Researchers from across disciplines are divided on the question on the role of media and citizens’ decisions. This debate is particularly important regarding issues of pre-trial publicity and the ability of jurors to make decisions free of undue prejudice. However, to date, none of the research has examined pre-trial publicity and its effects on jurors’ decisions in a 3 strikes case. In the current study, publicity was manipulated as pro-prosecution, pro-defense, and control conditions from actual media accounts, in an experimental setting. Subjects were then randomly assigned to jury deliberation in groups of 6 and exposed to two different mock trials. This design allows for more realistic, and thus more ecologically valid, research manipulations to advance understanding on a key question. Since publicity always occurs in an applied context, this project explores several questions: does media exposure as pre-trial publicity affect jurors decision making in a three strikes case, and does the framing of the issue affect jurors’ decisions.
Introduction

Many scholars in the fields of social science and human communications have explored the role of pre-trial publicity (PTP) and the Sixth Amendment’s requirement that criminal defendants have the right to a fair trial free of undue prejudice. In the field of political science, researchers have found a nuanced effect of media publicity on voters’ preferences and opinions. The effects of media on jurors’ has also been the subject of juridical inquiry following a number of high profile cases in which defendants captured the popular media’s attention during all phases of the trial. However, little consensus has been reached among scholars and courts alike as to the role of media exposure and jurors. Agreement has been met that in high profile cases with saturated media markets covering the defendant and trial, media exposure compromises the juries’ ability to come to decision free of prejudice. However, it is less clear if pre-trial publicity of a general nature that merely covers the law under which a given defendant has been indicted or a particular type of crime has a similar prejudicial effect. Combining the insights of communications studies and political science on the role of the media in citizens’ lives, this paper turns to questions of the second kind, regarding general pre-trial publicity on California’s Three Strikes law. How does exposure to newspaper articles supporting or opposing Three Strikes prior to observing a criminal trial influence juries’ decision making?

The Three Strikes law was chosen as the subject of media publicity for several reasons. It has a prominent place in discussions of California’s budget woes and criminal behavior. The law is familiar to most California voters and citizens alike as it is invoked in the news, by politicians and through ballot initiatives to explain decreased criminal recidivism rates as well as during debates over increasing costs of the prison system and fewer spaces to house inmates. The United States Supreme Court has demanded that California reduce its inmate population or
build more prisons, and the Three Strikes law is generally in the mix of discussions regarding prison overcrowding. Because we are attempting to measure the subtle effects of media on juries, and exposure has likely varied considerably in our sample, this law is good place to begin.

This paper contributes to an ongoing body of research exploring the media and citizens’ decision making in several ways. First we explore the case where pre-trial publicity would have the least likely effects on jurors - with general publicity rather than defendant specific. We do this to get a more nuanced vision of the effects of publicity. Secondly, we utilize a controlled experiment where different jurors are exposed to three different types of publicity. Thirdly, we have a large N sample allowing us to use statistical methods generally unavailable to experimental research with a smaller N. Finally we manipulate several aspects of the trial which allows the opportunity to measure the effects of pre-trial publicity.

As early as 1907 the Supreme Court announced that juries’ decisions must be made based on the evidence presented at trial and “not by any outside influence, whether of private talk or public print” (Justice Holmes, Patterson v. Colorado, 205 U.S. 454, 462 [1907]). The court expanded its concern in Marshall v. United States, (360 U.S. 310 [1959]) holding that outside news accounts may be a more prejudicial than when introduced by the prosecution “for it is then not tempered by protective procedures” (313). Finally, in Sheppard v. Maxwell (384 U.S. 333 [1966]) the Court recognized the “pervasiveness of modern communications and the difficulty of effacing prejudicial publicity from the minds of the jurors” (362). In 2012 potential jurors may hear, watch, read, Tweet and follow, Google and ping unlimited sources of news; to say that the media are pervasive would be a great understatement in light of the Court’s understanding of the role of ‘modern communications’ in 1966. Given the pervasiveness of modern communications the question persists as to how pre-trial publicity affects jurors’ decision-making.
Decisions regarding the role of the press in a trial involve a precarious balancing of Sixth Amendment rights to a fair trial against First Amendment rights to a free press (Jones, 1991; Kerr, 1994; Kramer, Kerr, & Carroll, 1990; Rollings & Blascovich, 1977). As the Court noted in the Sheppard case, the press serves to “guard against the miscarriage of justice by subjecting the police, prosecutors, and judicial processes to extensive public scrutiny and criticism” (350). However, case law has produced a patchwork of inconsistent standards with regard to pre-trial publicity (see Bruschke, 2006; Kramer et al., 1990; Surette, 1992; Walton, 1998). Moreover, legal proceedings are frequently a topic of media coverage with estimates as high as 12,000 criminal defendants a year facing potentially damaging pretrial publicity (Kerr, 1994; see also Daftary-Kapur, Dumas, & Penrod, 2010). Therefore, it is a subject worthy of scholarly attention.

The cognitive processes by which news might influence juries’ decision making are complex. As Bruschke and Loges (2004) posit with regard to general publicity, in order for the news to have an influence, several steps must be met: Jurors must have paid attention to prejudicial coverage of the crime (pro or anti-defendant) and developed a prejudice that would prevent them from setting aside their belief, and therefore ignore jury instructions to focus solely on the evidence and testimony produced at trial (99-100). However, Wyer and Ottati (1993) suggest that “people typically do not conduct a detailed evaluation of the alternative concepts that might potentially be applied to a piece of information. Rather, they tend to apply the concept that comes to mind most easily at the time” (265). Therefore, when the conditions above are met, the media exposure may indeed have an influence, although what kind remains a puzzle.

