability rules did not differ significantly ($p > .10$).

In the comparative negligence condition, damage awards are strictly proportional to findings of negligence. Assuming that the award for a plaintiff free of all negligence is one million dollars, then an assignment of 40% negligence on the part of the plaintiff and 60% negligence on the part of the defendant would yield recovery in the sum of $600,000. Perceptions of injustice arising from unfair negligence rules may enter decision-making processes at two points: assignment of negligence and assignment of awards. First, juries may assign zero negligence to the plaintiff in the contributory negligence condition and zero responsibility to the defendant under strict liability. This would allow juries to award some damages or avoid awarding full damages, respectively. We call the act of altering negligence ratings in response to an unfair (to one of the parties) negligence rule "noncompliance." Jurors also can ignore the decision criteria by altering the stipulated relationship between findings of negligence and allocation of recovery. This outcome also reflects a lack of compliance, in the strictest sense of the word, but to distinguish this phenomenon from noncompliance (which is characterized by skewing of the evidence), we term this phenomenon "nullification." Therefore, in a trial in which some degree of responsibility can be reasonably attributed to both parties, nullification can be assumed if juries gave less than the full award under strict liability and provide plaintiffs with more than zero monetary damages under contributory negligence standards. Of course, in cases when jurors overtly and directly override the law, jurors need not bias their perceptions of the evidence or alter their attributions of defendant or plaintiff responsibility.

Method

Participants and design. Participants consisted of 177 jury-eligible individuals. Participants were recruited by way of sign-up sheets posted in the psychology department. They were paid $12 for their participation. Six participants were excluded because they failed to complete the tasks, leaving a total of 171 in the sample. A one-way (negligence rule: comparative negligence vs. contributory negligence vs. strict liability) between-subjects design was employed.

Trial materials. Jurors listened to an audiotaped version of a civil trial in which the plaintiff sued the defendant, an automobile manufacturer, for one million dollars in damages. The plaintiff contended that the company was negligent in designing an automobile with a defective fuel filter, which caused a gas tank explosion resulting in the death of his wife. An expert witness testified for the plaintiff whose analysis conclusively indicated that the defect caused the explosion. A defense expert witness testified that the defect was found by a company inspector and all efforts were made to recall the defective automobiles. Testimony indicated that efforts were made to contact the plaintiff prior to the accident. Various versions of the trial were modified, based on feedback from pretest participants, to ensure that some blame could reasonably be attached to both parties.

The judge's instructions were presented after the evidence. The judge stipulated that jurors must apply the law to the evidence and not allow sympathy or prejudice to affect their decisions. The negligence rule described by the judge varied according to condition. The strict liability rule stated that any negligence on the part of the defendant would require jurors to compensate the plaintiff the full one million dollars (unfair to defendant). The contributory negligence rule required that no award be granted if the plaintiff was in any way negligent (unfair to plaintiff). The comparative negligence rule stated that the plaintiff's award should be based on that proportion of damage caused by the defendant (e.g., a liability rating of 40% for the defendant would result in an award of $400,000) (fair to both parties).

Procedure. Between one and four jurors were run in a given session. After gaining informed consent, the experimenter explained that jurors would hear a 30-minute version of a civil case and that it was their job to determine the relative negligence of the plaintiff and defendant. The experimenter stressed that only individual verdicts were of interest and that jurors were not to discuss the case at any point during the experiment. The experimenter followed with a short description of the rule and provided hypothetical but concrete examples of the manner in which attributions of negligence should affect damage awards.

Jurors listened to the trial and rendered their verdicts. On individual verdict forms, jurors first indicated (by

responding yes or no) whether any negligence could be assigned to the plaintiff. Jurors then responded to the same question as applied to the defendant. Third, jurors reported the percentage of negligence apportioned to the plaintiff and the defendant with the stipulation that these percentages add up to 100. Last, jurors filled in an award or the amount of money to be compensated the plaintiff. The verdict form noted explicitly that the damage award should be based on the negligence rule stipulated by the judge. Jurors then were debriefed and dismissed.

