THE EFFECT OF DIFFERING EDITING TECHNIQUES ON JUROR RESPONSES

Thesis for the Degree of M. A.

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ABSTRACT

THE EFFECT OF DIFFERING EDITING TECHNIQUES

ON JUROR RESPONSES

By

Edmund P. Kaminski

Leading jurists have argued that a videotaped trial has many advantages over a live trial. One advantage concerns the deletion of inadmissible testimony that may bias a jury. Four different editing techniques are presently available for the deletion of inadmissible testimony: (1) "clean edit," (2) "blackout (normal speed)," (3) "blackout (fast forward)," and (4) "video only." The purpose of this thesis was to examine these four techniques in order to assess what effect they may have on juror responses. Specifically, the study examined the effect of these techniques on the credibility of the trial participants, the retention of trial-related information, distraction, and verdict.

One hundred and forty-seven jurors served as subjects for this study. They were randomly assigned to one of five conditions, one for each of the editing techniques and one condition where no edits occurred. The "no edit" condition was used as a baseline for comparisons. A one-and-one-half hour civil case trial was re-enacted and served as the stimulus tape.

The results indicated that the editing techniques had a significant effect on the plaintiff's attorney's credibility. Although the findings were not significant, the credibility ratings for all trial participants were lower in the edited conditions when compared to the "no edit"

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condition. Also, the editing techniques were significantly different in terms of distraction. Of the edited conditions, the "clean edit" was least distracting and the "video only" edit was most distracting. Finally, a significant negative relationship was found between distraction and credibility. The editing techniques did not have a significant effect on the retention of trial-related information, nor on verdict.

Based on the findings, as well as the experience gained by the researcher while executing the various editing techniques, the "clean edit" technique is highly recommended for the deletion of inadmissible evidence. The "video only" technique is considered to be inferior to all of the other editing techniques and is not recommended for the deletion of inadmissible evidence.

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By

Edmund P. Kaminski

A THESIS

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Accepted by the faculty of the Department of Communication, College of Communication Arts, Michigan State University, in partial fulfillment of the requirements for the Master of Arts degree.

Gerald R Miller
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Dedicated to

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The Buzzed Czars are extended a special thanks for their support. Also, without their help, I may never have realized the importance of sampling with a garbage can.

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Thank y'a

I would also like to thank Kathy Clyde for typing this thesis, and Ms. Laura for helping me in my hour of need.

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Thank y'all.

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CHAPTER I

BACKGROUND OF THE STUDY

The legal system in our country is currently plagued with problems. The courts simply cannot keep up with the number of cases that arrive every day. For example, the average time required for a civil case to come to trial in Cook County, Illinois, is more than five years (Ward, 1971). Main (1970) reports that Los Angeles County faced a 42,000 case backlog that was increasing by 200 cases a month. Similar figures for other portions of the nation have been reported elsewhere (cf. Bermant, McGuire, and Chappell, 1975; Fontes, 1975). This situation creates a number of serious problems. As Miller, Bender, Florence, and Nicholson (1972) point out:

> It is conceivable that innocent victims of automobile accidents without independent financial resources might bear senseless and inhumane physical and fiscal suffering for a significant portion of their lives while awaiting their just recompense under due process of law. Likewise, in criminal cases, such delays do not serve the ends of justice. While awaiting their trial, felons guilty of a crime are free on bail potentially to cause society further problems and persons unjustly accused are forced to live in the ambiguous state of having an accusation hanging over their heads without means of proving their innocence. (p. 1)

Obviously, a solution to this problem is needed.

One solution to this problem would be to build more courthouses and train more judges and attorneys. Indeed, this may tend to decrease the backlog of cases over a period of time. Still, this solution requires a tremendous amount of money and time to implement. Thus, it is questionable whether or not this would be the most expedient solution to the

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Another solution to the problem involves the introduction of videotape into the legal system. Many jurists advocate the use of videotape as the most expedient way to reduce the backlog of civil case trials. One of the leading advocates of the use of videotape in the courtroom is the Honorable James L. McCrystal, Judge of the Court of Common Pleas, in Sandusky, Ohio. Following the successful conclusion of McCall vs. Clements, the first prerecorded videotape trial (November 18, 1971), McCrystal conducted a number of videotape trials. Presently, Erie County operates under the "dual docket" system. Under this system, appropriate civil cases are assigned to a prerecorded videotape trial (PRVTT) docket. "Appropriate" cases are those that fit the provisions of Superintendence Rule 15, which sets the guidelines for which PRVTTs may be conducted in Ohio. The remaining cases are processed in the "traditional" manner.

McCrystal (1976) reports that the use of PRVTTs resulted in an increase of the number of civil cases and personal injury cases that were terminated in 1975. Comparing the number of these cases terminated in 1975 to the average number from 1972 through 1974, McCrystal reports an increase of 17% and 40%, respectively. Further, he reports that the average time lag between the PRVTT order and the case termination for 1975 was five months. Finally, McCrystal (1976) contends that this reduction in time was obtained "without burdening the taxpayers of the county with the expense of additional judges, court personnel and physical facilities" (p. 54).

Thus, it appears that the use of videotape does indeed serve as a useful tool in reducing the time needed to process a case. Still, the

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time element is not the only advantage that videotape offers. Advocates of the use of videotape contend that videotape can better serve the legal community and the public. For example, objectionable testimony can be edited out so it will not bias the jury; vital evidence can be obtained and preserved; expert witness testimony can be acquired more easily and with less cost; and the juror's time can be utilized more efficiently (cf. Morrill, 1972; Valentino, 1972-73; Rush, 1973; Kornblum and Rush, 1973; McCrystal, 1975; Murray, 1975; and Fontes, 1975). Let us consider these advantages in more detail.

There may be times when an attorney wishes to damage the credibility of a witness. Thus, the attorney may ask a question that may "lead" the witness to an answer, or may be damaging in and of itself. The opposing attorney would raise an objection and the judge would rule. If the objection is sustained, the judge would instruct the jury to disregard the witness' answer and/or the attorney's question. However, it is questionable if the jury can truly disregard this kind of information. Indeed, it would probably depend on the saliency of the information, although this is an empirical question. Still, by the use of videotape, this information can be deleted and the jury would never hear it. Thus, this problem can be alleviated entirely (see Fontes, 1975).

The next advantage is concerned with the loss of vital evidence. During the time from which a case is filed, until it comes to court, a witness may move, die, or be unavailable due to illness or professional commitments. Under the present system, if a witness is unable to testify at a trial, the testimony is either recorded on audio tape and played to the jury, or the witness' deposition is read to them. Obviously, there is a reduction of information when the witness is not physically

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present. Nonverbal cues are missing; cues which a juror may need to assess the credibility of the witness or the veracity of his/her testimony (cf. Fontes, 1975; Hocking, Bauchner, Kaminski, and Miller, 1976). This problem can be avoided, to some extent, by the use of videotape (Valentino, 1972-73).

Videotape can help reduce the cost of expert testimony. Frequently, the litigants will require the testimony of an expert. In such cases, the litigants are responsible for the expenses incurred by the expert (e.g., travel, time during travel, meals, lodging, etc.). These costs could be alleviated by videotaping the testimony of experts in their offices (Fontes, 1975).

McCrystal (1975) contends that jurors are abused and much of their time is wasted. Videotaping trials can alleviate this problem. Jurors could be told when the trial would start and precisely when they will receive it for deliberation. "They, then, are an interested juror, rather than to put them in that seat (the juror's box) and they don't know whether they're going to get out on Tuesday or Friday" (McCrystal, 1975, p. 33).

Finally, Murray (1975) contends that videotape is beneficial to all of the participants in a trial.

> We lawyers are faced time and time again with the inability until the very last moment to even tell our key witnesses when they might expect to be called. After all, it isn't their case. Their lives are disrupted. They're being asked to come to court to serve the justice system, and frequently although you have the subpoena power available, if you subpoena them in, all you're going to do is disadvantage your client's case because the witness is going to be annoyed or irritated at being compelled under legal process to come into court. By prerecording the testimony of certain witnesses, it's much simpler to schedule their appearance. Testimony can be placed

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> into evidence in its proper order so that your case is presented in a more cohesive, orderly, and understandable fashion. . . . It helps the lawyer prepare succinct, effective opening statements. . . . In-trial logistics, the management of your case, is greatly eased and improved. The delays that occur, that cause trials to drag, to become tedious and difficult to follow from the jury's point of view, are reduced significantly. (pp. 43-44)

It appears that the use of videotape does offer a number of benefits for the American judicial system. However, a number of jurists would disagree with this contention. At best, many jurists are skeptical about the introduction of videotape.

The concerns that are expressed by leading jurists can be divided into three categories: (1) technical, (2) psychological, and (3) social (Bermant, McGuire, and Chappell, 1975). From a technical standpoint, the concerns are many. The major issue is concerned with what the jury sees. Obviously, the camera becomes the jurors' eyes. This necessitates a reduction in the amount of visual cues that are present in a videotape trial as opposed to a "live" trial. For example, if the camera is focused on the witness who is giving testimony, the jury cannot see either attorney, the judge, or the spectators that are watching the trial (assuming there are some). One could argue that this reduction in visual cues is beneficial, for it forces the juror to attend to the material being presented. On the other hand, consider the following situation. Suppose that the camera is focused on a witness, while the defendant is off camera (i.e., cannot be seen by the jury). Assume that the witness has just testified to an event which causes the defendant to grimace. In this situation, the jury would not see the defendant grimace, thus denying the jury information that is potentially relevant to their decision in the case. The frequency in which a situation similar to the

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one described above occurs in a trial is unknown. Further, the impact of the loss of information, similar to that described above, is also unknown. It would be very easy to present a picture to the jury that permits them to see all of the participants in the trial. However, guidelines and/or rules concerning the positioning of the camera do not exist.

Related to the issue presented above is the concern of production techniques. Bermant et al. (1975) contend that the "techniques of film and television art will soon become applied to videotaped depositions and testimony" (p. 8). It is conceivable that if the costs of losing a case were high enough, and the defendant or the plaintiff had the money, some depositions could become M.G.M. productions.

Currently, the rules governing the type of equipment allowed for the taping and presentation of testimony are minimal. Ohio's Superintendence Rule 15 stipulates that standard one-half inch videotape equipment will constitute the standard for filming and playback of testimony and other evidence for the trials in that state. However, the ruling allows for deviations from the standard as long as compatible equipment is supplied or so long as the original tape is converted such that it is compatible with the standard. The only other requirement is that there must be a minimum of one monitor having at least a fourteen inch screen.

Obviously, the ruling allows the litigants a good deal of freedom in deciding how and where to videotape testimony. The ruling supplies no limitations on lighting, panning (moving the camera from one side to another), zooming (moving the camera lens from an established shot of wide range to a close-up, or vice versa), backdrops (the scenery behind the subject(s) being filmed), etc. In addition, the effects that these

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From a psychological standpoint, the use of videotape raises some additional issues. Bermant et al. (1975) contend that the videotape trial will have an effect on jurors' opinions due to the fact that "we are a nation of television watchers" (p. 9). The authors are not specific about the nature of these effects due to the fact that they are unresearched. It is conceivable that some relationship may exist between the amount of television that one views at home and the interpretation of a videotape trial. However, this relationship is open for empirical investigation.

McLuhan (1964) suggests that the medium used in transmitting a message transmits a message in and of itself. He contends that the medium affects the way in which information is processed. Thus, it is possible that a videotape trial may convey a different message, or elicit a different set of responses from jurors, when compared to its live counterpart. Recently, Miller, Bender, Florence, and Nicholson (1974) conducted a study that tested the relationship between a videotape trial and its live counterpart. The results of their study yielded no significant differences between the two media.