Much of the skepticism on the role of pre-trial publicity aligns with the current thinking on the role of the media and priming. Priming suggests that the media may influence which issues citizens consider or the standards by which they use when making political assessments,
rather than changing their opinions (Iyengar and Kinder 1987, 63; see also Iyengar, Kinder, Peters, & Krosnick, 1984; Krosnick & Kinder, 1990). As Cohen (1963) argued, “the press may not be successful much of the time in telling people what to think, but it is stunningly successful in telling its readers what to think about” (13). However, priming is more nuanced and its affects vary with exposure (Krosnick & Brannon, 1993), sophistication and knowledge (Krosnick & Brannon, 1993; Krosnick & Kinder, 1990), familiarity with the issue content (Kelleher & Wolak 2006) as well as trust in the media (Miller & Krosnick, 2000). Therefore, under certain conditions, media exposure influences our thinking about policies and political issues, but research is mixed on the question as to whether pre-trial publicity creates a bias in the minds of jurors.

One set of reviewers finds a publicity bias that is strong and resists remedy. In 1997, Studebaker and Penrod synthesized the research findings this way: “In sum, it appears that the effects of pretrial publicity can find their way into the courtroom, can survive the jury selection process, can survive the presentation of trial evidence, can endure the limiting effects of judicial instructions, and cannot only persevere through deliberations, but may actually intensify” (445; see also Steblay et al. 1999; Fulero, 1987). Recent commentary continues to support this opinion (e.g., Hope, Memon, & McGeorge, 2004; Ruva & McEvoy, 2008; Ruva, McEvoy & Bryant, 2007; Ruva et al., 2011; Daftary-Kapur, Dumas, & Penrod, 2010; Ruva, Guenther, & Yarbrough, 2011). More nuanced findings suggest a more limited effect of publicity with only certain types of publicity demonstrating a bias (Shaw & Skolnick, 2004; Honess, Charman, & Levi 2003), or only when evidence is ambiguous (Devine, Buddenbaum, Houp, Studebaker, & Stolle, 2009). However, other reviewers have come to the opposite conclusion. Following an exhaustive search of the literature, Bruschke and Loges (2004) conclude that the case for a pretrial publicity
effect has been overstated. If the number of existing laboratory studies are divided into three groups, including those that demonstrate a pretrial publicity effect, those that fail to demonstrate a pretrial publicity effect, and those that produce mixed results, the groups have an equal number of publications. Moreover, evidence suggests that some types of publicity can actually help some defendants in some situations (Boccaccini, Mundt, Clark, & Johns, 2008). When field research is considered, the case for a pre-trial publicity effect becomes even more tenuous (134-136). Finally, in a laboratory study Woody & Viney, (2007) found that either pro- or anti-defendant publicity tends to ameliorate bias.

Perhaps an explanation for the various findings is located in the diversity of types of research. Studies noted above have been conducted as experimental and as field research, and the publicity exposure has been both specific and general. The experimental conditions have been challenged as unrealistic since typically media attracting trials can last several days or even months with a variety of types of media coverage. Experiments tend to expose subjects to a one page description of the case and may not require jurors to deliberate at all. However, field research is also complicated because while scholars can measure guilty verdicts in high media attention cases and low media attention cases, they are unable to account for the various other factors that may contribute to a venire’s vote for guilt or acquittal making comparisons quite difficult.

In addition, the pattern of coverage in laboratory studies is uncharacteristic of actual jury trials. As Bruschke & Loges (2004) explain, in the most publicized of cases, the OJ Simpson trial, potential jurors would have been exposed to hundreds of thousands of newspaper articles, television, and radio stories about the case before and during the trial. Potential jurors would have seen some coverage of the case, but remarkable if even two jurors had been exposed to the
exact same collection of media stories. Most trials that are covered by the media receive either very brief mention or near-saturation. However, the standard in publicity research manipulates coverage in roughly four to six articles (e.g., Freedman, Martin & Mota, 1988; Fein, Morgan, Norton, & Sommers, 1997) and all jurors read the exact same stories. While six articles is likely much more than an average trial might receive, the uniformity of coverage is highly unlikely. Moreover, the argument that deliberation should temper the effects of pre-trial publicity (opinions differ greatly; see Fein, McCloskey, & Tomlinson, 1997; Kerwin & Shaffer, 1994; Kramer, Kerr, & Carroll, 1990; London & Nunez, 2000; Padawer-Singer & Barton, 1975; Studebaker & Penrod, 1997; Ruva et al., 2007) cannot be made from these experiments as deliberation effects have been studied in circumstances of uniform publicity exposure. These shortfalls are understandable due to time and resource constraints. Despite these challenges, potential threats to the Sixth Amendment are compelling enough to continue to find explanations. This paper seeks to improve understandings of pretrial publicity by utilizing methods that are more realistic than those typically employed.

This issue of exposure uniformity has been raised by Bruschke and Loges (2004) but has not been explored in any study to date. The present study will include three publicity manipulations, but rather than exposing all jury members to the same coverage, publicity conditions will be assigned to individual jurors at random and juries will then also be composed at random. The result should be juries that consist of members who have been exposed to different types of pretrial coverage. The literature leads us to two general hypotheses:

H1: Exposure to media coverage intimating support for the three strikes law will be positively associated with findings of guilt for the defendant, while negative framing of three strikes will be positively associated with a vote of not guilty.
Since the participants were all exposed at the same time, the variance in influence is likely to come from both demographic and type of media exposure. As we are conducting a heterogeneous media exposure, we expect that the framing of the article will have an impact on whether jurors’ will find the defendant guilty or not. Borrowing from the political science literature on media, as Iyengar and Kinder (1987) demonstrate “Framing the problem in one way rather than in a logically equivalent alternative way can radically alter which options are chosen and which are foregone.” The literature explains that in making evaluations of a policy or candidate people will not recall every bit of information to which they are exposed but only pieces; therefore the way that information is framed and delivered matters greatly. “The symbolic meaning of an attitude object influences not only the evaluation of the object, but which predisposition is evoked” (Sears 1993: 128).

