

Deconstructing the Simplification of Jury Instructions: How Simplifying the Features of Complexity Affects Jurors' Application of Instructions

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Research consistently shows that techniques currently used to simplify jury instructions do not always improve mock jurors' comprehension. If improvements are observed, these are limited and overall comprehension remains low. It is unclear, however, why this occurs. It is possible that current simplification techniques do not effectively simplify the features of complexity, present in standardized instructions, which have the greatest effect on jurors' comprehension. It is not yet known, however, how much each feature of complexity individually affects jurors' comprehension. To investigate this, the authors used existing data from published empirical studies to examine how simplifying each feature of complexity affects mock jurors' application of instructions, as jurors can only apply instructions to the extent they understand them. The results suggest that reducing the conceptual complexity and proportion of supplementary information was associated with increased application of the instructions; however, reducing both the linguistic complexity and amount of information, and providing the instructions in a written format was not. In addition, results showed an unexpected adverse effect of simplification—reducing the amount of information was associated with an increase in the punitiveness of mock jurors' verdicts, independently of the instruction content. Together, these results suggest a need to make jury instructions comprehensible, highlight the key principles in the decision-process, and identify a way to eliminate the negative effect of reducing the amount of information. Addressing these needs is essential for developing a simplification technique that maximizes jurors' comprehension and application of instructions, while minimizing the previously overlooked negative effects of simplification.

Keywords: jury instructions, judicial directions, simplification, comprehension, application

"The art of simplicity is a puzzle of complexity."

—Douglas Horton

The use of jury instructions in legal systems is a continuing subject of debate. A jury's task in a trial is to apply the instructions to the evidence to decide a legally correct verdict (Elwork & Sales, 1985). However, instructions are complex and jurors have difficulty understanding them (e.g., Elwork, Alfini, & Sales, 1982; Reifman, Gusick, & Ellsworth, 1992; Saxton, 1998; Steele & Thornburg, 1988). This is problematic because jurors can only apply instructions to the extent they understand them (Elwork & Sales, 1985). Consequently, research has developed different simplification techniques to examine whether simplifying instructions improves mock jurors' comprehension (Elwork, Sales, & Alfini, 1977; Ramirez, Zemba, & Geiselman, 1996; Shaked-Schroer, Costanzo, & Marcus-Newhall, 2008). No technique, however, consistently improves mock jurors' comprehension and overall comprehension remains low (e.g., Greene & Johns, 2001; Semmler & Brewer, 2002; Smith & Haney, 2011). Further, only limited research has investigated whether simplifying instructions im-

proves mock jurors' application of instructions (Elwork et al., 1977). Using the extant research on simplification techniques, this study systematically explores how simplifying different features of complexity affects mock jurors' application of instructions. In doing so, it aims to provide an empirical basis for developing a simplification technique that effectively improves and maximizes jurors' comprehension and application of instructions to decide their verdict.

Why Are Jury Instructions Important?

Jury instructions assist juries to decide legally correct verdicts (Elwork & Sales, 1985) because they outline the process juries should follow to evaluate the evidence and decide their verdict. Specifically, they outline the general court procedures, the relevant law that should be considered and the irrelevant evidence that should not be considered (Lieberman, 2009). As such, instructions should reduce the likelihood that juries rely on irrelevant information or biases ("extra-legal information") to decide their verdicts (Finkel, 2000; Smith, 1991). A defendant has the right to appeal a conviction if they believe the judge failed to accurately provide the jury with all the necessary and appropriate instructions (Queensland Law Reform Commission, 2009). If an appeal is successful, it may result in a retrial, which can be costly and time-consuming (New South Wales Law Reform Commission, 2008; Victorian Law Reform Commission, 2009). To ensure legal accuracy and reduce the number of successful appeals granting retrials, standardized instructions are now used in courts around the world (Severance & Loftus, 1982). It appears, however, that the legal

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accuracy standardized instructions afford may be achieved at a cost (Eames, 2007; Neave, 2012). Specifically, standardized instructions are complex and may potentially confuse, rather than clarify, the process juries should follow to evaluate the evidence and decide their verdict (Queensland Law Reform Commission, 2009).

Can Jurors Comprehend Instructions?