Results

Negligence ratings. As noted, we tried to calibrate the evidence such that some proportion of blame could be attached to both the plaintiff and defendant. Mean negligence ratings in the control condition indicated that we were successful in this regard. Under the fair rule of comparative negligence, the plaintiff was viewed as slightly less negligent (M = 42.9%) than the defendant (M = 57.1%). Jurors' ratings of plaintiff and defendant negligence under the comparative negligence rule provided the baseline for comparing the relative increase or decrease in negligence ratings under the contributory and strict liability rules. Because defendant negligence ratings were simply the inverse of plaintiff ratings, we examined plaintiff negligence ratings only. Skewing of the evidence in a direction consistent with notions of distributive justice should result in a pattern of plaintiff negligence ratings that are lowest under contributory negligence (unfair to plaintiff), moderate under comparative negligence (fair to both parties), and highest under strict liability (unfair to defendant). Whereas the mean negligence ratings were in the predicted direction (contributory negligence M = 34.6, comparative negligence M = 42.9, strict liability M = 45.9), the one-way ANOVA did not reach significance, $F(2, 168) = 1.95$, $p = .15$.

To provide a more direct test of noncompliance, we conducted additional analyses to determine whether jurors operating under the unfair negligence rules biased their ratings in ways necessary to alter the outcome of the case. Recall that jurors hearing the contributory negligence rule had to find the plaintiff 0% negligent to award any damages to the plaintiff. Conversely, jurors given the strict liability rule had to find the defendant 0% negligent to avoid awarding the entire one million dollars. A determination of 0% negligence on the part of the plaintiff in the contributory negligence conditions relative to the comparative negligence (control) condition would provide evidence for noncompliance. Similarly, a determination of 0% negligence on the part of the defendant in the strict liability condition relative to the comparative negligence condition would indicate noncompliance. We found, as expected, that jurors deciding the case under contributory negligence were significantly more likely to find the plaintiff not at all liable (23.64%) than jurors deciding the case under comparative negligence (7.94%), $\chi^2(1\ df) = 5.60$, $p < .05$. However, contrary to our expectations, jurors deciding the case under strict liability were no more likely to find the defendant not at all liable (7.55%) than jurors deciding the case under comparative negligence (7.94%), $p > .10$.

Damage awards. We examined damage awards among jurors who allocated some responsibility to both parties. As expected, when both the plaintiff and defendant were held accountable, damage awards were lowest in the contributory negligence condition (M = \$246,800), moderate in the comparative negligence condition (M = \$497,460), and highest in the strict liability condition (M = \$649,690), $F(2, 138) = 12.71$, $p < .05$. Planned contrasts indicated that damage awards in the comparative negligence condition differed significantly from both the contributory negligence condition, $F(1, 138) = 10.10$, $p < .05$, and the strict liability condition, $F(1, 138) = 4.06$, $p < .05$. Note that not all jurors awarded damages in a manner consistent with the decision criteria. Fifty-three percent of jurors in the contributory negligence condition who found the plaintiff negligent awarded some damages, and 60% of jurors in the strict liability condition who found the defendant negligent reduced the damages from the stipulated one million dollars.

Discussion

The findings from Experiment 1 showed that when legal rules may lead to potentially unfair outcomes, individual jurors may invoke the norms of distributive justice and bias their verdicts in directions that yield outcomes that conform with those norms. Jurors operating under the rule of contributory negligence were more likely than those operating under a fair law to absolve the plaintiff of all responsibility so that they could award damages. Contrary to our predictions, jurors operating under a rule that was unfair to the defendant (e.g., strict liability) were not more likely than jurors operating under other negligence rules to absolve the defendant of any negligence.

The findings from Experiment 1 provided direct evidence for the hypothesis that jurors' decisions are biased by outcome-determinative negligence rules that are perceptibly unfair or unjust in their outcomes. Although theoretically interesting in their own right, the present results do not speak directly to the process by which individuals arrived at their decisions. One interpretation is that noncompliant jurors sought out and weighed most heavily information supporting a fair outcome. An alternative interpretation is that jurors implicitly acknowledged the joint negligence of the plaintiff and defen-

dant but simply recorded a 0% negligence rating for the plaintiff to justify making an award.

The results also revealed that more than half of the jurors who attributed negligence to both parties rendered damages that were inconsistent with the decision criteria laid down by the judge. These outcomes suggest, but do not confirm, overt conformance to distributive justice norms, or direct nullification of the law. Another possibility is that jurors may simply have misunderstood the instructions. Indeed, judges' instructions often lead to confusions among jurors, resulting in inappropriate verdicts (Bourgeois, Horowitz, ForsterLee, & Grahe, 1995; Heuer & Penrod, 1989; Kassin & Wrightsman, 1979).