Another issue deals specifically with a mixed-media trial (i.e., a live trial where only some of the witnesses appear on videotape). In this situation, the testimony that a witness gives on videotape may be perceived by the jury as being more important than if the same witness had given the same testimony live. Lazarsfeld and Merton (1971) contend that the media tend to confer status on individuals.

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> Recognition by the press or radio or magazines or newsreels testifies that one has arrived, that one is important enough to have been singled out from the large anonymous masses, that one's behavior and opinions are significant enough to require public notice. (p. 561, emphasis supplied)

Admittedly, the authors are referring to the public media and not to a videotaped deposition. Still, it is conceivable that jurors may confer status on witnesses who present their testimony on videotape in the same way that they would confer status on an individual in the public media.

The mixed media trial may have an additional impact on jurors. They may pay more attention to the videotaped testimony of a witness due to the novelty of the situation. People do tend to pay more attention to novel stimuli than to stimuli that are common (Berlyne, 1960). Further, research has indicated that stimuli with an "intermediate" degree of novelty have a greater effect on stimulus selection than stimuli with a "maximum" degree of novelty. An "intermediate" degree of novelty would be "a stimulus that is rather like something well known but just distinct enough from it to be 'interesting.' We are indifferent to things that are either too remote from our experience or too familiar" (Berlyne, 1960, p. 21). The use of videotape in the courtroom is relatively new. Yet it can be assumed that most jurors are familiar with television as a stimulus. Further, if it can be assumed that most jurors are familiar with trial proceedings (i.e., they have served as jurors before), then the introduction of a witness on videotape in an otherwise live trial may constitute a situation of intermediate novelty. Of course, if most jurors are unfamiliar with trial proceedings, then the entire situation may be novel (maximum novelty) and some of the effects may be mitigated to some extent. Precisely how novel this situation might be is unknown.

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Also, the effect that the mixed-media trial has on the jury remains an empirical question.

The final area of concern for many jurists surrounds the social implications of introducing videotape into the legal system. That is, what effect will the introduction of videotape have on the way the public perceives the legal system?

Earlier, it was stated that the use of videotape would reduce the backlog of cases that currently congest the courts. One of the ways this is accomplished is by having judges work on two or more cases simultaneously. McCrystal (1975) states that he can impanel one jury, have the lawyers give their opening statements, and then start the videotape trial. Then, he would leave that courtroom, conduct the same procedure in another courtroom and then go to his chambers "where the real work of the judge really has to be done" (McCrystal, 1975, p. 32). McCrystal (personal conversation) explains further that, contrary to popular belief, the real role of the judge is nothing more than a legal traffic cop. As long as the judge knows that the lawyers have not violated any laws (which could be known if the trial is videotaped), there really is no reason for the judge to be in the courtroom.

The problem here lies in the statement "contrary to popular belief." If the general public does not view the judge as a "legal traffic cop," how is the judge viewed? It may be assumed that the judge is viewed as an integral part of the judicial process. To the extent that this is true, the question could be raised: what will the effect on the jury be when the judge gets up and leaves the courtroom as soon as the trial begins? To date, this question remains unresearched.

In reviewing the issues that the proponents of videotape have

advanced, it can be seen that the majority of them are concerned only with changes in the structural functioning of the courts. Recently, Bermant and Jacoubovitch (1975) have questioned the additional effects that videotape may have on the public. They state:

> This approach to structural improvement is justifiable if it is assumed that courts function only as the vehicle for the just resolution of disputes. Seen from the inside perspective of the judge or trial lawyer, the machinery of the trial process is a means to the end of adjudication. As a result of long training and exposure, officers of the court are easily able to separate what the trial does from how the trial does it. This view of the means-end or structure-function relationship of courtroom and related legal activities, however, may not be uniformly shared by the lay public. For many persons the courts are not perceived as the machinery for achieving justice nor as a means to the fair settlement of controversies. Rather, they are perceived as the source or embodiment of justice. From this perspective, what courts do and how they do it are not so neatly separable. (p. 1005)

It is difficult to foresee all of the effects that the changes in the structure of the legal system will have on the public if the use of videotape becomes widespread. If it tends to make the public lose faith in the judicial process, or if the litigants should perceive they cannot get a fair trial with videotape, then indeed the costs may be too great, compared to the advantages of expediency that videotape offers.

The long-term effects that videotape may have on the legal system and the lay public are unknown. Fortunately, research has been conducted that examines some of the short term effects that videotape has on the jury. However, many questions still remain that need to be answered. The topic of the present thesis intends to answer one of these questions. That is, what effects do different editing techniques have on the jury?

CHAPTER II

RATIONALE AND RESEARCH QUESTIONS

In Chapter I, an overview of the advantages and disadvantages of the use of videotape in the courtroom was offered. One of the advantages offered was that inadmissible testimony that may bias the jury could be edited out of the tape. Still, the question could be raised: does inadmissible testimony affect jurors' responses? Two recent studies lend support to the contention that inadmissible evidence does affect jurors' responses.

Sue, Smith, and Caldwell (1973) conducted a study in which role-playing jurors received either strong or weak evidence against a defendant in a murder case. In addition, subjects received either additional evidence that was ruled admissible, additional evidence that was ruled inadmissible, or no additional evidence. The results indicated that jurors were affected by the inadmissible evidence. Jurors exposed to evidence that was ruled inadmissible differed significantly in the number of guilty verdicts from jurors who were not exposed to the inadmissible evidence. However, this was only found for jurors in the weak evidence condition. It was found that when there was already strong evidence against the defendant, the inadmissible evidence had no effect.

Fontes (1975) examined the effects of differing amounts of inadmissible testimony on jurors' responses. A four and one-half hour long videotape trial was used in this study. Role-playing jurors were

randomly assigned to one of three conditions: (1) zero instances of inadmissible testimony, (2) three instances of inadmissible testimony, or (3) six instances of inadmissible testimony. Results of this study suggest that a curvilinear relationship exists between the frequency of inadmissible testimony and the amount of information retained by the jurors. In addition, the results suggest that an inverse curvilinear relationship exists between the frequency of inadmissible testimony and the perceived credibility of the attorneys by the jurors. None of the findings in this study were significant, although they all approached significance.

One possible explanation for the failure to obtain significant results in the Fontes study lies in the number of instances of inadmissible evidence. In that study, only six instances of inadmissible evidence were used in a trial that lasted for four and one-half hours. While it is true that the number of objections that occur in a civil trial vary from trial to trial and are dependent upon a number of factors (e.g., the expertise of the lawyers, the nature of the trial, the length of the trial, etc.), the present author contends that the number of instances of inadmissible evidence used in the Fontes study were too few for a four and one-half hour trial. Recently, the present author asked a number of leading jurists to estimate the minimum and maximum number of objections that would occur in a four hour civil case trial. They indicated that, on the average, there would be six objections per hour. Of course, this does not mean that every trial will have six objections per hour. Some trials may not have any objections and some may have more than six objections. However, it does suggest that the Fontes study should have had four times the number of objections that

occurred in that trial. Whether or not an increase in the number of objections used in the trial would have been sufficient to produce significant differences is unknown and remains an empirical question.

THE PROBLEM

While it is the case that no decisive evidence exists as to whether or not jurors can disregard inadmissible evidence, it is a fact that inadmissible evidence is currently being edited out of videotaped trials. Procedurally, the events that transpire until the actual time the edit takes place are relatively straightforward. During the course of taping a trial or a deposition, the date and the time (in hours and seconds) are also being placed on the tape by means of a time-date generator. Should an objection be raised by either attorney, the operator simply makes note of the time that the objection takes place. At the conclusion of the taping, the tape and the list of objections are filed. Later, the judge takes the tape and mounts it on a recorder in his/her chambers. The tape is advanced to the point of the first objection. The judge views the testimony that has been objected to, and then rules on the objection. If the objection is sustained (i.e., the evidence is inadmissible) the judge notes the time of the beginning of the evidence and the time of the end of the inadmissible portion. This procedure is followed for every objection in the tape.

Another issue might be mentioned at this point. Normally, a lawyer may raise an objection at any time. Thus, the objection might come before the witness answers, in the middle of the answer, or after the answer. However, in Judge McCrystal's court, the lawyer is instructed to object only after the witness has answered. This has two important

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advantages. First, it allows for a clean edit. If the objection is sustained, the edited portion would begin with the attorney's question, go through the witness' answer, and end with the end of the other attorney's objection. If the objection is overruled (i.e., the evidence is admissible), then only the attorney's objection is edited. Thus, the second advantage pertains to those objections that are overruled. It may be the case that the mere fact that an attorney has raised an objection may cause the jury to view that portion of testimony differently than if no objection had been made. These possible effects can be alleviated by removing the attorney's objection. Obviously, it would be very difficult to do this if the attorney's objection should come in the middle of the witness' answer.

Returning to the editing procedure, the tapes are now ready to be edited. Here lies the crux of the problem: how are they to be edited? Four different editing techniques will be examined: (1) the "clean edit, (2) the "video only" edit, (3) the "blackout (normal speed)" edit, and (4) the "blackout (fast forward)" edit. Only the last three techniques are presently being used to edit videotapes used in the courtroom.[1] The "clean edit" technique can be used, but is not, due to time and cost considerations. These editing procedures will now be discussed in detail. In addition, the problems surrounding each technique will be discussed following their descriptions.

THE "CLEAN EDIT" CONDITION

The "clean edit" technique is a process of editing where the objectionable testimony is actually removed from the tape. The original copy of the tape would be copied onto another tape, but the inadmissible

testimony would be left out. The machine that is used to copy the original tape has the capacity to edit videotape electronically. Thus, when the appropriate time comes for the inadmissible evidence to be edited, the recorder would be switched into the "edit" mode. At the end of the inadmissible portion, the recorder would be switched back to the "record" mode. The result would be an uninterrupted tape, save for a possible momentary "flick" (i.e., a break in the visual pattern) in the video portion of the tape. Still, this slight break can be made virtually undetectable if the editing is done professionally.

THE "VIDEO ONLY" CONDITION

The "video only" technique involves the "removal" of the audio portion of the tape. In this procedure, the operator sits in the courtroom and views the trial (or deposition) on a small monitor, while the jury views the tape on larger monitors. The operator has the list of the portions of the tape that are to be edited based on the judge's ruling. At the exact second that the edit is to begin, the operator depresses a switch on a box. This effectively eliminates the audio portion of the tape. The video portion of the tape can still be seen by the jury. The operator watches the time on the screen that was placed there by the time-date generator. At the second the inadmissible portion ends, the operator releases the button, allowing the audio track to again be heard.

THE "BLACKOUT (NORMAL SPEED)" CONDITION

The procedure for the "blackout (normal speed)" technique is the same as the procedure for the video only technique, with only one exception. This time, the operator depresses two buttons at the same time.

One button suppresses the audio track, while the other button supresses the video track. Thus, the jury neither hears nor sees the inadmissible testimony. What they do see is a black screen, much the same as if the monitor had been turned off. On the other hand, the operator can still see the tape on the small monitor. Still, the audio portion does not come through this monitor.