Empirical research consistently shows that jurors have difficulty comprehending the key principles outlined in standardized instructions, including the legal concepts and the procedural rules that underlie the decision process (e.g., Reifman et al., 1992; Wiener et al., 1998, 2004). In fact, mock jurors typically only understand 50% to 70% of instructions (e.g., Brewer, Harvey, & Semmler, 2004; Ellsworth, 1989; Elwork et al., 1982; Rose & Ogloff, 2001; Semmler & Brewer, 2002; Severance & Loftus, 1982; Strawn & Buchanan, 1976). Although this variation in comprehension is partly due to the type of comprehension test employed (paraphrase or multiple-choice), the general conclusion about mock jurors' comprehension is that they do not understand standardized instructions. This is problematic because, if jurors cannot understand the instructions, they will rely on factors other than the instructions to decide their verdict. To understand why, we need to consider the dual process models of persuasion—the heuristic systematic model (HSM; Chaiken, 1980) and the elaboration likelihood model (ELM; Petty & Cacioppo, 1986).

According to these models, people engage in different types of information processing to evaluate the quality of information, depending on their ability and motivation to engage in effortful processing. If people have the ability and motivation to engage in a high level of effortful processing, they will use systematic (HSM) or central (ELM) processing (Chaiken, 1980; Chaiken & Ledgerwood, 2012; Petty & Cacioppo, 1986). This means they will carefully consider and scrutinize the content of the information, in order to evaluate its quality. However, if people do not have the ability and/or motivation to engage in a high level of effortful processing, they will use heuristic (HSM) or peripheral (ELM) processing (Chaiken, 1980; Chaiken & Ledgerwood, 2012; Petty & Cacioppo, 1986). This means they will rely on mental shortcuts or heuristic cues, related to the information itself (e.g., the number of arguments presented) or the source of the information (e.g., expert's credentials), to evaluate the quality of the information, rather than relying on the content of the information.

Although various factors affect people's ability and motivation to engage in effortful processing, one factor that has been shown to reduce people's ability to engage in effortful processing is information complexity. Cooper, Bennett, and Sukel (1996) demonstrated that mock jurors who heard complex expert testimony with technical language were influenced by the expert's credentials. That is, they were more persuaded by the expert with strong credentials than weak credentials. This shows that mock jurors used the expert's credentials as a heuristic cue to evaluate the quality of their testimony. Importantly, however, mock jurors who heard simple expert testimony with nontechnical language were not influenced by the expert's credentials. Together, these findings suggest that reducing the complexity of information, to make it more comprehensible, reduces people's reliance on heuristic cues because they are better able to engage in effortful processing.

Do Simplification Techniques Improve Jurors' Comprehension?

Researchers have attempted to simplify standardized instructions to improve jurors' comprehension. To date, four simplification techniques have been used—psycholinguistic simplification, providing factual examples of legal concepts, and providing either a written copy of the instructions or a decision-aid with and/or after the oral instructions. These techniques simplify some of the five primary features of complexity in standardized instructions that make the instructions difficult to understand; linguistic complexity, conceptual complexity, amount of information, proportion of supplementary information and presentation format.

The earliest technique used psycholinguistic simplification to enhance the readability of the instructions (Charrow & Charrow, 1979). This involves redrafting the instructions to use more common and familiar words; decrease lengthy compound sentences, passive sentences, and double negative terms; and logically organize paragraphs (Charrow & Charrow, 1979). The research comparing psycholinguistically simplified instructions to standardized instructions shows that this form of simplification can improve mock jurors' comprehension (e.g., Elwork et al., 1977; Smith & Haney, 2011); however, improvements are not always observed (e.g., Prager, Deckelbaum, & Cutler, 1989; Severance & Loftus, 1982). Further, the magnitude of improvements in comprehension is limited and overall levels of comprehension for simplified instructions remains low. For example, Diamond and Levi (1996) observed only a 15% improvement in comprehension for psycholinguistically simplified instructions, to an overall accuracy of just 65%. These findings provide some support for the beliefs among legal practitioners and judges—that the primary cause of poor comprehension of instructions is the complexity of legal concepts, which plain language cannot address (Charrow & Charrow, 1979; Ogloff, Clough, Goodman-Delahunty, & Young, 2006; Ogloff & Rose, 2005).