EXPERIMENT 2

The purpose of Experiment 2 was to explore noncompliance at the group level. We also sought to determine if jurors faced with an unfair negligence rule would employ biased decision-making strategies to support a noncompliant outcome. We recorded and content analyzed jury deliberations to test the hypothesis that outcome-determinative rules that are unfair to one party biases noncompliant jurors' use of information during discussions. Although we found no evidence for prodefendant noncompliance in Experiment 1, we included the strict liability condition in Experiment 2 to explore the possibility that group discussion might amplify a prodefendant stance.

The present experiment also focused on a group dynamic that may provoke noncompliance. It is commonplace for juries to obey the decision criteria decreed by the court. What marker might distinguish noncompliant juries from compliant ones? Gamson, Fireman, and Rytina (1982) examined the responses of ad hoc groups to an unethical demand of an authority figure. Approximately half of these groups rebelled against the authority when they realized that their opinions were being manipulated. The work of Gamson et al. (1982) has particular relevance for the study of jury noncompliance because rebellion occurred in their study as a result of a group decision that emerged when someone suggested action against the authority. Observations of group deliberations in earlier research suggested that one major precipitating factor of noncompliance is the presence or advent of an individual who works to move the group away from mandated rules to an overt consideration of the fairness of the outcome (Sommer, Bourgeois, & Horowitz, 1994). This "trigger" person, in essence, evokes the norm of distributive justice. In terms of norm focus theory (Cialdini, Reno, & Kallgren, 1990; Reno, Cialdini, & Kallgren, 1993), the trigger makes salient an injunctive norm that dictates what society views as appropriate or right. Experiment 2 examined whether the presence of a trigger was associated with a noncompliant decision.

Experiment 2 used the same manipulations as in Experiment 1, except that the group rather than the individual was the unit of analysis. To assess the processes underlying group decisions, we videotaped and coded jury deliberations for evidentiary arguments supporting a proplaintiff versus prodefendant decision. We expected that juries under the contributory negligence rule would be more likely than would those under the comparative negligence rule to absolve the plaintiff of negligence and also possess a trigger person who vocalizes the injustice of a compliant decision.

Studies in jury decision making reliably show that group decisions are strongly related to the number of predeliberation jurors favoring that decision (Kerr, 1993). Indeed, our pilot work for the present studies revealed that postdeliberation (group) noncompliance was strongly related to the number of predeliberation noncompliant jurors (r = .66). We predicted that noncompliant juries' preferences for outcomes that are fair but elide the negligence rule would drive information-utilization strategies. That is to say, noncompliant juries would bolster their decisions by discussing a biased subset of the evidence.

Finally, inconsistent damage awards among compliant jurors in Experiment 1 may have been due to misapprehension of the decision criteria. However, group discussion often helps to clarify confusing or complicated issues that lead to idiosyncratic judgments at the individual level (Kaplan & Miller, 1987; Kerwin & Shaffer, 1994). We speculated that if lack of comprehension were primarily responsible for the large percentage of jurors in Experiment 1 whose decisions complied with the evidence but not the legally stipulated damage awards, then this percentage should decrease when jurors are provided an opportunity to discuss the law as a group.

Method

Participants and design. Participants consisted of 360 jury-eligible individuals, 198 women and 162 men. The mean age for all participants was 29 years. Participants were recruited via advertisements in both a university newspaper and local newspaper. The advertisement specified that volunteers must be registered voters and that they would be paid $10. Individual participants were combined into 60 juries of 6 individuals each. A one-way (negligence rule: comparative negligence vs. contributory negligence vs. strict liability) between-subjects design was employed.

Trial materials. We used the same trial described in Experiment 1.

Procedure. Individuals were paid $10 for participation. Between 6 and 20 participants arrived for the experiment and were randomly assigned to 6-person groups. Surplus participants were paid and dismissed. Groups were randomly assigned to experimental condition and were led to a moot courtroom. After gaining informed consent, the experimenter explained that jurors would hear a 30-minute version of a civil case and that it was their job to determine the relative negligence of the plaintiff and defendant. The experimenter stressed that individual jurors were not to discuss the case while they listened to the trial. Jurors were separated by seats as much as possible during the presentation of the trial.