THE "BLACKOUT (FAST FORWARD)" CONDITION

This technique is the same as the preceding technique, again with only one exception. In addition to suppressing the video and audio, the operator advances the tape at a faster speed for those portions of inadmissible evidence that last for a "long" period of time. The decision to fast-forward the tape is somewhat arbitrary. However, segments that approach thirty seconds or longer are usually fast-forwarded.[2]

PROBLEMS WITH THE TECHNIQUES

All of these editing techniques may be distracting to the jurors. Distraction has been conceptualized as the occurrence of "absorbing sensory stimulation" that is irrelevant to the primary message being presented (see Baron, Baron, and Miller, 1973, p. 310). Thus, in order for a given stimulus to be distracting, it must be noticed by the person (i.e., the person must pay attention to the stimulus) and the information conveyed by the stimulus must be unrelated to the primary message. Further, information is conceptualized as any stimulus that is processed by the individual. Therefore, noise or silence is also considered to be informational and can serve as distracting stimuli.

The purpose of editing videotape trials is to remove material that is irrelevant to the case or may bias the jury. Ideally, the edit

would be done such that the trial would flow continuously and the edit would not be detected by the jurors. Obviously, the editing procedures discussed earlier do not achieve this ideal. Further, although the edits remove unwanted information, they themselves convey information. At a minimum, the edits convey the information that something has been deleted. Given the purpose of editing, this information is superfluous to the primary content of the trial. Therefore, the edits may serve as a source of distraction to the jurors. Let us return to the editing techniques and see what specific elements of each technique are pertinent to distraction.

As was mentioned earlier, there is the possibility of a break in the visual pattern when using the "clean edit" technique. Although the actual edit lasts for a split-second, the visual image before the edit may be quite different from the visual image after the edit. This depends on how much movement occurred during the portion that was edited out. Again, at a minimum, this technique conveys the information that something has been deleted. Further, the sudden "unnatural" movements of the participants in the trial may be distracting to the jurors.

When using the "video only" technique, additional distracting elements become apparent. Recall that in this procedure the audio is suppressed, but the video portion remains. Thus, in this technique, the jurors still see people moving their lips, but they do not hear anything. They see facial expressions and body movements, but lack the audio portion that may be necessary to clarify such actions. The sudden loss of audio information, with the retention of visual information is also an "unnatural" occurrence. Thus, this may also be distracting to the jurors. There is an additional problem concerning the

interpretation of the nonverbal behaviors that are presented. However, this will be discussed later in this chapter.

The two "blackout" techniques alleviate the problem surrounding the visual stimuli found in the "video only" technique. However, in both of these conditions the continuity of the trial is disrupted. Jurors find themselves losing both visual and audio information and are presented a black screen. Once again, the juror receives the information that something is missing, which is superfluous information, given the purpose of the editing procedure. However, another variable is introduced when the two "blackout" techniques are compared. That variable is the length of time of the edit. Obviously, if the same material were edited using both of these techniques, the "blackout (fast forward)" edit would take less time than the "blackout (normal speed)" edit. Given that one factor that affects the impact of distraction is whether or not an individual can ignore the distracting stimulus (Baron, et al., 1973), then time may be an important variable to consider. It may be the case that individuals could ignore a distracting stimulus if it lasted for a shorter period of time. At least, the distraction effect of a stimulus may be mitigated if the presentation of that stimulus lasted for a shorter period of time. Still, the question of whether the "blackout (fast forward)" edit mitigates any of the effects that the "blackout (normal speed)" edit may have on jurors is still open for empirical investigation.

It appears that each of these editing techniques serves as a potential source of distraction. Still, the question remains concerning the effects that these different techniques may have on jurors. Although not directly applicable to the present concern, the research on distraction and persuasion offers some implications of how this variable may affect

jurors.

Research on distraction has produced some seemingly inconsistent results. For example, distraction has been found both to increase the persuasibility of a message (cf. Festinger and Maccoby, 1964; Rosenblatt, 1966; Shamo and Meador, 1969) and to decrease message persuasibility (Gardner, 1966; Miller and Levy, 1967; Vohs and Garrett, 1968). Distraction has been found to enhance the credibility of a speaker (Freedman and Sears, 1965) as well as decrease the credibility of a speaker (Miller and Levy, 1967). Also, distraction has been found to increase recall of message content (Silverman and Regula, 1968) and to decrease recall (Vohs, 1964; Gardner, 1966; Haaland and Vankatesan, 1968).

Although the studies referenced above report inconsistent results, there is a possible explanation. In a review of the literature, Baron et al. (1973) report that the effects of distraction depend on a number of other factors. Those factors that are relevant here are: (1) the perception of credibility before the distraction, and (2) whether or not the distraction could be ignored. The first factor can account for the discrepant findings in the studies involving credibility. The second factor can account for the discrepant findings concerning the persuasive impact of the message, and the recall of message content (Baron et al., 1973).

Still, there are some important differences between the research on distraction reported above and the present situation. First, in most of the studies cited above, the source of distraction was something besides the message itself. In the case of editing videotape, the distraction occurs in the same medium as the message. Second, in all of

the studies there was only one source of the message. In a videotape trial, there are numerous sources of the messages. Given these differences, coupled with the numerous factors that influence distraction, the effect of these editing techniques on the jury cannot be predicted.

In addition to the problems of distraction, two of these editing techniques pose additional problems. In the "clean edit" technique, there is a problem of cost. As was mentioned earlier, this technique involves a special machine that edits videotape electronically. Presently, the cost of electronic editors, as well as technicians to work them, is exceptionally high. Further, the time involved in performing this editing technique is much greater than for the other three.

Still, there remains a more serious problem with this technique. The "clean edit" is the only technique that actually "removes" inadmissible testimony from the tape. Granted, the original copy still remains intact, but it would not be shown to the jury. This procedure raises the concern of "doctoring" the tape. As was mentioned earlier, videotapes can be edited electronically in such a way that the edit would be virtually undetectable. In fact, computerized editors are on the market that can edit frame by frame.[3] Conceivably, "legitimate" testimony could be edited out professionally and never be detected by the jury. One solution to this problem would be to have the editing done in the presence of both attorneys and the judge. Then the tape would be locked up until the time the jury was to view the trial.

The other technique that has additional problems is the "video only" edit. As was mentioned earlier, the jury still sees the nonverbal behavior of the participants in the trial. Recently, studies have investigated behaviors that are emitted nonverbally (cf. Sommer, 1969;

Mehrabian, 1970; Scheflen, 1972). Ekman and Friesen (1974) found that people can detect deceptive communication from the nonverbal behavior of another person. Extending the Ekman and Friesen research, Hocking et al. (1976) found that people use nonverbal leakage cues that emanate from the face to assess the veracity of factual information, while using nonverbal leakage cues from the body to assess the veracity of emotional information.

Clearly, information is still being presented to the jury when the video portion is left in for them to see. Still, it is not possible to predict how the jury will use this information. In the present case, much would depend on the nature of the trial, the events that had transpired up to the point of the edit, and who is on the camera during the edit, as well as what they are doing. However, the jury may indeed use the information presented to them and subsequently respond differently than if this information had never been made available.

Thus far, the major problems surrounding the editing techniques have been presented. It has been argued that all of these techniques may be distracting, and that the "video only" edit has the additional problem of conveying unwanted nonverbal communication. All of these techniques may have differing effects on the jury. Unfortunately, a strong theoretical base from which to make predictions does not exist. Consequently, the present thesis will be question-centered, rather than hypothesis centered. Specifically, the following questions will be examined:

(1) Do jurors exposed to different editing techniques demonstrate differences in retention of trial-related information?

(2) Do jurors exposed to different editing techniques demonstrate differences in their assessment of the attorneys' credibility?

(3) Do jurors exposed to different editing techniques demonstrate differences in their assessment of the witnesses' credibility?

(4) Do jurors exposed to different editing techniques report differing levels of distraction?

(5) Do jurors exposed to different editing techniques report different verdicts?

CHAPTER III

METHODS AND PROCEDURES

DEFINITIONS

In this section, conceptual and operational definitions will be given for the following constructs: (1) retained information, (2) perceived credibility, (3) distraction, and (4) verdict.

Retained information was defined as the information presented by the participants in a trial that a juror could remember at the conclusion of the trial.

The construct was operationalized in the following manner. Forty-six multiple choice questions were constructed for all of the testimony in the trial. The items were pretested using a sample of undergraduate students enrolled in the basic course at Michigan State University ($N = 34$). The subjects viewed the trial on videotape. None of the editing techniques were used during the pretest. The responses of these students were dichotomously coded as being either right or wrong. The items were next divided into five subtests based on the participant who offered the information in the trial. Thus, there was one test for the information presented by each of the attorneys and a test for each of the three witnesses in the trial. These data were then subjected to an item analysis and those items that demonstrated low reliabilities were eliminated. The resulting test consisted of 40 items.

After the data were collected, these 40 items were divided into their respective subtests. Alpha coefficients were computed for the items of each test. The alpha coefficients are reported in Table 1.

TABLE 1

Alpha Coefficients for the Information Retention Items for Each Subtest

Test	Alpha Level
Plaintiff's Attorney	.48
Defense Attorney	.20
Defendant	.42
Plaintiff	.51
Security Guard	.30

Given the magnitude of the alpha coefficients reported in Table 1, the decision was made to use a general test of information retention. An item analysis was performed using all 40 items. Items which demonstrated low reliabilities were culled.[4] Twenty-seven items were retained.[5] The resulting alpha coefficient for these 27 items was .76.

Perceived credibility was conceptualized as the juror's evaluation of the performance of the participants in the trial based on the following three dimensions: (1) trustworthiness, (2) expertise, (3) dynamism.

The scales used in the operationalization of the construct are identical to the ones used by Fontes (1975). The scales are a combination of semantic-differential scales developed by Berlo, Lemert, and

Mertz (1969-1970) and McCroskey (1966). The bipolar adjectives used for the trustworthiness dimension were: trustworthy-untrustworthy; just-unjust; honest-dishonest; good-bad; and safe-dangerous. The bipolar adjectives used for the expertise dimension were expert-ignorant; capable-incapable; trained-untrained; knowledgeable-unknowledgeable; and competent-incompetent. The bipolar adjectives used for the dynamism dimension were energetic-tired; aggressive-meek; decisive-indecisive; bold-timid; and active-passive. All of the semantic differentials were rated on a seven-point scale. In addition, seven of the scales were reversed in order to mitigate against the possibility of response sets.

In order to determine if the credibility scale was in fact comprised of these dimensions, the credibility ratings for each participant in the trial were factor analyzed using the multiple-group method (see Nunnally, 1967). The results of this analysis indicated that the credibility scale was comprised of the three dimensions. In addition, an inspection of the alpha coefficients for each dimension indicated that the items that form each dimension were internally consistent (see Table 2).

While the factor analysis lent support to the notion that the credibility scale was comprised of three dimensions, it also indicated that these dimensions were highly correlated with each other (see Table 3). In light of this finding, an alpha coefficient was computed using all 15 scales for each of the trial participants. This was done in order to assess the possibility that the credibility scale used in this study might be unidimensional. The alpha coefficients are reported in Table 4.

TABLE 2

Alpha Coefficients for the Dimensions of Credibility for Each Trial Participant

Participant	Trustworthiness	Expertise	Dynamism
Plaintiff's Attorney	.89	.91	.87
Defense Attorney	.90	.90	.85
Defendant	.92	.84	.87
Plaintiff	.90	.91	.84
Security Guard	.93	.91	.87

TABLE 3

Correlations Between the Dimensions of Credibility for Each Trial Participant

Participant	Trustworthiness	Expertise
Plaintiff's Attorney		
Expertise	.71	
Dynamism	.58	.80
Defense Attorney		
Expertise	.57	
Dynamism	.69	.61
Defendant		
Expertise	.67	
Dynamism	.48	.82
Plaintiff		
Expertise	.71	
Dynamism	.43	.70
Security Guard		
Expertise	.57	
Dynamism	.69	.55

TABLE 4

Alpha Coefficients for the Overall Rating of Credibility for Each Trial Participant

Participant	Overall Credibility
Plaintiff's Attorney	.93
Defense Attorney	.94
Defendant	.93
Plaintiff	.93
Security Guard	.94

Given that the magnitudes of the alpha coefficients for the overall rating of credibility were quite high, the decision was made to treat credibility as a unidimensional construct. Thus, credibility scores for each of the trial participants were computed by summing across all fifteen scales.