H2: The effects of the media exposure will be tempered by knowledge and sophistication, here measured by upper v. lower classmen.

Despite admonishments by judges that jurors should include only the information that was evinced at trial, the cognitive processes at work during jury deliberation should vary by knowledge and sophistication. The notion of sophistication articulated here relies on concepts articulated by Popkin (1994) on the communication and dissemination of political information in presidential campaigns and criteria for measuring sophistication borrowed from Converse (1964), Nie and Anderson (1974), Neuman (1986), and Luskin (1987). Citizens’ preferences are structured by their beliefs and knowledge about government and what they are told by the media (Popkin, 1994: 22). Operationalized, sophistication is the capability of the mass public to integrate the knowledge available to them into daily lives and process it as reflected by policy choices and vote. Given that the most common type of media exposure jurors will have before
and during a trial is of a general nature (coverage of the law itself or of a particular type of crime) the concepts from political sophistication are relevant because it expects jurors to synthesize their understandings of policy (here Three Strikes) in forming a decision about a particular defendant who may be facing a second or third strike.

No information was given to our jurors regarding the defendant’s criminal history, keeping in the realism of conducting our experiment. During a trial involving any type of felony, the court must operate on the well settled rule that jurors must not consider punishment or sentence in deliberation, a condition we maintained in our experiment (Shannon v. U.S 512 U.S. 573 (1994); People v. Baca (CA 1996) 48 CA4th 1703 [56 CR2d 445]; People v. Nichols (CA 1997) 54 CA4th 21 [62 CR2d 433].) In People v. Baca, (1996) the defendant’s appeal concerned his asserted right to have the jury instructed that his was a third strike case which would impose a very strict sentence should they find him guilty in the hopes of influencing them to use that information in his favor in their verdict. Similarly in People v. Nichols, (1997) 54 Cal. App. 4th 21 Nichols argued that the trial court erred by refusing to inform the jury he was facing a third strike case in order to encourage them to exercise their power of “jury nullification.” It was under these types of influence we sought to extract by exposing jurors to differing coverage of the Three Strikes law. The more sophisticated jurors would likely combine their understanding of the policy with the consideration of the evidence before them even though the materials never linked the defendant with a third strike.

Methods

Sample Selection and Characteristics

Opinion differs on the utility of student samples. Many scholars caution against using samples not characteristic of actual jury pools (e.g., Freedman et al., 1998; Kerwin & Shaffer,
1994; London & Nunez, 2000; Padawer-Singer et al., 1974; 1977). On the other hand, Bornstein (1999) reviewed 26 studies that had both student and non-student samples and discovered that only 5 reported significant differences between the groups and only 2 studies reported significant interactions with other variables. Bornstein concludes that “These findings bode well for the feasibility of generalizing from simulation studies to the behavior of real jurors” (p. 88). More generally, some note that demographic variables do not predict case outcomes as well as attitudinal variables (Bornstein & Rajki, 1994; Fulero & Penrod, 1990; Palmer, Baer, Jasperson, & DeLaat, 1997) or are generally weak predictors overall (Olczak, Kaplan, & Penrod, 1991).

There is some evidence to suggest that demographic variables emerge as important only in certain situations, such as when race is salient and when it is not (Sommers & Ellsworth, 2001).

Despite the debate that has surrounded the use of student samples, there is good reason to support their use here. The opinions of college students are of particular interest as they represent the opinions of those who will be jurors and participants in the political process for many years to come. Understanding the effects of pre-trial publicity on a younger sample will help guide our understanding of jury deliberations into the future. Moreover, as several scholars note, students provide a glimpse into a cultural lens of society (see for example Warr and Stafford, 1984; Payne and Chappell, 2008). As Payne and Chappell (2008) posit, students are often on the cusp of cultural change and tapping into their considerations on experimental juries helps us understand how juries might function more broadly. In the field of pre-trial publicity, student samples have been the overwhelming norm for research in the area; of the 20 experimental studies since 1990, 16 have used student samples exclusively and 17 have included the use of students. The four field studies since 1990 that have used exclusively non-student samples did not explore the effects of delays and pre-deliberation queries. Since delays and pre-
deliberation queries may eliminate publicity effects, there may be little need to test such relationships with more expensive designs. Finally, the purpose of this study is to make modest improvements in the overall realism of research designs, so while the realism of the sample itself would be a considerable improvement, much can be gained by simply exposing student samples to more realistic conditions. For example, having students view actual trials rather than written summaries remains an advance in realism.

Overall, 1172 participants were recruited from twenty-two different courses at a large metropolitan university in Southern California. There were 659 females (56.2%), 495 males (42.2%), and 18 respondents who declined to state a biological sex. Although the sample was heavily weighted with female respondents, the figures roughly approximate college student populations where females comprise roughly 60% of all college students (American Council on Education, 2005). The average age was 21.2 with a median of 20. One participant reported being 12 years old, and the next youngest participants were 17 years old (n = 14); 35 participants were 30 years old or older. The average income was $17,381 with 580 (49.4%) respondents reporting any income. The median income for those who reported any was $11,000 (respondents were asked to report income to the nearest $100), suggesting the mean somewhat overestimated the true central tendency for income.

**Materials**

Publicity manipulations were based on the so-called “general” publicity effect which has been utilized in several publicity studies (Bruschke & Loges, 2004; Greene, 1990; Greene & Wade, 1988; Kovera, 2002; Mullin et al., 1996; Riedel, 1993; Woody & Viney, 2007) resulting in equivalent or stronger results than studies of specific publicity. While much pre-trial publicity research has tended to be atheoretical in terms of how media content might influence media
consumers, media scholars have generally rejected the “hypodermic needle” approach that naively assumes that specific messages produce specific attitudes (see Iyengar and Kinder 1987). Instead, it is generally accepted that media messages tend to influence viewers in a cumulative fashion (see Bruschke & Loges, 2004, for an extensive discussion of this topic). In addition, while Vidmar (2002) found that respondents were unable to recall specific information about specific defendants, all the studies cited above that have studied general publicity effects have found significant results (although many have found that even negative publicity can produce pro-defendant effects). Taken together, these findings suggest that the most likely means by which a media message can influence juror behavior is by contributing to an overall image that influences general attitudes about crime and defendants.