The experimenter followed with a short description of the relevant negligence rule, providing hypothetical but concrete examples of the manner in which attributions of negligence should affect damage awards. Jurors then listened to the trial and retired to another room to deliberate. When juries were ready to express their decisions, they were asked to respond to the measures detailed in the next section.

Juries operated under a unanimous decision rule. We did not specify a time limit but if juries did not resolve the case within 1 hour the deliberations were interrupted and a civil trial version of the Allen charge was read to them. This charge stresses the necessity of a decision. Juries were allowed an additional 20 minutes. If resolution was not forthcoming, the jury was designated a hung jury.

Dependent measures. Juries were given a verdict form that required them to indicate the percentage of negligence (0 to 100) apportioned to plaintiff and defendant with the stipulation that the percentages add up to 100%. Juries then assigned a damage award. The deliberations of the juries were videotaped and content analyzed according to Horowitz's (1985) coding scheme. Two coders, who were unaware of the experimenters' expectations, were paid and trained to analyze all deliberations. High interrater agreement was obtained for each of the three coding categories assessed in this study: references to proplaintiff evidence ($k = .73$), references to prodefendant evidence ($k = .70$), and presence/absence of a trigger person ($k = .88$). One-way ANOVAs revealed no differences between the two coders on any of these measures, all ps > .10. Raters were asked to resolve any disagreements.

Results

Negligence ratings, noncompliance, and damages. A one-way ANOVA on negligence ratings revealed significant variation among conditions, $F(2, 57) = 5.45$, $p < .05$. Planned comparisons revealed that plaintiff negligence ratings under the comparative negligence rule (M = 39.7%) were nonsignificantly lower than those under the strict liability rule ($M = 49.2\%$), $F(1, 57) = 1.80$, $p > .10$, but marginally significantly higher than those under the contributory negligence rule ($M = 26.0\%$), $F(1, 57) = 3.78$, $p = .056$.

A direct test of noncompliance was conducted by examining the percentage of juries in each negligence condition that reduced either the plaintiff's or defendant's responsibility to 0%. The results revealed noncompliance in both proplaintiff and prodefendant directions. First, replicating the results of Experiment 1, results showed that a significantly greater percentage of juries in the contributory negligence condition absolved the plaintiff of all responsibility (45%) than did juries in the comparative negligence condition (0%), $\chi^2(1\ df, n = 40) = 11.06$, $p < .05$. Second, a significantly greater percentage of juries in the strict liability condition absolved the defendant of negligence (20%) than did juries in the comparative negligence condition (0%), $\chi^2(1\ df, n = 40) = 4.44$, $p < .05$.

Damage awards. As in Experiment 1, we examined the pattern of damage awards provided by juries who attributed some blame to both parties. When both the plaintiff and defendant were held accountable, damage awards were lowest in the contributory negligence condition (M = $100,000), moderate in the comparative negligence condition (M = $557,000), and highest in the strict liability condition (M = $854,400), $F(2, 44) = 95.41$, $p < .05$. Planned contrasts revealed that damages under the comparative negligence rule differed from those under both the contributory negligence rule, $F(1, 44) = 76.22$, $p < .05$, and the strict liability rule, $F(1, 44) = 40.42$, $p < .05$. As in Experiment 1, damage awards did not entirely conform to the stipulated negligence rule; close to 55% (n = 6) of compliant juries in the contributory negligence condition awarded damages, and 50% ($n = 8$) of compliant juries in the strict liability condition reduced damages.

Biased information utilization strategies. We conducted content analyses to determine whether the negligence rule biased the content of deliberations. The number of proplaintiff and prodefendant statements were converted to proportions by dividing each number by the total number of proplaintiff and prodefendant statements rendered for each group. The proportion of prodefendant statements was simply the inverse of the proportion of proplaintiff statements; therefore, an analysis was performed only on the proportion of proplaintiff statements. A contrast analysis performed on this measure revealed a significant linear trend effect, $F(1, 36) = 26.59$, $p < .05$, with juries discussing the most proplaintiff evidence under contributory negligence ($M = 0.550$), followed by comparative negligence (M = 0.480), and then strict liability ($M = 0.459$).