Distraction was conceptually defined in Chapter II as the occurrence of absorbing sensory stimulation that is irrelevant to the primary message being presented. It was operationalized by utilizing a seven-point scale. Subjects were asked to respond to the following item:

> How distracting was the editing technique that was used to remove the testimony that was ruled inadmissible by the judge?

Extremely Distracting:___:___:___:___:___:___:___:Not at all Distracting

This item was used for the four conditions that contained the different editing techniques. Subjects assigned to the "No Edit" condition were asked to respond to the following item:

> How distracting were the objections that were raised by the attorneys during the trial?
>
> Extremely Distracting: ___:___:___:___:___:___:___: Not at all Distracting

Verdict was conceptually defined as the decision reached by a juror with regard to the guilt or innocence of the defendant. After all the trial information had been presented, jurors were asked to indicate their verdict in the matter. This served as the operationalization of this construct.

PROCEDURE

Selecting the stimulus. In an effort to achieve ecological validity, as well as generalizability of the findings, the decision was made to select a transcript of an actual trial rather than creating a mock trial. The following criteria were used in its selection:

1) The trial should be no longer than an hour and thirty minutes in length.

2) The evidence in the trial should be balanced; i.e., the evidence should not be heavily weighted in favor of the plaintiff or the defendant.

3) The trial should contain an average number of objections for a trial of its length; or should have the potential of being altered such that the number of objections would equal the average.

The rationale for these criteria are as follows. The first criterion was applied for pragmatic reasons. A decision was made to present the trial in a courtroom using actual jurors. Given the problem with

court dockets discussed in Chapter I, it seemed desirable to limit the amount of time that a courtroom would have to be used for this study.

The second criterion was applied to minimize bias in the results by increasing experimental control over extraneous variables. If the evidence were heavily weighted in favor of the plaintiff or the defendant, then this could seriously affect juror responses, perhaps overshadowing the effects of variables of interest or interacting with them.

The third criterion was applied to increase the generalizability of the findings. In addition, the number of objections that occur in a trial may affect juror responses (the relationship between the number of objections that occurs in a trial and juror responses was discussed in Chapter II).

With the assistance of legal experts, a trial transcript was selected. The trial involved a civil case in which the defendant was charged with conversion of funds by a bank. The original transcript contained two instances of inadmissible testimony. Given that the testimony in the trial was approximately one hour in length, four additional instances of inadmissible evidence were needed.[6] With the aid of two attorneys and the judge who originally heard the case, the four additional instances of inadmissible evidence were constructed and inserted into the trial transcript. In addition, the original objections were rewritten in order to make them approximately one minute in length.[7] The entire transcript was edited to the extent that all references to the actual participants were deleted. The edited transcript was subsequently reviewed by the judge and the two attorneys to ensure that the evidence presented in the trial was balanced. The six instances of inadmissible testimony are summarized in Table 5.

TABLE 5

Summary of the Six Instances of Inadmissible Testimony Constructed for the Trial

1. The plaintiff's attorney summarizes a portion of evidence concerning the degree to which the plaintiff knows the defendant without sufficient testimony.
2. As a result of questioning by the plaintiff's attorney, the plaintiff offers hearsay evidence and states that the defendant is dishonest.
3. The defense attorney contends that the plaintiff will lose her job if she cannot identify someone who took the money.
4. The plaintiff's attorney objects to the defense attorney's line of questioning and accuses him of badgering the witness.
5. The plaintiff's attorney objects to a portion of evidence being entered as a matter of record without corroborating evidence.
6. The plaintiff's attorney asks the defendant to speculate about who made the transaction.

Taping the Trial. Professional actors were selected to play the roles of the plaintiff, defendant, witness, and the two attorneys.[8] The judge who originally heard the case played the role of the judge. The trial was re-enacted in a courtroom and taped in color using a fixed camera shot. Copies of the tape were made. One of these copies was electronically edited using the procedure described in Chapter II.[9]

Design. A one-by-five factorial design was employed in this study. Four cells of the design were comprised of the editing techniques discussed in Chapter II. The fifth cell was comprised of a "no edit" condition. In this condition the inadmissible evidence and the objections were seen and heard by the jury. The judge on the tape ruled on the

objections. This condition was included in the design to serve as a control condition.

Sample. The names of 200 jurors were drawn from the active jury list in Shiawassee County, Michigan. The jurors were randomly assigned to one of the five experimental conditions. They were summoned by the court to report for jury duty on one of five days, 45 jurors for each day. However, as was expected, a number of jurors requested to be excused from jury duty. All jurors requesting to be excused were excused by the judge. The actual number of jurors used in each condition are reported in Table 6.

All of the jurors in each condition viewed the trial at the same time. Utilizing the following cover story, the judge explained why so many jurors were present:

> Ladies and Gentlemen of the jury: As I am sure you are aware, there has been considerable recent interest in finding ways to ensure the fairest possible trial for persons involved in legal proceedings. Both parties involved in the case you are about to see today, have agreed to allow the case to be tried using a much larger jury than is usually employed and they have agreed to allow the outcome of the case to be analyzed as part of a research project underwritten by an agency of the Federal Government. The purpose of this endeavor is to allow a more representative set of viewpoints to figure into the verdict to see what effect this larger jury size has on the total range of individual views of the case.

The cover story also explained the questionnaire that was administered at the end of the trial.

The judge then went on to explain that the trial was to be presented by videotape. The judge told the jurors that the trial was taped before a judge in Lansing, and that it was being shown in Corunna due to a large jury-case backlog in Lansing. The judge's instructions were the

TABLE 6

Number of Jurors for Each Condition by Sex
(N = 147)

	No Edit	Clean Edit	Blackout (Fast Forward)	Blackout (Normal Machine Speed)	Video Only
Males	16	16	12	14	11
Females	20	14	17	10	17
Total	36	30	29	24	28

same for all five conditions with the exception that slight changes were made to accomodate the particular editing technique being used on a given day.

The jurors then watched the videotaped trial. Two monitors were used to ensure that everyone could see and hear the trial. Once the trial was underway, the judge left the courtroom and did not return until the completion of the testimony. During the presentation of the testimony the jurors were left in charge of the Court Clerk and the operator of the equipment.

At the conclusion of the trial, the judge returned to instruct the jurors regarding their decision and the law that was applicable to the case. Immediately following the judge's final instructions, the questionnaire was administered. This procedure was followed for each condition.

After the data were collected for each condition, subjects were paid their normal per diem, plus mileage, and fully debriefed. The

debriefing was conducted orally by the experimenter. In addition, a letter was sent to every juror thanking them for their participation on behalf of the research team and the judge.[10]

CHAPTER IV

RESULTS

The present chapter discusses the results of the analysis for the five research questions reported in Chapter II. The five questions will be considered one at a time. For all tests, the .05 level of significance was employed. Analysis of the data yielded the following results.

Question 1: Do jurors exposed to different editing techniques demonstrate differences in retention of trial related information?

The mean retention scores for jurors in the various conditions are reported in Table 7. A one-way analysis of variance was used to test the relationship between the different editing techniques and the amount of information retained by the jurors. The results (Table 7) indicated that the groups did not differ significantly in retention of trial-related information.

Question 2: Do jurors exposed to different editing techniques demonstrate differences in their assessment of the attorney's credibility?

The relationship between the different editing techniques and jurors' assessment of the attorneys' credibility was tested using a one-way analysis of variance. The mean credibility scores for the plaintiff's attorney and results of this analysis are reported in Table 8. The analysis yielded a significant F of 4.51.

An inspection of the means indicated that the plaintiff's attorney was perceived as being most credible in the "no edit" condition. A

TABLE 9

Means and Analysis of Variance Summary of the Effects of Differing Editing Techniques on the Assessment of the Defense Attorney's Credibility

	No Edit	Clean Edit	Blackout (Fast Forward)	Blackout (Normal Machine Speed)	Video Only
$\bar{X}$	82.55	75.00	78.46	75.86	75.15
n	31	25	26	21	26

Source	Sum of Squares	df	Mean Square	F
between	1171.270	4	292.818	*.151
within	21177.055	124	170.783	
total	22348.325	128		

* $p > .05$

A one-way analysis of variance was used to test the relationship between the different editing techniques and jurors' assessment of the witness' credibility. The mean credibility ratings for the defendant and the results of the nonsignificant analysis of variance are reported in Table 10.

The mean credibility ratings for the plaintiff and the results of the analysis are reported in Table 11. The results indicated that the ratings of the plaintiff's credibility did not differ significantly among treatment groups.

The mean credibility ratings for the security guard and the results of the analysis of variance are reported in Table 12. Again, the analysis yielded no significant differences.

Question 4: Do jurors exposed to different editing techniques report differing levels of distraction?

A one-way analysis of variance was used to test the relationship between the different editing techniques and reported levels of distraction. Mean distraction scores for each condition are reported in Table 13. The results of the analysis of variance indicated that the mean ratings of distraction differed significantly in the various conditions (see Table 13).

An inspection of the means indicated that the "no edit" condition was perceived as least distracting to the jurors. The "video only" condition was perceived as being most distracting. A posteriori comparisons were computed utilizing Dunnett's t-test and Newman-Keuls' procedure in order to test for significant differences between cell means. Results of the Dunnett t-test indicated that the "clean edit" condition was not significantly different from the "no edit" condition. The remaining

TABLE 8

Means and Analysis of Variance Summary of the Effects of Differing Editing Techniques on the Assessment of the Plaintiff's Attorney's Credibility

	No Edit	Clean Edit	Blackout (Fast Forward)	Blackout (Normal Machine Speed)	Video Only
$\overline{X}$	85.35_a	75.04_b	78.18_b	71.14_b	72.92_b
n	29	23	28	21	24

Source	Sum of Squares	df	Mean Square	F
between	3266.332	4	816.583	*4.510
within	21728.020	120	181.067	
total	24994.352	124		

NOTE: Means with different subscripts are significantly different from each other.

* $p < .002$

posteriori comparisons of cell means were computed utilizing two procedures: (1) Dunnett's t-test[11], and (2) Newman-Keuls' test for significance.

Dunnett's t-test is appropriate for designs which contain a control group (Winer, 1971). In this experiment, the "no edit" condition closely approximates what would occur in a live trial. It is the only condition that keeps the trial-related information intact. The other four conditions are all deviations from the "no edit" condition. Therefore, the decision was made to use the "no edit" condition as a baseline from which all other comparisons would be made.

Still, while Dunnett's t-test is appropriate for comparing experimental conditions with a control condition, it is not appropriate for comparing the experimental conditions with each other. Thus, the Newman-Keuls procedure was utilized to yield information about the relationship between the experimental conditions.

The results of Dunnett's t-test indicated that each of the experimental conditions differs significantly from the "no edit" condition. That is, a significant decrease in credibility was found. Results of the Newman-Keuls test indicated that the experimental conditions do not differ significantly from each other.