Simplifying legal concepts in standardized instructions, however, is not straightforward—it is difficult to alter legal concepts without changing their legal meaning. In light of this, a newer simplification technique provides factual examples of legal concepts with the aim of making these concepts less abstract (Brewer et al., 2004; Smith & Haney, 2011). Compared to standardized instructions, this technique does not improve mock jurors' comprehension when factual, noncase-specific examples are used (Brewer et al., 2004). However, it does improve mock jurors' comprehension when factual, case-specific examples are used, provided the instructions are first redrafted using psycholinguistic simplification; although, improvements are limited and overall comprehension remains low (Smith & Haney, 2011).

Other simplification techniques modify the presentation format. This involves providing jurors with either a written copy of the instructions or, more recently, a decision-aid—a pictorial flow-chart or question-trail—with and/or after the oral instructions, which they then take into their deliberations (e.g., Ede & Goodman-Delahunty, 2013; Prager et al., 1989; Semmler & Brewer, 2002). Decision-aids extract the key issues the jury has to decide, state each issue as a question, arrange the issues in the order they need to be decided, and explicitly link jurors' decisions about these issues to a verdict. In doing so, decision-aids remove the supplementary information that would otherwise surround the

key issues in standardized instructions—including information that either restates or further explains these issues—to highlight the decision-process. This, in turn, reduces the amount of information in the instructions, which enables jurors to better attend to the instructions because they are less likely to become fatigued. Providing a decision-aid and written copy of the instructions also allows jurors to read the instructions at their own pace, consistent with their rate of learning, during deliberations (Heuer & Penrod, 1989). There is, however, mixed evidence for whether these techniques enhance jurors' comprehension.

The majority of research shows that neither providing a written copy of the instructions nor a decision-aid improves mock jurors' comprehension (Essex & Goodman-Delahunty, 2014; Greene & Johns, 2001; Heuer & Penrod, 1989; Ogloff, 1998; Prager et al., 1989; Reifman et al., 1992; Semmler & Brewer, 2002; Wiener et al., 2004). However, two studies found that providing either a written copy of the instructions (Semmler & Brewer, 2002) or a decision-aid (Ede & Goodman-Delahunty, 2013) improved mock jurors' comprehension, compared to standardized oral instructions alone. It is worth noting, within these analyses, that comprehension only improved by 10% (Ede & Goodman-Delahunty, 2013) to 23% (Semmler & Brewer, 2002) and remained low at only 47.5% and 57.8% accuracy, respectively.

Despite the vastly different simplification techniques evaluated, the same three conclusions can be drawn about each technique. First, simplifying instructions sometimes improves comprehension, but not always. Second, if improvements are observed, they are often limited. Third, overall comprehension remains low with simplified instructions. Together, these conclusions suggest that we do not yet have a simplification technique that effectively improves and maximizes jurors' comprehension.

The Next Steps for Simplification

To develop a simplification technique that effectively improves and maximizes jurors' comprehension and application of instructions, it is necessary to understand why current simplification techniques have limited success. It is possible that these techniques do not effectively simplify the features of complexity that have the greatest effect on jurors' comprehension. It is not currently known, however, how much each feature of complexity individually affects jurors' comprehension, for two reasons. First, most techniques simultaneously simplify multiple features of complexity. For instance, a decision-aid not only reduces the proportion of supplementary information and the total amount of information, it also provides the instructions in a written format. This makes it difficult to know which feature of complexity, when simplified, actually improves comprehension. Second, some techniques simultaneously simplify some features of complexity while inadvertently increasing the complexity of other features. For example, providing factual examples of legal concepts reduces the conceptual complexity, but also increases the amount of information. This increase in the amount of information may then negate the effect of reducing the conceptual complexity. It is therefore important to disentangle the features of complexity present in standardized instructions, and investigate how simplifying each feature of complexity individually affects jurors' comprehension.