To further explicate the decision-making processes underlying noncompliant decisions, we investigated the proportion of proplaintiff evidence discussed for juries who altered their negligence ratings in accordance with norms of distributive justice versus those who did not. We expected that noncompliant juries (those who absolved the plaintiff or defendant of blame) would exhibit biases in their information search strategies relative to juries who apportioned some blame to both parties. To this hypothesis, we conducted a 2 (strict liability vs. contributory negligence) × 2 (absolution vs. assignment of blame) between-subjects ANOVA on the proportion of proplaintiff evidence discussed during deliberations. A significant interaction emerged, $F(1, 36) = 26.59$, $p < .05$. The means are presented in Table 1. Planned comparisons revealed that noncompliant juries discussed significantly more proplaintiff evidence in the contributory negligence than strict liability condition, $F(1, 36) = 37.11$, $p < .05$, whereas juries who found both parties partly negligent showed no differences in discussion content between negligence rules, $F < 1$. These findings supported our hypothesis that noncompliant jurors skewed their discussion of the evidence in ways that justified a fair or just outcome.

Presence of a trigger person. The primary criterion for the identification of a trigger person was the emergence of a juror who suggested that the stipulated decision rule would lead to an unfair outcome. A trigger person was defined as an individual who endeavored to engage the group's sense of fairness or morality if that sense conflicts with the outcome demanded by the legally stipulated decision criterion. A trigger person was more likely to emerge when the rule was unfair to either the plaintiff (contributory negligence = 45%) or the defendant (strict liability = 30%) than when the rule was fair to both parties (comparative negligence = 5%), $\chi^2(2, n = 60) = 8.35$, $p < .05$. Single degree of freedom tests revealed the relative absence of triggers among juries operating under the comparative negligence rule compared with the strict liability rule, $\chi^2(1, n = 40) = 4.33$, $p < .05$, and contributory negligence rule, $\chi^2(1, n = 40) = 8.53$, $p < .05$.

We conducted additional chi-square analyses to examine the co-occurrence of trigger persons and noncompliant decisions within each unfair rule condition. Results indicated that the presence of a trigger was highly and reliably related to the tendency toward noncompliance. In the strict liability condition, trigger persons emerged more frequently among noncompliant juries compared with those who found both parties blameworthy (100% vs. 12.5%, respectively), $\chi^2(1\ df, n = 20) = 11.67$, $p < .05$. The results for juries operating under the contributory negligence rule paralleled these findings, with trigger persons emerging more frequently in noncompliant juries compared with those attributing negligence to both parties (77.8% vs. 18.2%, respectively), $\chi^2(1\ df, n = 20) = 7.10$, $p < .05$. Thus, the presence of at least one vocal juror proved to be a critical marker of noncompliance.

TABLE 1: Effects of Compliance and Negligence Rule on Proportion of Proplaintiff Information Discussed

Negligence Rule	*Noncompliant* (n = *13*)	*Compliant* (n = *26*)
Strict liability	0.308	0.497
Contributory negligence	0.618	0.494

Discussion

Noncompliance and biased information search strategies. Experiment 2 revealed strong evidence for noncompliance at the group level. When the law barred juries from awarding any damages to a partly negligent plaintiff (contributory negligence), juries were significantly more likely with absolve the plaintiff of all legal responsibility compared with a situation in which the law allowed for partial compensation (comparative negligence). In a similar but somewhat lesser vein, when the law required a defendant who was only partly responsible for the tort to fully compensate a plaintiff, juries relieved that defendant of all legal responsibility compared with when they could proportion damages according to degree of blame (comparative negligence). The findings fail to support the view that group discussion attenuates or eliminates bias among individual decision makers (Kaplan & Miller, 1978). Instead, juries allowed their decisions to be swayed by the decision criteria. Similar to individual jurors, juries were moved to restore fairness to either the plaintiff or defendant when outcomes violated norms of distributive justice.

A primary goal of Experiment 2 was to determine whether groups would recruit and weigh most heavily information supporting a noncompliant outcome, and the results from content analyses of group deliberations provided strong support for this hypothesis. The proportion of evidence discussed during deliberations was a strong marker of noncompliance in both unfair rule conditions; noncompliant juries in the contributory negligence condition discussed the most proplaintiff evidence and noncompliant juries in the strict liability condition discussed the least proplaintiff evidence, whereas compliant juries (including those who nullified the law by altering damage awards) and those operating under the fair rule of comparative negligence discussed equal proportions of proplaintiff information.