The mean credibility ratings for the defense attorney are reported in Table 9. The analysis of variance yielded no significant differences among the ratings of defense attorney credibility reported by the various groups.

Question 3: Do jurors exposed to different editing techniques demonstrate differences in their assessment of the witnesses' credibility?

three editing techniques were significantly different from the "no edit" Condition. Each of these conditions was perceived as being significantly more distracting than the "no edit" condition.

Results of the Newman-Keuls test indicated that the "blackout (fast forward)" condition did not significantly differ from the "clean edit" condition in the amount of distraction reported. However, the "blackout (normal machine speed)" and the "video only" conditions were perceived as being significantly more distracting than the "clean edit" condition. The "blackout (normal machine speed)" condition did not differ significantly from the "blackout (fast forward)" condition. Still, the "video only" condition was perceived as being significantly more distracting than the "blackout (fast forward)" condition. Finally, no significant differences were found between the "blackout (normal machine speed)" condition and the "video only" condition.

Question 5: Do jurors exposed to different editing techniques report different verdicts?

The verdicts reported by the jurors for each condition are shown in Table 14. A chi-square test was utilized to assess the relationship between the different editing techniques and the verdicts reported by the jurors. The results indicated that the relationship between these variables was not significant ($\chi^2 = 4.653$, df = 4, $p < .05$).

Table 15 summarizes the findings for the following variables: (1) information retention, (2) credibility, and (3) distraction.

In view of the findings discussed in this chapter, the researcher became interested in three additional questions. First, given that the editing techniques had a significant effect on the amount of distraction reported by the jurors, how might distraction be related to the

TABLE 14

Frequencies of Verdict for Each Condition

	No Edit	Clean Edit	Blackout (Fast Forward)	Blackout (Normal Machine Speed)	Video Only
Guilty	10	9	7	7	14
Innocent	23	16	19	16	13

credibility ratings of the trial participants? Second, what is the relationship between distraction and verdict? Third, what is the relationship between distraction and information retention?

In order to assess the relationship between distraction and credibility; distraction and verdict, and distraction and information retention; Pearson Product-Moment correlations were computed. The results of this analysis are shown in Table 16.

The results indicate that distraction is significantly related to the credibility ratings of both attorneys, the plaintiff, and the security guard, such that as distraction increases, credibility decreases. Distraction was not significantly related to the defendant's credibility. However, the negative correlation reflects the same trend found between distraction and the credibility ratings of the other trial participants.

Finally, the following relationships were examined: (1) credibility and verdict, and (2) information retention and verdict. Pearson Product-Moment correlations were computed in order to assess these relationships. The results of this analysis are reported in Table 17. A negative correlation with verdict indicates findings in the direction of the

TABLE 15

Summary of Means, F Values, Degrees of Freedom, P Value for Information Retention, Credibility and Distraction

	No Edit	Clean Edit	Blackout (Fast Forward)	Blackout (Normal Machine Speed)	Video Only	F	df	P
Information Retention	18.75 (35)	17.84 (31)	19.10 (29)	19.17 (24)	19.89 (28)	.513	142	.726
Credibility:								
Plaintiff's Attorney	85.35 (29)	75.04 (23)	78.18 (28)	71.14 (21)	72.92 (24)	4.510	120	.002
Defense Attorney	82.55 (31)	75.00 (25)	78.46 (26)	75.86 (21)	75.15 (26)	.151	124	.151
Defendant	70.77 (31)	62.60 (23)	63.69 (26)	62.27 (22)	67.50 (24)	2.162	121	.077
Plaintiff	79.34 (32)	73.65 (26)	76.00 (28)	70.50 (20)	70.46 (26)	2.105	127	.084
Security Guard	75.81 (32)	67.90 (24)	71.36 (28)	71.38 (21)	70.84 (25)	1.13	125	.343
Distraction	2.38 (34)	3.33 (27)	3.82 (28)	4.91 (23)	5.30 (27)	10.627	134	.001

NOTE: The numbers in parentheses indicate the number of respondents.

TABLE 16

Pearson Product-Moment Correlations for the Variables of Credibility, Verdict, Information Retention, and Distraction

Variable	Distraction	n
Credibility:		
Plaintiff's Attorney	-.2245**	121
Defense Attorney	-.2414**	125
Defendant	-.1164	122
Plaintiff	-.2596**	127
Security Guard	-.1798*	126
Verdict	-.0092	128
Information Retention	-.0978	139

* $p < .05$
** $p < .01$

TABLE 17

Pearson Product-Moment Correlations for the Variables of Credibility, Information Retention, and Verdict

Variable	Verdict	n
Credibility:		
Plaintiff's Attorney	-.0815	117
Defense Attorney	.0991	121
Defendant	.2870**	118
Plaintiff	-.3894***	124
Security Guard	-.2126*	122
Information Retention	.0978	134

* $p < .05$
** $p < .01$
*** $p < .001$

plaintiff. A positive correlation indicates finding in favor of the defendant.

The results indicate that verdict is significantly related to the credibility of the three witnesses. That is, as the credibility of the plaintiff increases, the likelihood of a verdict in favor of the plaintiff increases. Similarly, as the credibility of the security guard (the plaintiff's witness) increases, the likelihood of finding for the plaintiff increases. As the credibility of the defendant increases, the likelihood of finding for the defendant increases. No other relationships were significant. Thus, the results indicate that verdict is not significantly related to information retention, nor to the credibility of the attorneys.

CHAPTER V

DISCUSSION

The present study examined the effects that differing editing techniques have on information retention, credibility, distraction, and verdict. The results indicate that among these variables, two significant relationships exist.

The first relationship indicates that the different editing techniques significantly affect the credibility of the plaintiff's attorney. Comparisons of the cell means show that the four editing techniques are significantly different from the "no edit" condition, but not significantly different from each other. In addition, the relationship is such that the plaintiff's attorney's credibility decreases in the edited conditions. This suggests that the mere fact of editing decreases credibility, at least for the plaintiff's attorney.

One possible explanation of this finding concerns the expectations of the jurors. The only difference between the edited conditions and the "no edit" condition is that the objections and subsequent arguments between the two attorneys are deleted in the edited conditions. Perhaps jurors expect to hear objections made by attorneys. Jurors may evaluate the attorneys on a number of different dimensions that surround these objections. For example, a juror may perceive an attorney who raises objections throughout a trial as being very competent. They may view this behavior as being indicative of knowing the law, which may enhance the perceived expertise of the attorney. Of course, there would probably

exist some point where an attorney may object too many times, which would result in a decreased evaluation of credibility. A recent study lends some support to the contention that an attorney's credibility can be affected by the number of objections raised (see Fontes, 1975).

Another relevant factor might be how the attorney handles him/herself during the course of the argument; i.e., how well does the attorney argue? Still another factor might be the issues that an attorney objects to in a trial. Possibly an attorney who objects to trivial issues would be perceived less credible than an attorney who objects to important issues. Thus, even though jurors are instructed to disregard objections and arguments between attorneys, they may in fact use this information to aid them in their assessment of the attorney's credibility. Unfortunately, there are no data available in this study to indicate if the jurors used the information surrounding the objections in their assessment of the attorneys' credibility. However, if it can be assumed that jurors do use this information in their assessment of the attorneys' credibility, then this could account for the differences in the credibility ratings for the plaintiff's attorney.

While this argument may explain the plaintiff's attorney's difference in credibility ratings, it does not explain the lack of significant differences for the defense attorney's credibility ratings. Examining the means for the defense attorney's credibility, it is apparent that they follow the same pattern as the credibility ratings of the plaintiff's attorney; i.e., the defense attorney's credibility ratings were lower in the edited conditions when compared to the "no edit" condition. An inspection of the error variances for the credibility ratings of the two attorneys indicated that they were comparable (181.067 for the plaintiff's

attorney and 170.783 for the defense attorney). Still, the between group differences for the defense attorney were not robust enough to yield significant differences.

The second significant relationship found was between the editing techniques and the amount of distraction reported by the jurors. There appears to be a definite order in the amount of distraction caused by each of the editing techniques. Arranged in order from "least distracting" to "most distracting," the editing techniques are as follows: (1) "no edit," (2) "clean edit," (3) "blackout (fast forward)," (4) "blackout (normal machine speed)," and (5) "video only." Still, not all of these techniques were significantly different from each other with regard to distraction. The "clean edit" condition was not significantly different from the "no edit" condition, while the remaining editing conditions were significantly different from both the "clean edit" and "no edit" conditions. The "blackout (fast forward)" condition was not significantly different from the "clean edit" condition, but was significantly different from the remaining conditions. The "blackout (normal machine speed)" condition was not significantly different from the "blackout (fast forward)" nor the "video only" conditions, but was significantly different from the remaining conditions. Finally, the "video only" condition was not significantly different from the "blackout (normal machine speed)" condition, but was significantly different from the remaining conditions.

One factor that could serve to explain this pattern of relationships is the amount of time necessary to execute the edits. The "clean edit" lasts for only a split-second. The "blackout (fast forward)" edit lasts an average of 17.33 seconds. The "blackout (normal machine speed)" edit

and the "video only" edit both last an average of 74.5 seconds.[12] Clearly, an edit that lasts for a split-second comes closer to approximating the "no edit" condition than any other condition. An edit which lasts approximately 17 seconds is not significantly different from an edit which lasts for a split-second. Also, an edit which lasts for approximately 17 seconds is not significantly different from an edit that lasts for approximately 74.5 seconds. However, this last comparison is not entirely accurate. As noted above, both the "blackout (normal machine speed)" edit and the "video only" edit last an average of 74.5 seconds. Yet, the "blackout (fast forward)" edit differs significantly from the "video only" edit and not the "blackout (normal machine speed)" edit. This may be due to the fact that the two blackout edits are identical except for the amount of time necessary to execute the edit. On the other hand, the "video only" edit is different from the "blackout (fast forward)" edit in the amount of information deleted as well as the amount of time necessary to execute the edit.

Perhaps differences in the amount of information deleted coupled with differences in time are necessary to produce a significant difference when the edits range from 17 seconds to 74 seconds. This would account for the difference found between the "blackout (fast forward)" edit and the "video only" edit. In addition, it would explain the lack of significant differences between the "blackout (normal machine speed)" edit and the "video only" edit. These last two edits differ in the amount of information deleted, but do not differ in amount of time necessary to execute the edits; thus they are not significantly different. In sum, it would appear that there exists some critical level of time difference, such that if two editing techniques exceed that limit, then

that difference will be sufficient to produce significant differences in the amount of distraction. If the limit is not exceeded, then significant differences will not occur, unless there is a discrepancy in the amount of information deleted. Precisely what difference in time constitutes a critical level is not known.

Having discussed the observed significant relationships, attention will now be given to the relationships where no significant differences were found.

The different editing techniques did not significantly affect the amount of trial-related information retained by the jurors. One possible explanation for the lack of significant differences concerns the reliability of the retention items. The items were pretested using college undergraduates. However, when administered to a sample of jurors the reliability of the items dropped (see Chapter III). Consequently, more items were dropped from the test to increase the reliability. The resultant reliability was .76, which is reasonably high. Still, the test may be capable of making gross discriminations between jurors, but not powerful enough to make precise discriminations.

The relationship between the editing techniques and the credibility of the defense attorney was not significant. Further, the editing techniques were not significantly related to the credibility ratings of the three witnesses. An inspection of the means indicates one general trend: the credibility ratings for all trial participants are lower in the edited conditions.

One possible explanation for this trend is that the edits may distort the information in the trial. Still, the exact nature of this distortion is not known. Another possible explanation is that jurors become

curious and/or upset over the deleted information and try to guess what occurred during the edits. The jurors' speculation of what may have transpired could have an effect on the trial participants' credibility.