Jurors' Application of Instructions

Although the immediate aim of simplifying standardized instructions is to improve jurors' comprehension, the secondary, and arguably more important aim is to increase jurors' application of instructions. Jurors can be said to apply the instructions when they use their understanding of the instructions to first, decide the issues in the trial, and second, decide a verdict. In this way, simplification should increase the extent to which jurors decide legally correct verdicts—verdicts that correspond to their decisions about the issues, in the way outlined in the instructions. Research shows support for this. In Elwork et al. (1977), mock jurors who received simplified instructions were more likely to decide legally correct verdicts, compared to mock jurors who received standardized instructions. Simplification, however, should not directly affect the punitiveness of jurors' verdicts, independent of the instruction content; a proposition that has consistently been supported in mock jury research (Bornstein & Hamm, 2012; Ede & Goodman-Delahunty, 2013; Essex & Goodman-Delahunty, 2014; Semmler & Brewer, 2002; Severance, Greene, & Loftus, 1984; Shaked-Schroer et al., 2008; Smith & Haney, 2011; Wiener et al., 2004).

Given the task of a juror is to apply the instructions to the evidence in the trial to decide their verdict, it is important to investigate how simplifying each feature of complexity individually affects jurors' application of the instructions, to facilitate drawing conclusions about how simplification affects jurors' comprehension. The approach of using jurors' application to infer comprehension is consistent with Rose and Ogloff's (2001) call to measure comprehension in a way that better reflects jurors' true comprehension. This approach, unlike traditional paraphrase and multiple-choice tests of comprehension, is less susceptible to underestimating or overestimating jurors' comprehension because it is less reliant on jurors' memory (Baguley, McKimmie, & Masser, 2016; Rose & Ogloff, 2001; Severance & Loftus, 1982).

Despite this benefit, however, it is important to remember that comprehending and applying the instructions are distinct cognitive processes (Kratwohl, 2002). That is, while comprehension is necessary for jurors to apply the instructions, it is not sufficient to ensure application occurs. According to McGuire's model of persuasion (McGuire, 1968, 1972), there are six steps that need to occur for a person to be persuaded by information, with each step serving as a prerequisite to the next. Specifically, a person must be exposed to the information and attend to that information. Next, they must comprehend the information and then accept or agree with that information. They then have to remember the information and finally apply the information—that is, act in a way that is consistent with the information. This therefore means that if a juror applies the instructions we can infer that they comprehended them. However, if a juror does not apply the instructions, we cannot infer that they did not comprehend them. Rather they may have comprehended the instructions but failed to accept or remember them.

The Present Study

The aim of this study is to examine how simplifying each feature of complexity individually affects mock jurors' application of instructions. Even though application is traditionally conceptualized in terms of accuracy, through directly measuring legally correct verdicts, this is not possible within the context of this study, as only one study to date has measured legally correct verdicts (Elwork, Sales, & Alfini, 1977).

Consequently, we measured the extent to which mock jurors' verdicts are consistent with the dominant focus of the instruction content, to infer mock jurors' application of instructions. This measure, however, is not perfect. Although it can be used to infer mock jurors' lack of application, it cannot always be used to infer mock jurors' application. This is because mock jurors' verdicts can be consistent with the dominant focus of the instruction content, without them applying the instructions; for instance, when the evidence supporting a conviction or acquittal is strong.

Despite this possibility, there are two reasons why this measure can be used in our study to infer mock jurors' application of instructions with a reasonable degree of confidence. First, our study averages mock jurors' verdicts across many studies with varying strengths of evidence. This means there will be no systematic effect of evidence strength. Second, this measure has previously been used in research to infer application. Specifically, it has been used in persuasion research to examine how the content of information influences people's attitudes (e.g., Petty, Cacioppo, & Schumann, 1983). It has also been used in mock jury research to draw conclusions about the effectiveness of pretrial publicity and inadmissible evidence instructions (Stebly, Besirevic, Fulero, & Jimenez-Lorente, 1999; Stebly, Hosch, Culhane, & McWethy, 2006). That research specifically examines how the content of pretrial publicity and inadmissible evidence instructions—which tell jurors to ignore pretrial publicity and inadmissible evidence, respectively—influence mock jurors' verdicts.

To investigate how simplifying each feature of complexity individually affects mock jurors' application of instructions, 121 jury instructions, and their corresponding measure of verdict, were obtained from 75 published empirical studies. Each instruction was coded for each feature of complexity. The dominant focus of the instruction content was also coded. If simplification improves comprehension, and this in turn, increases mock jurors' application of the instructions, then mock jurors' verdicts should be consistent with the dominant focus of the instruction content, assuming they attend to, accept, and remember the instructions (McGuire, 1968, 1972).