Note that noncompliant decisions among strict liability juries were not associated with biased decision mak-

ing to the same extent as noncompliant verdicts among contributory negligence juries. One explanation may lie in the relative strength of proplaintiff evidence in the trial. Comparative negligence juries, who may be assumed to be relatively impartial, attributed an average of 60.3% negligence to the defendant (and 39.7% to the plaintiff). Juries operating under the law of strict liability may have been limited in how much additional prodefendant information they could discuss in a case that favored the plaintiff from the outset. A second possibility is that the number of noncompliant juries in the strict liability condition was insufficiently high to provide a strong test of the relationship between a proplaintiff negligence rule and biased information utilization strategies.

Noncompliance and the role of the trigger person. Noncompliant juries were significantly more likely than other juries to possess at least one member who raised issues of fairness during the deliberations. Gamson et al. (1982) defined the trigger person as one who engaged the group's sense of morality and encouraged rebellion against an unethical authority. Our criteria were less stringent in that any juror who raised the issue of outcome fairness during deliberations qualified as a trigger person. Not only were issues of distributive justice articulated more frequently in response to the unfair laws, as one may expect, but the presence of a trigger was associated strongly with a noncompliant outcome.

Nullification. Paralleling the findings of Experiment 1, Experiment 2 revealed that a substantial number of juries who attributed blame to both parties awarded damages that were inconsistent with the negligence rules of strict liability and contributory negligence. This bolsters our supposition that some civil juries may be compliant in terms of conducting an objective review of the evidence but will nonetheless ignore or nullify the law by altering damage awards.

GENERAL DISCUSSION

The present findings replicate and extend previous work by showing that individuals and groups operating in a context that emphasizes objectivity will nevertheless allow distributive justice concerns to influence both their judgments and their evaluation of decision-relevant information. In Experiment 1, civil jurors were more likely to absolve the plaintiff of negligence when any negligence on the part of the plaintiff precluded a damage award. Experiment 2 replicated this result among groups and also revealed evidence for prodefendant noncompliance, wherein juries tended to absolve the defendant of negligence when any negligence on the part of the defendant required an excessively high damage award. In line with Frey's (Frey et al., 1995; Frey, Schulz-Hardt, & Stahlberg, 1996) and others' (Lord et al., 1979; Pyszczynski & Greenberg, 1987) findings of confirmation bias among individuals and groups, content analyses revealed strong evidence for biased information utilization strategies among noncompliant juries. To justify their decisions, noncompliant (but not compliant) juries recruited and discussed information supporting their decisions and ignored information that was dissonant or contradictory (or favored the opposing party). Noncompliance also was associated with the emergence of at least one group member who articulated the unfairness of the decision rule.

It is unclear as to why prodefendant noncompliance emerged at the group but not individual level. Experiment 1 used a midwestern sample of college students, whereas Experiment 2 consisted of relatively older, northwestern, jury-eligible adults drawn from a nonstudent population; it is possible that sample differences could account for the relatively stronger prodefendant stance in Experiment 2. A second hypothesis involves the impact of group discussion on prodefendant noncompliance. Prior work examining asymmetric deviations from majority-wins decision schemes has revealed a prodefendant or "leniency bias" among criminal juries (MacCoun & Kerr, 1988; Tindale et al., 1996). An even-split verdict preference prior to deliberation nearly always results in a postdeliberation acquittal if the jury does not hang (Kerr & MacCoun, 1985; Tindale et al., 1996), and other research shows that majority members favoring a guilty verdict are more likely to change their verdicts following deliberation than are majority members favoring a not guilty verdict (Tindale, Davis, Vollrath, Nagao, & Hinsz, 1990). Tindale et al. (1996) argue that these effects may be explained by the "reasonable doubt" criterion, which creates a shared representation favoring a not guilty verdict; jurors operating under the more loose "preponderance of the evidence" criterion, which does not favor a particular alternative, do not show the bias (MacCoun & Kerr, 1988). However, as Tindale et al. (1996) also note, a shared representation may involve any norm or belief held by the majority of group members, including those based on morality or fairness. In the present research, shared beliefs regarding the morality of a compliant decision may have prevailed over the relatively objective "preponderance of evidence" criterion, thereby creating an asymmetric situation favoring noncompliance. In plain terms, group discussion among juries in Experiment 2 may have engaged individuals' senses of responsibility toward a defendant who stood to suffer excessively punitive outcomes at the hands of an overly strict law.