One variable found to be significantly related to the credibility of the trial participants is distraction. Significant negative relationships were observed between distraction and the plaintiff's credibility, the security guard's credibility, and both attorneys' credibility. The relationship between distraction and the defendant's credibility was negative, but not significant. Given past research on credibility and persuasion as well as distraction and persuasion, this finding is somewhat perplexing. Generally, distraction has been found to increase the persuasibility of a message.[13] Similarly, high credible sources are more persuasive than low credible soruces. Thus, it would seem reasonable to assume that distraction and credibility would be positively related.

One possible explanation for observing a counter-intuitive relationship between distraction and credibility rests in the characteristics of the setting of this study and the sample employed. In most of the distraction research, the sample used consisted of college undergraduates. Further, the subjects in these studies were usually presented a message from one source and changes in attitude toward the topic and/or the source were measured. However, the present study is quite different. The subjects used in this study were adults who were being asked to evaluate messages from more than one source and then reach a decision that would have important consequences for people other than themselves; i.e., the litigants of the trial. In short, the demands of a trial are very different than those of a classroom setting where subjects are asked to

listen to one persuasive message. Possibly the findings found in past research on distraction are not applicable to the present study, due to the differences that were just discussed. However, more research is needed in order to determine whether or not the findings from the distraction research are generalizable to situations similar to the one employed in this study.

No significant differences were found for verdict among the various conditions. However, the credibility ratings for the three witnesses were significantly correlated with verdict. The direction of the correlations is not surprising. The credibility of the plaintiff and the credibility of the security guard were positively related with a verdict in favor of the plaintiff. The credibility of the defendant was positively related with a verdict in favor of the defendant.

Implications

The findings reported in this thesis have definite implications for the legal community. First, the editing of inadmissible testimony appears to result in a decrease in perceived credibility of the trial participants. The problem is finding out why this effect occurs. If it occurs because editing of testimony violates the expectations of the jurors with regard to what is supposed to happen in a trial, then a solution would be to restructure the expectations of jurors. Still, research needs to be conducted to determine what expectations jurors have with regard to trial proceedings.

The second major implication concerns the amount of distraction associated with each editing technique. Given the negative relationship between distraction and credibility, it seems obvious that the best

technique to use would be the editing technique that has the least amount of distraction associated with it. Based on the results of this study, the "clean edit" technique would be advised. However, if the objections were short enough, another edit may suffice. This possibility awaits further research aimed at establishing time levels more precisely.

Limitations

Several limitations are associated with the present study. Two measures used in this study are bothersome. The scale used to measure information retention may not have been able to make precise discriminations. As indicated earlier, the alpha coefficient for this scale was .76, which is reasonably high. However, a more reliable measure would have been desirable. The measure of distraction is somewhat bothersome because it consists of only one item. Originally, two other items were included; however, the alpha coefficient for the three items was .35. Thus, the decision was made to use a single item measure of distraction (see Chapter III). The measure used has face validity, but no reliability coefficient can be computed for it. Since any unreliability would probably reduce the likelihood of significant differences, it is possible that the actual differences between the editing techniques are even greater than those reported in this study.

Additional problems center on the stimulus tape. In the interest of experimental control, certain trade-offs had to be made. Thus, the stimulus tape deviated from the typical PRVTT in three important ways. First, the trial was taped in a courtroom, while PRVTTs are usually taped in studios. Second, a judge appeared on the tape and made rulings on objections as he/she would during a live trial. In PRVTTs, the judge would

not appear on the tape. Finally, a fixed shot was used in the stimulus trial, making the participants difficult to see very clearly. PRVTTs usually use close-up shots.

Recommendations

Based on the present findings, as well as the experience gained by the researcher while executing the various editing techniques, the following recommendations are offered. Of the four editing techniques examined, the best technique to use would be the "clean edit." This is primarily due to the fact that the "clean edit" was not significantly more distracting than the "no edit" condition, while the other techniques were significantly more distracting. Still, the time and costs of executing the "clean edit" are substantially higher than the other three techniques. However, if the costs of performing the "clean edit" are prohibitive, then another technique could be used under certain conditions. If the material to be edited is less than 17 seconds, then the "blackout (normal machine speed)" technique would be satisfactory. The "blackout (fast forward)" technique is not recommended due to the difficulty involved in executing the edit. The operator must pay close attention to the trial, as well as the speed of the machine while advancing the tape. The probability of making an error is greatly increased. For example, the operator may advance the tape too far, or not far enough, which would increase the time necessary to execute the edit. This may increase the amount of distraction attributed to the edit, which in turn may affect the perceived credibility of the participants in the trial. The "video only" technique is not recommended under any circumstances. This edit was perceived as being the most distracting edit. Further, it does not

eliminate all of the information that transpires during the inadmissible testimony. For these reasons, the "video only" technique is considered to be inferior to the other three techniques.

In conclusion, the researcher considers the "clean edit" technique to be superior to the other editing techniques. Any replication and/or extension of this study should focus on several factors. In addition to adding support to the findings reported in this thesis, there exists the need to determine the critical time values that separate the effects of one editing technique from another. In addition, this study suggests the need to examine what specific factors a juror uses to assess the credibility of the trial participants.

Hopefully, the results reported in this study will aid the legal community in assessing the impact of the use of videotape in the legal environment.

FOOTNOTES

[1] The descriptions of the techniques were obtained through personal conversation with Judge McCrystal, and Mr. Larry Stone of Video-Record. Video-Record is a videotaping company in Columbus, Ohio. They have videotaped many complete trials and depositions, some of which appeared in Judge McCrystal's court.

[2] Personal conversation with Mr. Larry Stone.

[3] The term "frame" is really a misnomer. Videotape does not actually have frames in the same sense that film has frames. What the word frame here refers to is the smallest unit that a videotape can be broken into, which is similar to a frame in film, although physically very different.

[4] Items that had an item-total correlation that was less than .10 were eliminated.

[5] Items that have an asterisk by the number were the items retained. See Appendix A.

[6] See Chapter II, page 12.

[7] The same legal experts that estimated the number of objections, also estimated the average length of the objection. One minute constitutes the average length.

[8] The actors were selected from areas that were very distant from the area that the sample was to come from. This was to ensure that the jurors would not recognize an actor and thus realize the trial was a re-enactment.

[9] The other three edits were conducted during the presentation of the trial.

[10] As part of the research not reported in this study, confederates were used to examine group deliberation behavior. They were also instructed to note any suspicion concerning the validity of the trial. Two people were suspicious and were subsequently dropped from the analysis.

[11] In light of the fact that the groups had different sample sizes, a harmonic mean ñ was computed (see Winer, 1971).

[12] The objections were written such that they should have lasted for 60 seconds. However, due to the actors' variation in speech rate, some objections were longer than 60 seconds. The range was from 58 seconds to 93 seconds.

[13] There have been studies conducted which have failed to support the distraction hypothesis (see Chapter II).

APPENDICES

APPENDIX A

THE NATIONAL SCIENCE FOUNDATION

Questionnaire on Jury Size

As you know, in addition to serving as a juror in this trial today, you are participating in research on jury size. We would now like you to help us complete this research. This booklet contains a series of questions that we would like you to answer. In addition to finding out your verdict we would like to find out (1) your evaluations of the two attorneys, (2) your feelings about the trial and your participation as a juror, and (3) your understanding of the issues involved.

Your assistance is extremely important to us and we sincerely appreciate your cooperation. Thank you very much for your help.

Department of Communication
Michigan State University
East Lansing, Michigan

Before you begin the questionnaire, we would like to know what your verdict is in this case. Your verdict at this time is not binding upon the litigants and you are free to alter your verdict during the deliberation proceedings.

1. I find the defendant:

_____ guilty

_____ innocent

2. How confident are you of this verdict?

_____ very confident

_____ somewhat confident

_____ not too confident

_____ not very confident at all

We would like to get some idea of your evaluation of the physical attractiveness of the trial participants. Use the five scales on this page for these evaluations. Here is how to use the scales:

Example:

In comparison to people in general, Ms. Jones was:

physically attractive:___:___:___:___:___:___:___:physically unattractive
1 2 3 4 5 6 7

If you felt Ms. Jones was extremely attractive, you would place a check in space #1; if quite attractive (but not extremely so), in #2; if slightly attractive, in #3; if average, in #4; if slightly unattractive, in #5; if quite unattractive, in #6; if extremely unattractive, in #7.

The "4" or neutral space on the scale may also be used for "I don't know," or "I don't think this scale applies," answers.

Please note that the attractive ratings are not all on the same side. Put your check within the spaces (:_X_:), not on the lines separating spaces. Please place one mark on each of the seven scales.

3. In comparison to people in general, the plaintiff's witness, Ms. Jones, was:

very physically attractive:___:___:___:___:___:___:___:very physically unattractive
Ave.

4. In comparison to people in general, the Security Guard, Mr. Armstrong, was:

very physically attractive:___:___:___:___:___:___:___:very physically unattractive
Ave.

5. In comparison to people in general, the defendant, Mr. Miller, was:

very physically unattractive:___:___:___:___:___:___:___:very physically attractive
Ave.

6. In comparison to people in general, the plaintiff's attorney, Mr. Harvey, was:

very physically unattractive:___:___:___:___:___:___:___:very physically attractive
Ave.

7. In comparison to people in general, the defendant's attorney, Mr. Wells, was:

very physically attractive:___:___:___:___:___:___:___:very physically unattractive
Ave.

THE FOLLOWING QUESTIONS CONCERN EVIDENCE THAT WAS PRESENTED IN THIS TRIAL. PLEASE READ EACH QUESTION CAREFULLY AND CHECK THE SPACE OPPOSITE THE CORRECT ANSWER. WRITE THE ANSWERS TO THE "FILL-IN-THE-BLANK" QUESTIONS IN THE SPACE PROVIDED.

8. In civil suits, when one party makes good the loss of another, and then assumes the rights of that other party, that's called:

_____ (a) conversion
_____ (b) subrogation
_____ (c) substitution
_____ (d) reciprocity

*9. How often did Charles Griffin make transactions with Ms. Jones?

_____ (a) twice a week
_____ (b) once a week
_____ (c) rarely
_____ (d) never

*10. What is Ms. Jones' present position at the bank?

_____ (a) teller
_____ (b) bookkeeper
_____ (c) loan adjuster
_____ (d) executive secretary

11. According to Mr. Armstrong, why weren't the cameras functioning properly?

_____ (a) they were brand new
_____ (b) they were borrowed from another bank
_____ (c) that make and model always has problems
_____ (d) none of the above

12. How long has Mr. Miller been employed by the Griffin & Son Funeral Home?

_____ (a) ten years
_____ (b) seven years
_____ (c) five years
_____ (d) three years

*13. What is the one factual dispute in this case, according to Mr. Harvey?

_____ (a) determining why John Miller's name was not on the tape
_____ (b) determining whether or not John Miller took the money
_____ (c) determining whether or not John Miller was allowed to make split-deposits
_____ (d) none of the above

*14. In civil suits, when one party takes something that belongs to someone else and uses it for their own purposes, that's known as:

_____ (a) conversion
_____ (b) subrogation
_____ (c) substitution
_____ (d) larceny

*15. Which one of the following persons listed below were not authorized to make deposits for the Griffin & Sons Funeral Home?