The media used here concerned the controversial California “Three Strikes” law. In many ways the Three Strikes law serves as a proxy issue for overall attitudes about the criminal justice system. Enacted in 1994 by both a popular initiative and a legislative vote, the proponents of the Three Strikes Law were responding to a tough-on-crime political climate and specifically the kidnapping and murder of twelve-year-old Polly Klaas. The greatest controversy stems from the law’s provisions under the terms of the third strike which differ from the first two. Under the law’s requirements only serious and violent felonies count towards the first two strikes, but the trigger for the third strike may be any crime classified as a felony, not solely those classified as serious or violent. As a result, separate stories of stolen pizza, golf clubs, and children’s videos resulting in sentences of twenty-five years to life sentences are well known. In 2003 the United States Supreme Court rejected two separate challenges that argued the law violated the Eighth Amendment’s prohibition on cruel and unusual punishment in allowing non-serious and non-violent crimes to result in disproportionately long sentences. In 2004 a second
initiative, Proposition 66 sought to change the law to allow only violent and serious felonies to qualify as a third strike, but the proposition lost by 3 percentage points. Observers of California’s politics surmise the initiative was defeated as a result of a media blitz the weekend before the election sponsored by then-Governor Schwarzenegger and former governor Pete Wilson (Kaplan, 2011). The debate over the issue rages, particularly with the United States Supreme Court’s demand that California reduce its prison population, the poverty of the state budget, and the realignment bill addressing the Court’s mandate demanding that counties absorb some non-serious non-violent criminals sitting in state prison. A recent field poll found nearly 75% of Californians believe that prison overcrowding is a serious issue and that changing the Three Strikes law would alleviate some of the burden (DiCamillo & Field, 2011). For this reason a second attempt to amend the law has initiated with a measure recently approved by California’s Attorney General. In short, because the Three Strikes issue in California is a lightning rod for overall attitudes on criminal justice, it made an excellent and ecologically valid stimulus to operationalize general pretrial publicity.

Three actual news articles were selected as the publicity stimulus for the study. The pro-defendant article was an editorial published in the San Francisco Chronicle that was in support of Proposition 66. The anti-defendant article was an editorial published in the San Jose Mercury News that was opposed to Proposition 66 and hence in favor the Three Strikes law. The neutral article was published in the Los Angeles Times and concerned a retiring judge; no mention was made of any criminal issue, although the article did note that the judge had written a significant decision in defense of same-sex marriage. The text of each article was slightly modified for readability and length; all articles were reproduced with the masthead of a well-known local
paper, utilized identical type, and fit on a single page. The final versions contained between 447 and 513 words.

Two different videotaped trials were used as the trial stimulus with each participant viewing one of the trials. The first was a videotaped re-enactment of the *State v. Ramirez* case heard by the Utah Supreme Court in 1980. Ramirez was charged with the armed robbery of a Pizza Hut. Two men robbed the restaurant, and within 15 minutes of the incident Ramirez was detained by an officer two blocks from the robbery, although at the time of the detainment the officer had no knowledge that a robbery had occurred. Ramirez was seen walking with another man who ran at the sight of the officer; Ramirez offered an alibi that proved to be untrue. In a one-person show-up procedure one of three witnesses identified Ramirez as being one of the robbers. In short, much circumstantial evidence suggested the defendant was guilty, although the core of the case came down to the credibility of the single eyewitness who identified Ramirez. The show-up procedure was the constitutional issue that sparked the appellate review, but the re-enactment did not mention that the eyewitness identification was made during a one-person show-up rather than in a multiple-person lineup.

The re-enactments for the Ramirez case were originally created as part of a different research project. Each video featured appellant and respondent litigation teams of 4 persons each, with each presenter ostensibly a lawyer. Speeches included opening statements, evidence presentation of key arguments, and closing statements. No witnesses were presented, but excerpts on witness testimony from appellate briefs were presented, along with other evidence (a similar format was used by Honess et al., 2003). Instructions indicated that the case was being re-tried based on transcripts rather than original witness presentations, a rare but extant legal process. The mock lawyers made presentations from four different scripts manipulated to alter
evidence strength. Two versions of each manipulation were made with the lawyers taking opposite sides. The version selected for the present study was manipulated to favor the prosecution and pilot testing demonstrated that the mean guilt rating was 4.11 and mean evidence rating was 4.47 on 1-to-7 scales. Total length of the mock trial was 25 minutes and 5 seconds. Of the total sample, just over 21.2% (248) of the participants viewed the Ramirez trial.

The remainder of the sample viewed the People v. Lane trial accounting for 924 of the participants (78.8%). The fact patterns and witnesses were based on the Constitutional Rights Foundation High School mock trial competition case from 2009. The materials include a hypothetical criminal case (including summaries of case law, witness statements, official exhibits, and rules of evidence). The Lane trial surrounds the alleged arson of a community center belonging to a religious group who had recently bought the land and stirred controversy in a small tourist town. Following a rally protesting the group’s presence in the community, a fire breaks out destroying the group’s community center. The leader of the protest rally is arrested for arson and incitement to commit an illegal act. The video depicts a lawyer for each side conducting opening and closing arguments, main, cross and redirect questions of several witnesses. The video also depicted various witnesses for each side as well as a judge. There were two versions of the trial, one with the judge reading the jury instructions, the other without jury instructions.

