

Engaging Students in Psychology and Law: An Exercise in Jury Selection

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Perry, Huss, McAuliff, and Galas (1996) described an active learning experience for a psychology and law class involving a mock trial. Although others have expanded on the experience (e.g., Werth, Harvey, McNamara, Svoboda, & Gulbrandson, 2002), we would like to discuss one activity that can be used in conjunction with the mock trial or as a standalone activity. The voir dire, or jury selection process, can serve as an important precursor to the mock trial by encouraging students to actively immerse themselves into the experience and become participants. We begin by describing the voir dire activity in detail by outlining the process and describing a variety of benefits and difficulties involved in using this activity within a classroom setting. Additionally, we present an up-to-date annotated bibliography of activities useful in psychology and law courses of all types.

In many ways, psychology and the law is a topic area that lends itself to student engagement; the topic concentrates on crucial philosophical, legal and ethical issues, and encourages application to real-life events. Whether professors structure their courses around clinical aspects, non-clinical issues, or the field as a whole, applying the material within a mock trial is one way to promote active engagement and encourage the development of critical-thinking skills both inside and outside of the classroom. Perry et al. (1996) describe the mock trial as an entire class activity based upon real case law in which class members take on crucial roles within the trial. Students work together to create well-developed arguments based upon case facts drawn by the professor from an actual case. Students quickly become deeply involved in the process of the mock trial, frequently meeting with each other outside of normal school hours and contacting court officials as additional resources for the case (Perry et al., 1996). Furthermore, students show improvement in their critical reasoning skills as well as their motivation for class participation.

Although the mock trial itself is a valuable learning tool for achieving student engagement, the addition of a voir dire can provide participants with

additional insights into the trial process and serve as a spark to prepare them for the mock trial. The voir dire is the process by which the courts select prospective jury members. We recommend involving students from the department research pool as prospective jurors, if possible. We normally recruit 36 student participants from the research pool. We ask prospective jurors to report to a classroom on a given day and time in order to participate in jury selection for a mock trial in a psychology and law class. We set up the room to loosely resemble a courtroom setting with tables and chairs set up for the two opposing teams at the front of the room and seating for the jurors at the back of the room. Upon arrival, prospective jurors check in and receive a number to attach to the front of their shirts. After they are seated, the two opposing teams, defense and prosecution/plaintiff, give the prospective jurors brief questionnaires that have been screened ahead of time by the instructor to make sure all questions are appropriate. After all the prospective jurors have arrived and both teams are ready to start, the process of selecting jurors begins.

The instructor serves as the judge for the day and instructs the class and the prospective jurors about the order of events for the class period. Each side alternates asking questions in three minute periods of time. The three minute time limit allows each side the opportunity to discuss issues in confidence with the entire team, while at the same time controlling the available time for the activity. There is nothing specific about the three minute period, and the blocks of time could certainly be increased a couple of minutes without many problems. However, our experience has been that three minutes provides an optimal period given the changing demands of the process as it continues from beginning to end. We normally allow the prosecution/plaintiff to begin the questioning and the two teams alternate back and forth asking questions to the jurors. Only members of each team who have volunteered for the role of voir dire attorneys, usually two per team, are allowed to ask questions of the jurors to reduce confusion and move the process along in an orderly fashion.

Each side may ask group or individual questions without prior knowledge about the jurors or in response to the jurors' answers on the pre-trial questionnaires. The judge (i.e., the instructor) discourages the class from asking about potentially sensitive topics or from asking questions in a way that requires the prospective juror to disclose difficult experiences from his or her life. If the judge deems questions inappropriate or irrelevant, the judge bars those questions. Voir dire attorneys are allowed to communicate with their team and their team with them during questioning. Normally, one attorney poses questions to prospective jurors while the other attorney confers with the team or organizes the information they collect about each juror through their questioning as well as the opposing team's questions.

Each side can remove a juror at any time either for cause or by utilizing a peremptory challenge. Removing a juror for cause is rare, however, and would only occur in instances in which it was obvious that jurors could not be unbiased. In 15 years of performing this activity, strikes for cause have only been successful two times. Normally, voir dire attorneys choose to use one of their limited numbers of peremptory challenges to remove a juror they believe would be detrimental to their case. Each side must ask the judge for permission to excuse a potential jury member whether for cause or for using a peremptory challenge. Although both sides normally receive an equal number of peremptory challenges, the total number of prospective jurors who have shown up to the voir dire ultimately determines the number of peremptory challenges allotted per team. In essence, both sides receive the number of peremptory challenges that allows a final jury of 12 to sit for the mock trial. Therefore, if 36 prospective jurors show up, each side gets 12 peremptory challenges. If an odd number of jurors (e.g., 33) presents for the voir dire, the defense obtains the additional peremptory challenge. Each side can strike jurors at any time during the process.