In the context of simplifying each feature of complexity, we therefore predicted that an increase in the dominant focus of the instruction content, toward mostly on conviction, will be associated with an increase in verdict punitiveness (H1); however, this would occur to a greater extent at lower levels of complexity, compared to higher levels of complexity (H2). Specifically, this will occur for lower levels of linguistic complexity and conceptual complexity (compared to higher levels of linguistic and conceptual complexity), for lower proportions of supplementary information (compared to higher proportions of supplementary information), for smaller amounts of information (compared to larger amounts of information) and for instructions that are provided in a combined oral and written format (compared to an oral format), or a written format (compared to an oral format).

Method

Literature Search

The PsycINFO database was used to search for published empirical journal articles containing jury instructions. Keywords, including *jury* or *judicial* and *instruction* or *direction*, were used to search titles and abstracts. No restriction was placed on the year of publication. We also searched the reference sections of review articles and meta-analyses examining the effect of instructions on

jurors' comprehension and verdicts (Lieberman, 2009; Lieberman & Sales, 1997; Nietzel, McCarthy, & Kern, 1999; Ogloff & Rose, 2005; Stebly, Besirevic, Fulero, & Jimenez-Lorente, 1999; Stebly, Hosch, Culhane, & McWethy, 2006). The reference sections of included articles were then examined for further articles. Searches were completed by July 1, 2015.

Criteria for Inclusion and Exclusion

A jury instruction from a study was included if the following three conditions were met. First, the study provided a copy of the instruction. Second, the instruction described the process to evaluate the evidence and decide a verdict. Consequently, an instruction was not included if it only provided information about the consequences for a defendant postverdict or an admonition to decide a unanimous verdict for a deadlocked jury (dynamite charge). Third, a measure of verdict punitiveness (either as a percentage or mean) was provided for the instruction. An instruction was subsequently excluded if the instruction was less than 19 words, only contained one sentence, or was presented as a flow-chart, because we could not code the features of complexity (described below). An instruction was also excluded if it did not state the number of participants who provided the verdict punitiveness measure, because we could not weight the data for our analyses.

An independent instruction was defined as an instruction presented in a single format (e.g., oral, written or combined oral and written). Therefore, if two studies presented the same instruction in the same format, the instruction was only coded as one independent instruction; however, if two studies presented the same instruction in a different format, the instruction was coded as two independent instructions. The final sample included 121 independent instructions (see Table 1) from 63 articles, 75 studies, and 12,184 participants (72.04% university students; 27.96% community members). The independent instructions included 48 substantive instructions (instructions about offenses and defenses; e.g., murder and insanity), 30 procedural instructions (instructions about general trial procedures; e.g., the standard of proof), and 43 evidentiary instructions (instructions about particular pieces of evidence; e.g., eyewitness evidence; Victorian Law Reform Commission, 2009). The instructions were used in both civil ($n = 23$) and criminal ($n = 98$) trials.

Coding the Features of Complexity

Each instruction was coded on five features of complexity: linguistic complexity, conceptual complexity, amount of information, proportion of supplementary information and presentation format. Appendices A, B, and C provide an example of this coding for a substantive, procedural, and evidentiary instruction.

Linguistic complexity. Pearson's online text analysis tool (<http://readingmaturity.com/>) was used to provide the Reading Maturity Metric (RMM; Landauer, 2011) for each retained instruction. The RMM is a text complexity measure calculated using the linguistic features in the instruction: word frequency, syntax and semantic coherence. It aligns the instruction to the school or college grade required to read and understand the text (<https://lexile.com/using-lexile/lexile-measures-and-the-ccssi/the-common->

Table 1

Summary of Included Studies in Terms of Instruction Content, Sample Size, Features of Complexity, and Verdict Punitiveness