Finally, juries may find it difficult or inappropriate to justify noncompliant decisions on evidentiary grounds and may search for another way to satisfy distributive jus-

tice concerns. In both studies, at least half the compliant jurors and juries operating under an unfair negligence rule altered damages in ways that led to relatively fair outcomes for the plaintiff or defendant. These findings build on prior work (Horowitz, 1985, 1988) by suggesting that nullification may occur among civil as well as criminal juries.

Limitations of Present Research

We hypothesized that when an objective review of the evidence in a tort trial dictates an outcome that is ultimately unfair to one party, juries will gather and discuss a biased subset of information in efforts to justify a noncompliant decision. Although we did not take predeliberation verdicts for fear of influencing the deliberations, we speculated that verdict preferences may have been strong and salient prior to group discussion. This, in turn, would have led jurors to weigh most heavily during discussion those pieces of evidence that led logically to a noncompliant group verdict. Another explanation for the present findings, however, is that the negligence rule had a relatively immediate impact on group verdicts. Jury members may have then selectively searched for evidence to bolster their decisions. In the absence of any measures assessing jurors' thoughts prior to the decision phase of the study, it is difficult to know whether prediscussion tendencies biased information search strategies or whether noncompliant juries simply searched for evidence to justify their existing verdicts.

We also have assumed that noncompliant juries made inferences and discussed evidence motivated by violations of distributive justice norms. Indeed, verdicts and discussion content produced by noncompliant juries bolster our supposition about justice concerns. However, had we assessed jurors' cognitions prior to deliberations, we could have tested directly the hypothesis that justice concerns created a momentum toward noncompliance and skewed the content of deliberations. Future studies that examine the direction of, and reasons for, jurors' decision tendencies prior to deliberation will better address the extent to which justice concerns mediate the relationship between negligence rule and deliberation content.

A final issue involves the precise role of triggers among noncompliant juries. Are triggers the primary impetus for group noncompliance, or do they emerge as a function of an already existing momentum toward noncompliance? The present research did not examine the temporal location of triggers in the deliberation process. Thus, future studies are needed to resolve the question of whether triggers are better conceived of as facilitators of noncompliance or as an epiphenomenon of noncompliant decisions.

Implications for Civil Law

The jury's basic role is that of an objective fact finder. It is also clear that juries perform other roles, applying a "commonsense justice" when the law seems unfair or unfathomable. This recourse role provides the legal system with a degree of freedom that may help maintain the law's standing in the community without asking it to bend its own rules (Kadish & Kadish, 1973).

Jurists who are suspicious of the jury's exercise of this recourse role often have found it necessary to blindfold the jury (Diamond et al., 1989). Juries are deprived of information that the court thinks will bias the jury's decision. This is especially true, as Diamond et al. have noted, in civil trials. The blindfold is applied to juries to ensure that juries follow legislative intent. However, a substantial number of juries in our research did not follow legislative intent. The noncompliant juries uniformly moved in the direction that would be predicted by the norms of distributive justice. Furthermore, a large number of jurors and juries explicitly nullified the law by rendering damages inconsistent with the judge's instructions.

Although juries are often blindfolded as to the consequences of their verdicts in negligence cases, eight states have passed legislation that permit juries to be informed about the consequence of their negligence determinations. Several other states have reached the same result via judicial decision (Fidel, 1991). Our results suggest that, in the absence of a blindfold, juries prefer the comparative negligence rule; in both the strict liability and contributory negligence conditions, a significant portion of the juries violated the legislative intent of the negligence rules.

The present experiments are the first to show that juries will subvert the law's intent when negligence standards violate distributive justice norms. This does raise serious concerns, and the choice is between greater candor or thicker blindfolds. One such possibility that could satisfy the latter alternative is to bifurcate negligence and award components of the trial.

Future Directions

We strongly encourage further exploration into the decision-making processes of groups whose primary goal is accuracy but who may nevertheless possess conflicting motives for fair or otherwise desirable outcomes. Although we chose the civil jury as the focus of the present research, we believe that the results are reflective of a variety of decision-making groups that may face the competing demands of distributive justice and more objective standards. Examples include academic tenure panels and admission committees confronting the value of diversity versus the sway of standardized test scores. In these cases, the consequences for the target of evaluation are often great, and groups may experience threats

to distributive justice norms when decision criteria lead to negative outcomes for targets who are viewed as sympathetic or deserving of more fair outcomes.

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