There are many benefits to enacting the voir dire. It is an active learning process that promotes student involvement and application of the psychological research. Students have a much better understanding of the process from all sides after experiencing it. In addition, it acts as a realistic preparation for the trial that occurs in which students have to make decisions spontaneously in front of live jurors. We have heard of other teachers using students from their own class to serve as jurors; however, we highly recommend using a more naïve pool of prospective jurors that can offer a more ecologically valid experience for the class. When paired with the mock trial, this activity allows the class to review the video tape of the jury

deliberation in the context of their earlier choices during the voir dire, encouraging class discussion and reflection of the activity. For example, we ask whether jurors expected to be favorable to a specific side turn out to be favorable for that side. The voir dire serves as a wonderful impetus to get both teams organized and makes the impending mock trial much more salient and immediate to the students. Finally, this activity can also serve as a standalone activity. We have heard several anecdotal reports about its use as an in class activity over several class sessions with similar success. Students simply need a set of case facts from which to base their decisions about a perfect jury for either side.

Although there are numerous benefits to the voir dire, there are a few difficulties and aspects that should be examined, given the limitations of a particular class. First, there is the potential problem of completing the process in one class period. It is essential that the instructor or judge monitor time and keep the process moving along. We conduct the voir dire in one extended 50 minute class period. We normally ask jurors to arrive 15 minutes prior to our scheduled 50 minute class in order to check them in and get their responses on the pre-trial questionnaires. Only once has a class started to run up against time, and this occurred because both teams of attorneys were poorly prepared. In classes of 120 minutes or even longer, timing would be no problem. Lastly, there may be ethical concerns about questioning the volunteer jurors as real people. Although it is important to keep the process as authentic as possible for optimal learning and engagement, it is also necessary to remember that the potential jurors are real people who may have family members with similar experiences or have been victims of a crime themselves. Discussing this issue with the class before the voir dire begins and ruling out questions that are phrased in an insensitive manner have eliminated potentially uncomfortable moments and there has never been an instance where a prospective juror voiced concern during or after the process. This consideration is especially important because this activity does not come under the review of an Institutional Review Board because it is a class activity and not human participants research.

We recommend this activity to faculty teaching upper level courses in psychology and law or forensic psychology. Generally speaking, this activity works the best in classes with fewer than 30 students. However, modifications could create opportunities for a larger class without many problems. Through this exercise, we believe students obtain an active learning opportunity that increases independent critical thinking and provides a realistic depiction of psychology within the legal system. Upon the

conclusion of the voir dire, students anecdotally report greater insight into the jury selection process, appear to gain confidence in the application of psychological research to real life events and seem understand the importance and influence of the voir dire on the outcome of a trial.

Annotated Bibliography of Activities

We selected activities after an examination of the available literature on psychology and law related classes. We placed the activities in alphabetical order along with a brief description to give the reader some idea of their content and potential for use in psychology and law related classes.

This article introduces an exercise which utilizes feature films to assist students in identifying legal doctrines and research to critique the accuracy of the films' depictions as well as analyze the psycholegal issues within the films. The article provides information on how to integrate the films within the classroom and how to facilitate film discussions. The author identified three films as particularly valuable for the exercise as well as a list of other relevant films. The author additionally provides a variety of benefits and risks associated with using the activity and offers suggestions on how to prevent these risks in future demonstrations.

- Anderson, D. D., (1992). Using feature films as tools for analysis in a psychology and law course. *Teaching of Psychology*, 19, 155-158.

The authors evaluate the advantages of using focus groups in planning strategies for trial. The activity provides background information on the current uses of focus groups within the legal system, including how attorneys utilize focus groups to obtain a variety of possible explanations and viewpoints regarding their cases. There are two goals to be achieved through this activity: to demonstrate how social science can provide attorneys with a prospective juror's point of view of a case and for students to learn what is involved when individuals perform as a team. The article provides instructions on how to assign students to teams, roles, how to conduct the trial, and how to conduct focus groups. The authors also offer an idea for activity evaluation through focus group reports. Each final report includes theory and research in legal and social psychology as well as activity reflection questions.

- Berman, G. L. & Plantain, J. (2007). Deliberating the benefits of learning through focus groups. *American Psychology-Law Society Newsletter*, 27 (3), 12-14.