Procedures

The study utilized a 2 (trial) by 3 (pretrial publicity) by 2 (jury instructions) design. As discussed above, three stimuli were utilized in the form of a newspaper article: an article discussing the Three Strikes law favorably, an article discussing the law unfavorably, and a control that discussed the retirement of the Chief Justice of California’s Supreme Court. Survey
packets included an informed consent statement, which respondents were asked to read and sign, followed by one of the three publicity manipulation articles. Following IRB protocol, a small but unknown number of respondents declined to participate and were excused without penalty and without being identified.

Participants were shown the mock trial video and were then placed into juries by the survey administrator, given a group number and asked to mark that number on their response sheets. Juries were formed in groups of four to six people, a norm in mock trial research (see Ruva et al., 2007). Fifty-nine respondents (5.0%) failed to mark their jury number. All juries then deliberated; the only limitation on deliberation length was the end of the class period and in no instance did juries appear to run out of time prior to reaching a verdict. Jurors were encouraged to try to reach unanimous verdicts or deliberate until deadlock was inevitable. Deliberation times seemed to range between 5 and 25 minutes; this is similar to deliberation times in other research (e.g., Ruva et al., 2007). At the conclusion of deliberation jurors were asked whether the jury decision was unanimous, and if so, what the verdict was. If the verdict was not unanimous, jurors were asked for their individual verdict; 25% of respondents reported a non-unanimous group opinion. In addition, respondents were asked to rate the strength of evidence following deliberation on a 1-to-7 scale with higher numbers indicating greater evidence strength against the defendant. Other information concerning lawyer performance was also collected but is not utilized in this study.

Data were collected in twenty-two classes. Five were large, mass lecture introduction to political science courses. Fourteen courses were upper-division classes in communications, political science and criminal justice, and one was a graduate course. Two classes were open
participation by students at the university who wished to participate in learning about the trial process. The courses were taught by various instructors at the university.

**Results**

**Effects of Pre-Trial Publicity**

H1 states that exposure to media coverage intimating support for the three strikes law will be positively associated with findings of guilt for the defendant, while negative framing of three strikes will be positively associated with a vote of not guilty. Table 1 summarizes the results from exposure to PTP for individual participants. Only those participants who provided consistent responses about jury verdict and the individual verdict are included in the following analysis (for example, if a participant said that the jury reached a unanimous verdict of not guilty, but the participant marked guilty for his or her individual verdict, the participant is not included). Based on a Chi-square test, exposure to PTP did not have a significant effect on juror verdicts, $\chi^2(2, \text{N}=1112) = 0.26$, which does not match the prediction under H1. While there may not be significant differences on the verdict outcomes, jurors may still have held different beliefs on the degree of guilt of the defendant based on their exposure to PTP. This can be measured by the juror response rating the strength of evidence against the defendant after deliberation measured on a scale of 1 to 7 with higher numbers indicating stronger evidence against the defendant. The average evidence rating and standard deviation for each category of PTP is also shown in Table 1. However, one-way ANOVA shows that exposure to PTP did not have a significant effect on the evidence rating either, $F(2, 1106) = 0.30$.

(Table 1 about here)
In order to determine whether the verdict outcomes were different for the two trials used as the stimulus, Table 1 also reports the outcomes for each trial. PTP had no effect on either juror verdicts or evidence rating in the Lane trial, $\chi^2(2, N=876) = 0.01, F(2, 871) = 0.31$. And the results are again similar for the Ramirez trial, with PTP having no effect on juror verdicts or evidence rating, $\chi^2(2, N=236) = 0.87, F(2, 232) = 0.86$. Thus regardless of the trial which the participant viewed, PTP did not have a significant effect on juror verdict or the evidence rating.

We also noted that some participants chose to underline their PTP article as they read it. This may indicate a higher level of attention for the article and its content. Table 2 shows the results replicated for this subset of careful readers who may have been more affected by PTP because of their additional attention to the article in their packet. However, again we find that PTP has no effect on the verdict outcomes, $\chi^2(2, N=46) = 0.24$; likewise one-way ANOVA shows that PTP does not have a significant effect on the evidence rating, $F(2, 43) = 0.86$. Thus the preliminary analysis does not provide support for H1 as PTP does not have any effect in the above tests. Regression analysis is used below in order to further examine these results.

(Table 2 about here)

**Determinants of Guilt**

Several characteristics of the participants were collected in the surveys so that it is possible to analyze what attributes, if any, significantly affect trial outcomes. Logistic regression models are used to determine the significance of the explanatory variables on the likelihood that participants found the defendant guilty in order to test H1. Based on the outcomes from the different trials, it is expected that participants who viewed the Ramirez trial are significantly more likely to find the defendant guilty than participants who viewed the Lane trial. The experiment design randomly assigned participants positive, negative, or neutral pre-trial publicity.
in order to test their effect on outcomes. If these have a significant effect on guilt as predicted by H1, this should be reflected in the results. In addition, some classes who viewed the Lane trial watched a video with jury instructions given by the judge, while others did not. An indicator for those classes that watched jury instructions will show whether instructions from the judge have an effect on verdicts.

H2 states that the effects of the media exposure will be tempered by knowledge and sophistication, here measured by upper v. lower classmen. Students participated in the experiments from a variety of courses. In order to test H2, an indicator is used for participants from upper division courses with the expectation that the increased educational level of these students will lead to greater sophistication which will in turn impact verdict outcomes.

Several additional explanatory variables are also included in the models in order to control for any other contributing factors. In order to control for the possible effect of gender, an indicator is included for female participants. The age and logged income of the participants are additional explanatory variables. Participants were asked to report their ideology on a five-point scale. These responses are coded as integers from -2 to 2 moving from very liberal at -2 to very conservative at 2. Three indicators are included for race/ethnicity: black, Hispanic, and Asian. All other participants reported a race/ethnicity of white, other, or no race/ethnicity. The definition of white used here is consistent with the U.S. Census Bureau’s definition which includes middle Eastern and Indian; for Asian, we included Pacific Islanders as does the Census as well. Table 3 summarizes participant characteristics.