_____ (a) Charles Griffin
_____ (b) John Miller
_____ (c) Edward Keefer
_____ (d) Gerry Kohn

16. What reason did Ms. Jones give for allowing a "cash out" in this particular transaction?

_____ (a) it was normal procedure
_____ (b) the Griffin family told her it was okay
_____ (c) the bank manager gave his approval
_____ (d) none of the above

17. According to Ms. Jones, what was unusual about the check that was brought in to be deposited?

_____ (a) the check was made out to "cash"
_____ (b) the check was not co-signed
_____ (c) the check was not endorsed
_____ (d) the check was cancelled

*18. The opening statements that were made by Mr. Harvey and Mr. Wells are considered to be:

_____ (a) the facts of the case
_____ (b) evidence
_____ (c) their opinions
_____ (d) all of the above

*19. According to Mr. Armstrong, how long are the films kept on file at the bank?

_____ (a) one month
_____ (b) one year
_____ (c) until they are needed
_____ (d) the films aren't kept unless there is an unusual transaction on them

*20. How many times did Mr. Miller make withdrawals for the funeral home?

_____ (a) once a week
_____ (b) once a month
_____ (c) rarely
_____ (d) never

21. According to Mr. Miller, who usually used the endorsement stamp at the Griffin and Son Funeral Home?

_____ (a) Charles Griffin
_____ (b) Lawrence Griffin
_____ (c) the entire staff
_____ (d) both Charles Griffin and Lawrence Griffin

22. According to Mr. Harvey, the most important consideration for you to have when determining who told the truth in this case is:

_____ (a) the credibility of the witnesses
_____ (b) the inconsistencies in the testimony
_____ (c) the motives of the witnesses
_____ (d) none of the above

23. According to Mr. Wells, what makes Mr. Miller's testimony so credible?

_____ (a) he knows Ms. Jones so well
_____ (b) he is a trusted employee
_____ (c) he had no alibi
_____ (d) none of the above

* 24. In Mr. Harvey's opening statement, a number of contentions were made which neither party disputed. Which of the following is not one of the undisputed contentions?

_____ (a) John Miller was the employee and agent for the Griffin & Sons Funeral Home

_____ (b) John Miller made deposits and withdrawals from time to time for the Home

_____ (c) on July 10th, 1975, a deposit was made for the Home in amount of $1926.37

_____ (d) all of the above contentions are undisputed

* 25. How many people, other than the Griffin family, did Ms. Jones deal with who represented the funeral home?

_____ (a) one

_____ (b) two

_____ (c) three

_____ (d) four

26. Who had access to the endorsement stamp used by the funeral home?

_____ (a) only the Griffin family

_____ (b) the Griffin family, John Miller, and Edward Keefer

_____ (c) only the full-time employees

_____ (d) the entire staff

* 27. According to Mr. Miller, why did Ms. Jones say he made the transaction?

_____ (a) they had a fight and she was getting even

_____ (b) Ms. Jones did not like him

_____ (c) he did not know

_____ (d) none of the above

* 28. Which of the following is not a plausible explanation of what happened to the money, according to Mr. Wells?

_____ (a) Ms. Jones made a mistake

_____ (b) Ms. Jones is dishonest

_____ (c) Lawrence Griffin took the money

_____ (d) all are plausible explanations offered by Mr. Wells

*29. According to Ms. Jones, two individuals from the funeral home usually handled the bank transactions. They were:

_____ (a) Charles Griffin and Lawrence Griffin
_____ (b) Charles Griffin and John Miller
_____ (c) Edward Keefer and Charles Griffin
_____ (d) Edward Keefer and John Miller

*30. Mr. Miller had authorization from the funeral home to:

_____ (a) make deposits
_____ (b) make deposits and withdrawals
_____ (c) make split-deposits
_____ (d) none of the above

*31. How long had Ms. Jones handled deposits made by John Miller?

_____ (a) three years
_____ (b) one year
_____ (c) six months
_____ (d) six and one-half years

32. Whose name did Ms. Jones write on her tape?

_____ (a) Edward Keefer
_____ (b) Charles Griffin
_____ (c) John Miller
_____ (d) Gerry Kohn

33. What was the name of the insurance company that issued the check to Mr. Griffin?

_____ (a) Metropolitan Life
_____ (b) Mutual of New York
_____ (c) Mutual of Omaha
_____ (d) New York Life

*34. What does Mr. Wells consider to be incredible about Ms. Jones' testimony:

_____ (a) she wrote the name of a person on her tape who did not make the transaction
_____ (b) she claims to never had made an error when handling money at the bank
_____ (c) she recalls one transaction so clearly after handling some 60,000 transactions a year
_____ (d) all of the above

*35. According to Mr. Miller, who is his immediate supervisor at the funeral home?

_____ (a) Lawrence Griffin

_____ (b) Charles Griffin

_____ (c) Irene Griffin

_____ (d) Edward Keefer

*36. According to Mr. Armstrong, why weren't there any pictures of the transaction in question?

_____ (a) the cameras weren't turned on

_____ (b) the cameras weren't exposing the film correctly

_____ (c) the cameras weren't aimed correctly

_____ (d) the cameras weren't installed yet

*37. Ms. Jones testified that she only dealt with certain members from the funeral home. According to her testimony, which of the following persons could have presented the check in question?

_____ (a) Charles Griffin, Edward Keefer, and John Miller

_____ (b) Lawrence Griffin, Irene Griffin, Charles Griffin, Edward Keefer, and John Miller

_____ (c) Charles Griffin, Edward Keefer, John Miller and Gerry Kohn

_____ (d) Edward Keefer and John Miller

*38. What important piece of information appears on the deposit slip that identifies the person who made the deposit and the subsequent withdrawal at the bank?

_____ (a) the name of the depositor

_____ (b) the name of the person who owns the account

_____ (c) the teller's mark that identifies the depositor

_____ (d) none of the above

*39. According to Mr. Wall's opening statement, what could you as jurors expect to derive from Mr. Miller's testimony?

_____ (a) that he did not make the transaction

_____ (b) that he had an alibi for his whereabouts on July 10, 1975

_____ (c) that he would say that he was an employee of the Griffin & Son Funeral Home, but that he is not now

_____ (d) both (a) and (c) above

* 40. How often did John Miller come in and make deposits that Ms. Jones handled?

_____ (a) once a month
_____ (b) twice a month
_____ (c) once a week
_____ (d) every other day

* 41. According to Mr. Miller's testimony, he dealt with Ms. Jones at the bank

_____ (a) quite often
_____ (b) almost exclusively
_____ (c) seldom
_____ (d) never

* 42. What was Mr. Miller doing on July 10, 1975?

_____ (a) he was driving for the home that day
_____ (b) he was at the county offices most of the day
_____ (c) he was working on a part-time basis at the time
_____ (d) all of the above

* 43. How soon after the date of the transaction was Mr. Miller confronted with information concerning the check?

_____ (a) one month
_____ (b) two months
_____ (c) three months
_____ (d) four months

* 44. If a teller were to misbalance his/her account by $1200.00, what action would be taken by the bank?

_____ (a) the teller would have to pay back the money
_____ (b) the teller would be fired
_____ (c) the teller's job would be jeopardized
_____ (d) nothing would happen

45. What happened to Mr. Miller shortly after the bank realized the error it had made?

_____ (a) he was arrested and released on bond
_____ (b) he was instructed by the court to stay in town
_____ (c) he was layed off, pending the outcome of the trial
_____ (d) nothing happened to Mr. Miller

46. When discussing the bank transaction with her supervisor, who did Ms. Jones initially say made this transaction?

_____ (a) Charles Griffin

_____ (b) Lawrence Griffin

_____ (c) John Miller

_____ (d) none of the above

*47. How long was Ms. Jones a teller at the bank where the transaction in question took place?

_____ (a) five years

_____ (b) five and one-half years

_____ (c) six and one-half years

_____ (d) seven years

Now we would like to get some idea of your evaluations of trial participants. Please complete the following scales for each participant. Here is how to use these scales:

Participant A

Example: bad:___:___:___:___:___:___:___:good
1 2 3 4 5 6 7

If you felt that Participant A was in general extremely bad, you would place a check mark in space #1; if quite bad (but not extremely bad), in #2; if slightly bad, in #3; if neither good nor bad, in #4; if slightly good, in #5; if quite good, in #6; and if extremely good, in #7.

The "4" or neutral space on the scale may also be used for "I don't know," or "I don't think this scale applies," answers.

Please note that the "good" or "favorable" words are not all on the same side. Put your check within the spaces (: X :), not on the lines separating scales. Please place one mark on each of the scales.

Prosecution Attorney, Mr. Harvey

48. trustworthy:___:___:___:___:___:___:___:untrustworthy

49. just:___:___:___:___:___:___:___:unjust

50. dishonest:___:___:___:___:___:___:___:honest

51. bad:___:___:___:___:___:___:___:good

52. safe:___:___:___:___:___:___:___:dangerous

53. expert:___:___:___:___:___:___:___:ignorant

54. incapable:___:___:___:___:___:___:___:capable

55. trained:___:___:___:___:___:___:___:untrained

56. unknowledgeable:___:___:___:___:___:___:___:knowledgeable

57. incompetent:___:___:___:___:___:___:___:competent

58. energetic:___:___:___:___:___:___:___:tired

59. meek:___:___:___:___:___:___:___:aggressive

60. indecisive:___:___:___:___:___:___:___:decisive

61. bold:___:___:___:___:___:___:___:timid

62. passive:___:___:___:___:___:___:___:active

Defense Attorney, Mr. Wells

63. trustworthy:___:___:___:___:___:___:___:untrustworthy

64. just:___:___:___:___:___:___:___:unjust

65. dishonest:___:___:___:___:___:___:___:honest

66. good:___:___:___:___:___:___:___:bad

67. dangerous:___:___:___:___:___:___:___:safe

68. expert:___:___:___:___:___:___:___:ignorant

69. incapable:___:___:___:___:___:___:___:capable

70. untrained:___:___:___:___:___:___:___:trained

71. knowledgeable:___:___:___:___:___:___:___:unknowledgeable

72. competent:___:___:___:___:___:___:___:incompetent

73. energetic :___:___:___:___:___:___:___:tired

74. meek:___:___:___:___:___:___:___:aggressive

75. indecisive:___:___:___:___:___:___:___:decisive

76. bold:___:___:___:___:___:___:___:timid

77. passive:___:___:___:___:___:___:___:active

Defendant, Mr. Miller

78. trustworthy:___:___:___:___:___:___:___:untrustworthy

79. just:___:___:___:___:___:___:___:unjust

80. dishonest:___:___:___:___:___:___:___:honest

81. good:___:___:___:___:___:___:___:bad

82. dangerous:___:___:___:___:___:___:___:safe

83. expert:___:___:___:___:___:___:___:ignorant

84. incapable:___:___:___:___:___:___:___:capable

85. untrained:___:___:___:___:___:___:___:trained

86. knowledgeable:___:___:___:___:___:___:___:unknowledgeable

87. competent:___:___:___:___:___:___:___:incompetent

88. energetic:___:___:___:___:___:___:___:tired

89. meek:___:___:___:___:___:___:___:aggressive

90. indecisive:___:___:___:___:___:___:___:decisive

91. bold:___:___:___:___:___:___:___:timid

92. passive:___:___:___:___:___:___:___:active

Plaintiff, Ms. Jones

93. trustworthy:___:___:___:___:___:___:___:untrustworthy

94. just:___:___:___:___:___:___:___:unjust

95. dishonest:___:___:___:___:___:___:___:honest

96. good:___:___:___:___:___:___:___:bad

97. dangerous:___:___:___:___:___:___:___:safe

98. expert:___:___:___:___:___:___:___:ignorant

99. incapable:___:___:___:___:___:___:___:capable

100. untrained:___:___:___:___:___:___:___:trained

101. knowledgeable:___:___:___:___:___:___:___:unknowledgeable

102. competent:___:___:___:___:___:___:___:incompetent

103. energetic:___:___:___:___:___:___:___:tired

104. meek:___:___:___:___:___:___:___:aggressive

105. indecisive:___:___:___:___:___:___:___:decisive

106. bold:___:___:___:___:___:___:___:timid

107. passive:___:___:___:___:___:___:___:active

Witness, Mr. Armstrong

108. trustworthy:___:___:___:___:___:___:___:untrustworthy

109. just:___:___:___:___:___:___:___:unjust

110. dishonest:___:___:___:___:___:___:___:honest

111. good:___:___:___:___:___:___:___:bad

112. dangerous:___:___:___:___:___:___:___:safe

113. expert:___:___:___:___:___:___:___:ignorant

114. incapable:___:___:___:___:___:___:___:capable

115. untrained:___:___:___:___:___:___:___:trained

116. knowledgeable:___:___:___:___:___:___:___:unknowledgeable

117. competent:___:___:___:___:___:___:___:incompetent

118. energetic:___:___:___:___:___:___:___:tired

119. meek:___:___:___:___:___:___:___:aggressive

120. indecisive:___:___:___:___:___:___:___:decisive

121. bold:___:___:___:___:___:___:___:timid

122. passive:___:___:___:___:___:___:___:active

Please read each of the following statements and indicate the extent to which you agree or disagree with each statement. Please note that the response categories sometimes begin with "strongly agree" and at other times begin with "strongly disagree".