The author describes an evaluation of an eyewitness memory demonstration used within an undergraduate class on memory. The demonstration

addresses the question of whether or not making students witnesses facilitates learning about eyewitness memory. The article provides a description of the target event and two subsequent phases of testing the memory of the students. Phase 1 occurred two weeks after the target event, while Phase 2 occurred 7 months after Phase 1. The students received the same thirteen questions in both phases. The article offers results from the original activity and a discussion session evaluating the demonstration and some of its limitations. It explains two limitations exposed during the activity and provides related suggestions that teachers could incorporate into future demonstrations to avoid these limitations.

- Bornstein, B. H. (2006). Creating witnesses to teach about witnesses: A classroom demonstration. *American Psychology-Law Society Newsletter*, 26 (3), 9-11.

The author addresses concerns regarding minority influence, group polarization, and normative influence through a brief jury simulation. A short exercise designed to last only a single class period, the case design initially convinces every juror to choose a "guilty" verdict. However, two confederates persuade the majority group to agree with the minority "not guilty" group. The article provides instructions for confederates, specific details of the entire case, discussions questions for the class, and a lecture guide including important points to be taken from the simulation.

- Bottoms, B. L. (2006). Illustrating minority and majority influences through a jury simulation exercise. *American Psychology-Law Society Newsletter*, 26 (2), 8-11.

This article provides background information on psychology and the law and why these two areas tend to conflict with each other. The author invites teachers of psychology and the law to illustrate the conflicts of the two fields through providing a set of documents from a real case in which the two professions disagree. The author recommends *Roper v. Simmons* (2005) as a case in which the two professions disagree about the fundamentals of the facts, the understanding of the case, and the recommended outcome. The author provides both general instructions and specific instructions for the exercise as well as specific discussion questions for the students and a lecture guide for discussing the questions as a class.

- Callahan, L. (2008). A sociologist looks at the field of forensic psychology. *American Psychology-Law Society Newsletter*, 28 (3), 7-8.

The author describes an in-class demonstration in which either undergraduate or graduate students attempt to simulate a mental disorder while

completing the Emotional Distress Scale (EDS) psychological inventory. The author provides an example role play situation and instructions on how each student is to complete the 69-item EDS form. Instructions indicate how to score the EDS form and what each score signifies. The article also mentions guided discussion questions regarding the topics of test development and research design issues as well as professional and legal issues. Additionally, the author mentions ways in which the class discusses ethical questions regarding labeling within applied settings. The article furthermore includes variations and modifications for the activity.

- Edens, J. F. (2008). "Pretend you have a mental disorder": Using a malingering simulation to illustrate important topics in forensic evaluation and experimental design. *American Psychology-Law Society Newsletter*, 28 (1), 10-13.

This article depicts an engagement activity which is useful in introductory psychology, psychology and law, and abnormal psychology classes. It encourages students to apply psychological theories and concepts to the teachings in class. The article also mentions multiple cases in which many relevant psychological issues can lead to classroom discussion. The author provides character descriptions for five different people who have all taken the life of another or harmed another but have extenuating circumstances which makes the culpability decision difficult. The activity takes approximately an hour and a half. Lastly, the article includes a data-based evaluation of the activity as well as discussion of the benefits and improvements for limitations mentioned by the author for the activity.

- Fess, M.E. (1999). A forensic psychology exercise: Role playing and the insanity defense. *Teaching of Psychology*, 26, 201-203.

This article presents an intriguing exercise for a graduate psychology and law seminar spawned by the perspectives of a professor as well as a student within the seminar. The article includes an example case (*Thompson v. State, 1977; Thompson v. Dagger, 1987; Thompson v. McNeil, 2009*), background information on the case, and the professor's reasoning behind the activity. The activity asks each student to choose a paper topic provided from a list in the article, conduct a literature review, take a position on the basis of the review that supported either the petitioner or responder, and prepare an *amicus curiae* brief. In learning about the case, the students reported that they became intrigued by the real facts they were discovering and they searched for more information. They came across a pen pal request from the defendant himself. As a class, they began sending letters to the defendant, asking about events

in the case, relevant psychological topics, and life on death row, and students utilized the information they received to write their briefs. This active learning exercise can help to encourage students to look for more information and apply the theories to real-world situations.

- Greene, E. & Evelo, A. (2010). Using real cases in legal psychology courses: Our pen pal, the death row inmate. *American Psychology-Law Society Newsletter*, 30 (2), 8-9, 11.

The author provides an activity that serves as the conclusion of a semester long course in psychology and law. In this active learning exercise, students serve as advocates for a specific party in a legal case and must find and present the best empirical psychological evidence to help that party win. The activity works effectively with 8 to 20 students in the classroom. The author provides information on *amicus curiae* briefs and includes cases in which *amicus curiae* briefs were utilized by psychologists. The author additionally offers topic ideas as well as information on formulating case descriptions. Through questionnaires, the author found that this exercise helps students to condense a large amount of empirical data into a concise and organized analysis.