(Table 3 about here)

Table 4 shows the results of logistic regressions on the individual participant verdict (1 = guilty, 0 = not guilty). The first model includes participants from both trials, the second model
includes only participants who viewed the Ramirez trial, and the third model includes only participants who viewed the Lane trial. Considering the combined model, participants were significantly more likely to find the defendant guilty in the Ramirez trial than in the Lane trial. There are no significant differences between participants exposed to positive PTP versus neutral PTP (the baseline indicator), nor are there significant differences between participants exposed to negative PTP versus neutral PTP. This matches the results above and again does not provide support for H1. This is an important finding as it goes against much of the literature on PTP, yet this is a more realistic protocol and uses a much larger data set than in previous studies. PTP may not have as significant an effect on jurors as has previously been claimed.

Students in upper division courses were less likely to find the defendant guilty than students from lower division courses. This lends credibility to the idea that students with more learning experience and more exposure to critical thinking would demand a higher level of certainty in the evidence as is required by the courts under the criminal standard of beyond a reasonable doubt. This shows support for H2 in that an increased level of juror sophistication on the part of upper division students does affect juror outcomes.

Whether the participants watched a video with jury instructions is significant; participants who saw the instructions were significantly more likely to find the defendant not guilty. There is no significant difference in verdicts due to gender, nor are age or income significant factors. Ideology is significant, with more conservative participants being more likely to find the defendant guilty than more liberal participants. Black participants were significantly more likely to find the defendant guilty than white/other participants, and there were no other significant effects due to race/ethnicity. This finding is intriguing and deserves further study; while there
are many possible reasons for this result, it may be related to some interaction of the 
race/ethnicities of the defendant and the participant.

For the model with just the Ramirez trial participants the results are similar. Age is 
significant at the 0.10 level, indicating that older participants are more likely to reach a verdict of 
not guilty. Black participants do not show a significant difference from white/other participants.
The model for the Lane trial participants also shows similar outcomes. The one difference is that 
female participants are significantly more likely to reach a verdict of not guilty than male 
participants, indicating that gender may at times be a significant factor in determining verdicts.
Ideology is not significant in this model. Both models show a lack of support for H1 in that PTP 
is not significant, but there is evidence for H2 in both as upper division students are significantly 
more likely to find the defendant not guilty.

(Table 4 about here)

As another way to analyze how PTP and juror characteristics can affect verdicts, Table 5 
shows an ordered logistic regression on the participant’s belief of the strength of evidence 
against the defendant after jury deliberation. Again, this was reported on a scale from 1 to 7 with 
higher numbers indicating stronger evidence against the defendant. Similar to the previous 
regression, participants believed the evidence was significantly stronger in the Ramirez trial than 
participants in the Lane trial. PTP has no effect on the perceived strength of evidence against the 
defendant, which again shows a lack of support for H1. In this model there is also no support for 
H2 as upper division students did not have a significantly different evidence rating than other 
students.

Quite intriguingly, instructions to the jury were again significant. However, in this model 
hearing the instructions led the participants to believe that the evidence against the defendant was
stronger, even though they were more likely to vote not guilty in the previous model. This finding certainly deserves future consideration and research. The gender of the participant did not have a significant effect, but age was significant. Older participants were significantly more likely to believe that the evidence against the defendant was weaker. Income was not significant, nor were ideology or upper division courses. None of the indicators for race/ethnicity were significant in this model.

The models for the individual trials again show similar results to the combined model with no support provided for H1 or H2. The only difference between the combined model and the model for the Ramirez trial participants is that age is not significant. There are no notable differences between the combined model and the model for the Lane trial participants.

(Table 5 about here)

In summary, the data show no support for H1 as in no instance does PTP affect juror outcomes. This is an important finding as it contradicts much of what has been said in the literature about the impact of PTP. There is some support for H2, however, in that juror sophistication as measured by upper division classes was significant as these students were more likely to vote not guilty. Juror sophistication did not have an effect on the perceived level of evidence against the defendant, however.

Conclusion

Much scholarly work has been devoted to the role of the media in the publics’ decision making processes, particularly in its affects on jurors. The research presented here confirms the scholarly work that has found little to no relationship between the media as pre-trial publicity and jurors’ decision making. However, despite our findings there are still areas which need to be improved in the research, a lacuna in the field we hope to someday remedy. Using real jurors
who have been called but not empanelled would be the most optimal conditions and hopefully lend the most credibility for policies made by the courts and legislatures to address the media and defendants’ rights under the Sixth Amendment. It is our hope to gain access to these jurors in large enough numbers to complete our study on the effects of pre-trial publicity with general media exposure. There is likely a time where pre-trial publicity will introduce a bias to the jury (whether favorable to the prosecution or the defendant) but by way of general publicity in an ordinary trial this is not a likely scenario.