123. Most people just don't know what's good for them.

_____ strongly agree
_____ agree
_____ undecided
_____ disagree
_____ strongly disagree

124. Man on his own is a helpless and miserable creature.

_____ strongly disagree
_____ disagree
_____ undecided
_____ agree
_____ strongly agree

125. My blood boils whenever a person stubbornly refuses to admit he's wrong.

_____ strongly disagree
_____ disagree
_____ undecided
_____ agree
_____ strongly agree

126. The highest form of government is a democracy and the highest form of democracy is a government run by those who are most intelligent.

_____ strongly disagree
_____ disagree
_____ undecided
_____ agree
_____ strongly agree

127. Most people just don't give a "damn" for others.

_____ strongly agree
_____ agree
_____ undecided
_____ disagree
_____ strongly disagree

128. Of all the different philosophies which exist in this world there is probably only one which is correct.

_____ strongly agree
_____ agree
_____ undecided
_____ disagree
_____ strongly disagree

129. It is often desirable to reserve judgment about what's going on until one has had a chance to hear the opinions of those one respects.

_____ strongly agree
_____ agree
_____ undecided
_____ disagree
_____ strongly disagree

130. There are two kinds of people in this world: those who are for the truth and those who are against the truth.

_____ strongly disagree
_____ disagree
_____ undecided
_____ agree
_____ strongly agree

131. While I don't like to admit this even to myself, my secret ambition is to become a great man, like Einstein, or Beethoven, or Shakespeare.

_____ strongly disagree
_____ disagree
_____ undecided
_____ agree
_____ strongly agree

132. It is only when a person devotes himself to an ideal or cause that life becomes meaningful.

_____ strongly disagree
_____ disagree
_____ undecided
_____ agree
_____ strongly agree

133. In this complicated world of ours the only way we can know what's going on is to rely on leaders or experts who can be trusted.

_____ strongly disagree
_____ disagree
_____ undecided
_____ agree
_____ strongly agree

134. Even though freedom of speech for all groups is a worthwhile goal, it is unfortunately necessary to restrict the freedom of certain political groups.

_____ strongly agree
_____ agree
_____ undecided
_____ disagree
_____ strongly disagree

135. In a discussion I often find it necessary to repeat myself several times to make sure I am being understood.

_____ strongly disagree
_____ disagree
_____ undecided
_____ agree
_____ strongly agree

136. Most of the ideas which get printed nowadays aren't worth the paper they are printed on.

_____ strongly agree
_____ agree
_____ undecided
_____ disagree
_____ strongly disagree

137. The present is all too often full of unhappiness. It is only the future that counts.

_____ strongly agree
_____ agree
_____ undecided
_____ disagree
_____ strongly disagree

Now we would like to ask you a few final questions concerning the **trial.**

143. How enjoyable was it for you to watch this trial?

_____ extremely unenjoyable
_____ very unenjoyable
_____ unenjoyable
_____ enjoyable
_____ very enjoyable
_____ extremely enjoyable

144. How interesting did you find this trial?

_____ extremely interesting
_____ very interesting
_____ interesting
_____ uninteresting
_____ very uninteresting
_____ extremely uninteresting

145. How difficult was it to follow the testimony presented in this trial?

_____ extremely difficult to follow
_____ very difficult to follow
_____ difficult to follow
_____ easy to follow
_____ very easy to follow
_____ extremely easy to follow

146. If you had the opportunity to serve as a juror on a similar case **in the** future, how willing would you be to serve?

_____ extremely willing
_____ very willing
_____ somewhat willing
_____ somewhat unwilling
_____ very unwilling
_____ extremely unwilling

138. The main thing in life is for a person to want to do something important.

_____ strongly agree
_____ agree
_____ undecided
_____ disagree
_____ strongly disagree

139. The United States and Russia have just about nothing in common.

_____ strongly disagree
_____ disagree
_____ undecided
_____ agree
_____ strongly agree

140. It is better to be a dead hero than to be a live coward.

_____ strongly disagree
_____ disagree
_____ undecided
_____ agree
_____ strongly agree

141. To compromise with our political opponents is dangerous because it usually leads to the betrayal of our own side.

_____ strongly agree
_____ agree
_____ undecided
_____ disagree
_____ strongly disagree

142. I'd like it if I could find someone who would tell me how to solve my personal problems.

_____ strongly agree
_____ agree
_____ undecided
_____ disagree
_____ strongly disagree

147. How interested do you think the other jurors were in watching this trial?

_____ extremely interested
_____ very interested
_____ somewhat interested
_____ somewhat uninterested
_____ very uninterested
_____ extremely uninterested

148. As a juror in this trial I was confused:

_____ never
_____ rarely
_____ occasionally
_____ quite often
_____ most of the time
_____ all of the time

THANK YOU VERY MUCH FOR YOUR COOPERATION!

LIST OF REFERENCES

References

Baron, R., Baron, P., & Miller, N. The relation between distraction and persuasion. Psychological Bulletin, 1973, 80, pp. 310-323.

Berlyne, D. E. Conflict, arousal, and curiosity. New York: McGraw-Hill, 1960.

Bermant, G., & Jacoubovitch, M. D. Fish out of water: A brief overview of social and psychological concerns about videotaped trials. The Hastings Law Journal, 1975, 26, pp. 999-1011.

Bermant, G., McGuire, M., & Chappell, D. Videotaped trial presentations: Advantages and disadvantages. Battelle Memorial Institute, 1975. (Stencil)

Ekman, P., & Friesen, W. Detecting deception from the body and face. Journal of Personality and Social Psychology, 1974, 29, pp. 288-298.

Festinger, L., & Maccoby, N. On resistance to persuasive communications. Journal of Abnormal and Social Psychology, 1964, 68, pp. 359-366.

Fontes, N. The behavioral impact of inadmissible evidence on jurors: A preliminary study. Unpublished doctoral dissertation, Michigan State University, 1975.

Freedman, J. L., & Sears, D. O. Warning, distraction, and resistance to influence. Journal of Personality and Social Psychology, 1965, 1, pp. 262-266.

Gardner, D. M. The effect of divided attention on attitude change induced by a marketing communication. In R. M. Haus (Ed.), Science, technology, and marketing. Chicago: American Marketing Association, 1966.

Haaland, G. A., & Vankatesan, M. Resistance to persuasive communications: An examination of the distraction hypothesis. Journal of Personality and Social Psychology, 1968, 9, pp. 167-170.

Hocking, J. E., Bauchner, J. E., Kaminski, E. P., & Miller, G. R. Detecting deceptive communication from verbal, visual, and paralinguistic cues. Paper presented at the International Communication Association Convention, Portland, Oregon, April, 1976.

Kornblum, G. O., & Rush, P. E. Television in courtroom and classroom. American Bar Association Journal, 1973, 59, pp. 273-276.

Lazarsfeld, P. F., & Merton, R. K. Mass communication, popular taste, and organized social action. In Wilbur Schramm & Donald F. Roberts (Eds.), The process and effects of mass communications (Revised). Urbana, Illinois: University of Illinois Press, 1971, pp. 554-578.

Main, J. Only radical reform can save the courts. Fortune, 1970, 82, pp. 111-114.

McCrystal, J. L. Proceedings from the Conference on Humanistic Aspects of Videotaping Trials, Kent State University, June, 1975, pp. 30-39.

McCrystal, J. L. The dual docket system. Ohio Bar, 1976, 49, pp. 51-54.

McLuhan, M. Understanding media: The extensions of man. New York: McGraw-Hill, 1964.

Mehrabian, A. Tactics of social influence. Englewood Cliffs: Prentice-Hall, 1970.

Miller, G. R., Bender, D., Florence, T., & Nicholson, H. Communication variables in the judicial process. Paper presented at the 58th annual Speech Communication Association convention, Chicago, Illinois, December, 1972.

Miller, G. R., Bender, D., Florence, T., & Nicholson, H. Real versus reel: What's the verdict? Journal of Communication, 1974, 30, pp. 99-111.

Miller, N., & Levy, B. H. Defaming and agreeing with the communicator as a function of emotional arousal, communication extremity, and evaluation set. Sociometry, 1967, 30, pp. 158-175.

Morrill, A. E. Trial diplomacy. Chicago: Court Practice Institute, 1972.

Murray, T., Jr. Proceedings from the Conference on Humanistic Aspects of Videotaping Trials, Kent State University, June, 1975, pp. 39-46.

Nunnally, J. C. Psychometric theory. New York: McGraw-Hill, 1967.

Rosenblatt, P. C. Persuasion as a function of varying amounts of distraction. Psychonomic Science, 1966, 5, pp. 344-358.

Rush, P. E. Legal educators advocate video tape. Educational Broadcasting, November/December, 1973, pp. 11-14 and 40.

Scheflen, A. E. Body language and the social order. Englewood Cliffs: Prentice-Hall, 1972.

Shamo, G. W., & Meador, L. M. The effects of visual distraction upon recall and attitude change. Journal of Communication, 1969, 19, pp. 157-162.

Silverman, I., & Regula, C. Evaluation apprehension, demand characteristics, and the effects of distraction on persuasibility. Journal of Social Psychology, 1968, 75, pp. 273-281.

Sommer, R. Personal space. Englewood Cliffs: Prentice-Hall, 1969.

Valentino, V. Nebraska faces videotape: The new video technology in perspective. Creighton Law Review, 1972-73, 6, pp. 214-234.

Vohs, J. L. En empirical approach to the concept of attention. Speech Monographs, 1964, 31, pp. 355-360.

Vohs, J. L., & Garrett, R. L. Resistance to persuasion: An integrative framework. Public Opinion Quarterly, 1968, 32, pp. 445-452.

Ward, R. M. Judicial administration--technological advances--use of video tape in the courtroom and the station house. De Paul Law Review, 1971, 20, pp. 924-954.

Winer, B. J. Statistical principles in experimental design, 2nd ed. New York: McGraw-Hill, 1971.