- Greene, E. (2008). An advocacy exercise for a psychology and law course. *Teaching of Psychology*, 35, 210-213.

This manual offers a comprehensive review of activities that parallel the chapters in Wrightsman, Nietzel, Fortune, and Greene's *Psychology and the Legal System* textbook (not the most recent edition of this particular text). Activities explored include ideas for debates and discussion questions, personal interviews, in-class speakers, public opinion surveys, out-of-class observations, videos, deliberation re-enactments and media analyses. The manual also provides information on how to perform a mock trial and/or mock jury.

- Heath, W. P. (2002). *Instructor's manual with test bank for Wrightsman, Nietzel, Fortune, and Greene's psychology and the legal system (5th ed.)*. Pacific Grove, CA: Wadsworth Group.

The author provides a detailed description of how to create a mock crime and follow through with the legal processes involved in the investigation and trial within the classroom. The activity is a semester-long simulation involving the entire class in both individual and group work. Offered within the article is an exhaustive list of necessary equipment and materials, roles and groups, and a detailed timeline of events needed to ensure a thorough criminal investigation. Lastly, the article provides a list of grading criteria, tangible products, and additional relevant activities to supplement the simulation.

- MacLin, M. K. (2006). Implementing a mock crime, investigation and trial in your psychology and law course. *American Psychology-Law Society Newsletter*, 25(3), 6-9.

Originally developed for Forensic Psychology doctoral students in an Experimental Psychology and the Law course, this activity uses the biographies of prominent researchers to help students familiarize themselves with the scholars within the field. The authors provide a description of the assignment as presented to the students, asking that each student prepare a presentation about one scholar in the area covered by that week's assigned articles. The article offers goals of the assignment, including but not limited to, introducing students to important scholars in Psychology and the Law as well as linking the research with the people responsible for the work. The article also includes additional beneficial teaching outcomes not initially anticipated by the authors, including exposure to more history of the field, opportunities to learn about more areas of research not covered within the class and professional development, as well as improvements for the biography assignment.

- O'Connor, M. & Groscup, J. (2008). "Who's Your daddy (or mommy)?" Teaching psychology and law through biography. *American Psychology-Law Society Newsletter*, 28 (2), 8-12.

The authors provide an overview of active learning within a psychology and law class as well as the importance of active learning within the education system. The authors additionally provide an outline for teaching a psychology and law class using active learning—a method of teaching which utilizes hands-on classroom experiences. The article includes information on class size, class objectives and class topics in addition to descriptions of active learning projects, including an action project in which students either attend a trial or interview three people within the legal system, current event analysis, oral arguments, and a mock trial. The authors found that students learned the content and earned average or higher scores on quizzes, papers, and exams than previous classes.

- Perry, N., Huss, M. T., McAuliff, B. D. & Galas, J. M. (1996). An active learning approach to teaching the undergraduate psychology and law course. *Teaching of Psychology*, 23, 76-81.

The author offers an active learning activity using fictional screen media and its portrayal of forensic professionals in order to help students apply what they learned in class as well as to identify how the screen media may affect people's understanding of forensic issues. The author provides examples of topics for the assignment as well as offers

information on creating presentations, conducting self and peer evaluations, and utilizing grading criterion.

- Schwarzmuller, A. (2006). Critiquing media depictions of forensic professions: A project for students. *Teaching of Psychology*, 33, 205-207.

This article describes an activity for undergraduate psychology and law students using the Jack Kevorkian euthanasia case for a controversial mock-trial. The article provides a summary of the case, pretrial preparations, trial procedures, and the mock trial. It also includes data from student questionnaires and student papers, which allowed for discussion and review of numerous aspects of the trial process. From these student observations and suggestions, the author identified limitations as well as recommendations for better use of the trial. This article provides an activity in which students receive the opportunity to discuss and examine a variety of issues as well as form strong beliefs, promoting strong psychosocial arguments on multiple perspectives.

- Werth, J.L, Harvey, J., McNamara, R., Svoboda, A., Gulbrandson, R., Hendren, J., Greedy, T., & Leybold, C.. (2002). Using controversial mock trials in "psychology and law" courses: Suggestions from participants. *Teaching of Psychology*, 29, 20-24.

Conclusion

We hope that these articles are useful for instructors teaching psychology and law or psychology and law related topics. Some instructors may find particular activities more useful given the parameters of their existing courses or their own training or pedagogical inclinations. We encourage instructors to think about not only the utility of each activity but the application to each unique classroom experience and instructor.