This paper has improved the experimental conditions over pre-existing studies in a number of ways. First, through the use of heterogeneous exposure and control to newspaper accounts, our experimental condition more closely align with actual jurors who are called from society at large. Secondly, rather than simply ask potential jurors to read an account of a trial and make a decision individually, our jurors were exposed to reproductions of trials and then asked to deliberate. Finally, by expanding the number of participants we are more able to explain variances in our samples and use more complete modes of research traditionally unavailable to small experimental studies. Through these changes, we have improved upon existing research and contributed to an ongoing body of literature.
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<table>
<thead>
<tr>
<th>PTP Condition</th>
<th>Verdict</th>
<th>Total Verdicts</th>
<th>Evidence Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not Guilty</td>
<td>Guilty</td>
<td></td>
</tr>
<tr>
<td>Positive PTP</td>
<td>302 (82%)</td>
<td>65 (18%)</td>
<td>367 (33%)</td>
</tr>
<tr>
<td>Negative PTP</td>
<td>311 (84%)</td>
<td>61 (16%)</td>
<td>372 (33%)</td>
</tr>
<tr>
<td>Neutral PTP</td>
<td>311 (83%)</td>
<td>62 (17%)</td>
<td>373 (34%)</td>
</tr>
<tr>
<td>Total</td>
<td>924 (83%)</td>
<td>188 (17%)</td>
<td>1112 (100%)</td>
</tr>
</tbody>
</table>

Frequency Counts for Individual Verdicts, Means and Standard Deviations for Evidence Ratings, Lane Trial

<table>
<thead>
<tr>
<th>PTP Condition</th>
<th>Verdict</th>
<th>Total Verdicts</th>
<th>Evidence Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not Guilty</td>
<td>Guilty</td>
<td></td>
</tr>
<tr>
<td>Positive PTP</td>
<td>260 (90%)</td>
<td>29 (10%)</td>
<td>289 (33%)</td>
</tr>
<tr>
<td>Negative PTP</td>
<td>263 (90%)</td>
<td>30 (10%)</td>
<td>293 (33%)</td>
</tr>
<tr>
<td>Neutral PTP</td>
<td>264 (90%)</td>
<td>30 (10%)</td>
<td>294 (34%)</td>
</tr>
<tr>
<td>Total</td>
<td>787 (90%)</td>
<td>89 (10%)</td>
<td>876 (100%)</td>
</tr>
</tbody>
</table>
Table 1 Continued
Frequency Counts for Individual Verdicts, Means and Standard Deviations for Evidence Ratings, Ramirez Trial

<table>
<thead>
<tr>
<th>PTP Condition</th>
<th>Not Guilty</th>
<th>Guilty</th>
<th>Total Verdicts</th>
<th>Evidence Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Positive PTP</td>
<td>42 (54%)</td>
<td>36 (46%)</td>
<td>78 (33%)</td>
<td>4.35 (1.30)</td>
</tr>
<tr>
<td>Negative PTP</td>
<td>48 (61%)</td>
<td>31 (39%)</td>
<td>79 (33%)</td>
<td>4.10 (1.45)</td>
</tr>
<tr>
<td>Neutral PTP</td>
<td>47 (59%)</td>
<td>32 (41%)</td>
<td>79 (33%)</td>
<td>4.35 (1.42)</td>
</tr>
<tr>
<td>Total</td>
<td>137 (58%)</td>
<td>99 (42%)</td>
<td>236 (100%)</td>
<td>4.27 (1.39)</td>
</tr>
</tbody>
</table>

Table 2
Frequency Counts for Individual Verdicts, Means and Standard Deviations for Evidence Ratings, Careful Readers

<table>
<thead>
<tr>
<th>PTP Condition</th>
<th>Not Guilty</th>
<th>Guilty</th>
<th>Total Verdicts</th>
<th>Evidence Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Positive PTP</td>
<td>17 (89%)</td>
<td>2 (11%)</td>
<td>19 (41%)</td>
<td>3.11 (1.05)</td>
</tr>
<tr>
<td>Negative PTP</td>
<td>16 (84%)</td>
<td>3 (16%)</td>
<td>19 (41%)</td>
<td>3.26 (1.28)</td>
</tr>
<tr>
<td>Neutral PTP</td>
<td>7 (88%)</td>
<td>1 (13%)</td>
<td>8 (17%)</td>
<td>3.75 (1.17)</td>
</tr>
<tr>
<td>Total</td>
<td>40 (87%)</td>
<td>6 (13%)</td>
<td>46 (100%)</td>
<td>3.28 (1.17)</td>
</tr>
</tbody>
</table>
Table 3
Participant Characteristics

<table>
<thead>
<tr>
<th>Variable</th>
<th>Number/Mean (Percentage/Standard Deviation)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ramirez Trial</td>
<td>236 (21%)</td>
</tr>
<tr>
<td>Positive PTP</td>
<td>367 (33%)</td>
</tr>
<tr>
<td>Negative PTP</td>
<td>372 (34%)</td>
</tr>
<tr>
<td>Upper Division Course</td>
<td>349 (31%)</td>
</tr>
<tr>
<td>Jury Instructions</td>
<td>471 (42%)</td>
</tr>
<tr>
<td>Woman</td>
<td>624 (57%)</td>
</tr>
<tr>
<td>Age</td>
<td>21.3 (3.8)</td>
</tr>
<tr>
<td>Income</td>
<td>8881 (17242)</td>
</tr>
<tr>
<td>Ideology</td>
<td>-0.15 (0.89)</td>
</tr>
<tr>
<td>Black</td>
<td>28 (3%)</td>
</tr>
<tr>
<td>Hispanic</td>
<td>361 (32%)</td>
</tr>
<tr>
<td>Asian</td>
<td>239 (22%)</td>
</tr>
</tbody>
</table>

N ≈ 1110
### Table 4
Logit Model for Guilt

<table>
<thead>
<tr>
<th>Variable</th>
<th>Combined</th>
<th>Ramirez</th>
<th>Lane</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ramirez Trial</strong></td>
<td>1.60 ** (0.23)</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Positive PTP</strong></td>
<td>0.14 (0.22)</td>
<td>0.43 (0.36)</td>
<td>-0.06 (0.29)</td>
</tr>
<tr>
<td><strong>Negative PTP</strong></td>
<td>0.02 (0.22)</td>
<td>0.11 (0.36)</td>
<td>-0.04 (0.29)</td>
</tr>
<tr>
<td><strong>Upper Division Course</strong></td>
<td>-1.04 ** (0.25)</td>
<td>-0.85 * (0.41)</td>
<td>-1.25 ** (0.33)</td>
</tr>
<tr>
<td><strong>Jury Instructions</strong></td>
<td>-0.41 † (0.24)</td>
<td>N/A</td>
<td>-0.41 † (0.25)</td>
</tr>
<tr>
<td><strong>Woman</strong></td>
<td>-0.17 (0.19)</td>
<td>0.32 (0.30)</td>
<td>-0.51 * (0.24)</td>
</tr>
<tr>
<td><strong>Age</strong></td>
<td>-0.03 (0.03)</td>
<td>-0.06 † (0.04)</td>
<td>0.03 (0.04)</td>
</tr>
<tr>
<td><strong>Log Income</strong></td>
<td>0.00 (0.01)</td>
<td>0.00 (0.02)</td>
<td>-0.01 (0.01)</td>
</tr>
<tr>
<td><strong>Ideology</strong> (higher score indicates more conservative)</td>
<td>0.21* (0.11)</td>
<td>0.32 † (0.17)</td>
<td>0.16 (0.14)</td>
</tr>
<tr>
<td><strong>Black</strong></td>
<td>1.15 * (0.55)</td>
<td>1.15 (1.33)</td>
<td>1.16 † (0.61)</td>
</tr>
<tr>
<td><strong>Hispanic</strong></td>
<td>0.15 (0.22)</td>
<td>0.19 (0.37)</td>
<td>0.09 (0.29)</td>
</tr>
<tr>
<td><strong>Asian</strong></td>
<td>0.08 (0.24)</td>
<td>0.30 (0.39)</td>
<td>-0.14 (0.31)</td>
</tr>
<tr>
<td><strong>Constant</strong></td>
<td>-1.21 * (0.59)</td>
<td>0.64 (0.88)</td>
<td>-2.02 * (0.84)</td>
</tr>
</tbody>
</table>

Model $\chi^2 = 138.1^{**}$, Cox & Snell $R^2 = 0.12$, N = 1048

Model $\chi^2 = 20.2^{*}$, Cox & Snell $R^2 = 0.09$, N = 221

Model $\chi^2 = 24.1^{*}$, Cox & Snell $R^2 = 0.03$, N = 827

† Significant at the 0.10 level
* Significant at the 0.05 level
** Significant at the 0.01 level
<table>
<thead>
<tr>
<th>Variable</th>
<th>Combined</th>
<th>Ramirez</th>
<th>Lane</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ramirez Trial</td>
<td>1.80 **</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>(0.17)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Positive PTP</td>
<td>-0.10</td>
<td>0.09</td>
<td>-0.17</td>
</tr>
<tr>
<td></td>
<td>(0.14)</td>
<td>(0.30)</td>
<td>(0.15)</td>
</tr>
<tr>
<td>Negative PTP</td>
<td>-0.03</td>
<td>-0.13</td>
<td>-0.01</td>
</tr>
<tr>
<td></td>
<td>(0.14)</td>
<td>(0.30)</td>
<td>(0.15)</td>
</tr>
<tr>
<td>Upper Division Course</td>
<td>0.02</td>
<td>-0.15</td>
<td>0.08</td>
</tr>
<tr>
<td></td>
<td>(0.13)</td>
<td>(0.31)</td>
<td>(0.15)</td>
</tr>
<tr>
<td>Jury Instructions</td>
<td>0.25 †</td>
<td>N/A</td>
<td>0.27 *</td>
</tr>
<tr>
<td></td>
<td>(0.13)</td>
<td></td>
<td>(0.13)</td>
</tr>
<tr>
<td>Female Indicator</td>
<td>-0.08</td>
<td>0.09</td>
<td>-0.13</td>
</tr>
<tr>
<td></td>
<td>(0.11)</td>
<td>(0.25)</td>
<td>(0.13)</td>
</tr>
<tr>
<td>Age</td>
<td>-0.04 *</td>
<td>-0.04</td>
<td>-0.04 †</td>
</tr>
<tr>
<td></td>
<td>(0.02)</td>
<td>(0.02)</td>
<td>(0.02)</td>
</tr>
<tr>
<td>Log Income</td>
<td>-0.01</td>
<td>0.00</td>
<td>-0.01</td>
</tr>
<tr>
<td></td>
<td>(0.01)</td>
<td>(0.02)</td>
<td>(0.01)</td>
</tr>
<tr>
<td>Ideology (higher score indicates more conservative)</td>
<td>-0.03 †</td>
<td>0.00</td>
<td>-0.04</td>
</tr>
<tr>
<td></td>
<td>(0.06)</td>
<td>(0.14)</td>
<td>(0.07)</td>
</tr>
<tr>
<td>Black</td>
<td>0.53</td>
<td>1.54</td>
<td>0.32</td>
</tr>
<tr>
<td></td>
<td>(0.37)</td>
<td>(1.08)</td>
<td>(0.40)</td>
</tr>
<tr>
<td>Hispanic</td>
<td>0.08</td>
<td>0.36</td>
<td>-0.02</td>
</tr>
<tr>
<td></td>
<td>(0.13)</td>
<td>(0.31)</td>
<td>(0.15)</td>
</tr>
<tr>
<td>Asian</td>
<td>0.20</td>
<td>0.27</td>
<td>0.20</td>
</tr>
<tr>
<td></td>
<td>(0.15)</td>
<td>(0.33)</td>
<td>(0.17)</td>
</tr>
<tr>
<td>Model χ² = 155.7 **, Cox &amp; Snell R² = 0.14, N = 1049</td>
<td></td>
<td>Model χ² = 10.1, Cox &amp; Snell R² = 0.05, N = 221</td>
<td>Model χ² = 14.9, Cox &amp; Snell R² = 0.02, N = 828</td>
</tr>
</tbody>
</table>

† Significant at the 0.10 level  
* Significant at the 0.05 level  
** Significant at the 0.01 level