Study	Instruction content	Dominant focus of instruction content ^a	Sample size	Linguistic complexity ^b	Conceptual complexity ^c	Amount of information ^d	Proportion of supplementary information ^e	Presentation format ^f	Verdict punitiveness (%) ^g
1. Allison & Brimbacombe (2010)	Prior conviction	Acquittal	167	10.40	1.00	358	34.08	Oral	37.50
2. Borgida & Park (1988)	Entrapment	Acquittal	38	14.00	2.33	340	34.71	Oral	69.75
3. Borgida & Park (1988)	Entrapment	Acquittal	36	14.00	2.50	274	23.72	Oral	68.00
4. Bornstein, Whisenhunt, Nemeth, & Dunaway (2002) (Exp. 2)	Pretrial publicity	Neutral	135	11.80	2.00	66	30.30	Oral	62.20
5. Cook, Arndt, & Lieberman (2004) (Exp. 2); Kerwin & Shaffer (1991)	Nullification	Neutral	108	14.00	.00	70	11.43	Written	27.78
6. Cush & Goodman-Delahunty (2006)	Gruesome evidence	Acquittal	72	9.50	.00	49	65.31	Written	55.50
7. Diamond & Levi (1996)	Capital penalty	Neutral	76	13.90	2.80	485	34.23	Combined	66.00
8. Diamond & Levi (1996)	Capital penalty	Neutral	73	13.00	2.60	601	25.12	Combined	51.00
9. Eaton, Ball, & O'Callaghan (2001)	Child eyewitness	Neutral	36	8.20	.00	47	25.53	Oral	46.38
10. Finkel (1989)	Insanity	Acquittal	13	14.00	4.00	86	16.28	Written	48.00
11. Finkel (1989)	Insanity	Acquittal	14	14.00	3.00	67	20.90	Written	39.00
12. Finkel (1989)	Insanity	Acquittal	13	11.20	2.00	160	31.88	Written	46.00
13. Finkel (1991)	Insanity	Acquittal	45	12.20	2.50	68	.00	Written	63.90
14. Finkel (1991)	Insanity	Neutral	46	12.00	1.25	126	7.14	Written	50.00
15. ForsterLee, Horowitz, & Bourgeois (1993)	Negligence	Conviction	48	12.50	2.36	674	15.43	Oral	81.45
16. Geiselman & Mendez (2005)	Attorney arguments	Neutral	386	11.20	.00	81	64.20	Written	32.00
17. Greene & Loftus (1985) (Exp. 2)	Joinder	Acquittal	64	6.20	.00	35	22.86	Written	53.29
18. Greene (1988) (Exp. 1 & 2)	Eyewitness	Acquittal	109	12.80	1.00	460	22.39	Oral	20.05
19. Greene (1988) (Exp. 2)	Eyewitness	Acquittal	46	10.90	1.33	312	21.15	Oral	11.25
20. Greene & Dodge (1995)	Prior conviction	Acquittal	54	12.70	.50	61	29.51	Written	22.33
21. Greene & Johns (2001)	Negligence	Conviction	183	12.20	2.63	257	.00	Oral	80.00
22. Greene & Johns (2001)	Negligence	Conviction	234	12.20	2.63	257	.00	Combined	80.00
23. Hans & Doob (1976)	Prior conviction	Acquittal	80	13.80	.00	46	.00	Written	42.50
24. Hastie, Schkade, & Payne (1998)	Negligence	Conviction	726	13.70	2.00	451	24.61	Combined	62.00
25. Hill & Pfeifer (1992)	Nullification	Conviction	31	13.20	.00	115	46.96	Written	43.17
26. Hill & Pfeifer (1992)	Nullification	Neutral	31	13.70	.00	100	42.00	Written	56.67
27. Hoffheimer (1989)	Eyewitness	Acquittal	176	13.30	1.00	400	2.50	Written	14.77

Table 1 (continued)

Study	Instruction content	Dominant focus of instruction content ^a	Sample size	Linguistic complexity ^b	Conceptual complexity ^c	Amount of information ^d	Proportion of supplementary information ^e	Presentation format ^f	Verdict punitiveness (%) ^g
28. Horowitz (1985); Meissner, Brigham, & Pfeifer (2003)	Nullification	Neutral	170	14.00	.00	100	42.00	Oral	53.58
29. Horowitz & Kirkpatrick (1996)	Standard of proof	Acquittal	96	10.40	3.00	108	13.89	Oral	45.70
30. Horowitz & Kirkpatrick (1996)	Standard of proof	Acquittal	96	9.70	2.00	173	41.62	Oral	42.60
31. Horowitz & Kirkpatrick (1996)	Standard of proof	Acquittal	96	10.10	1.33	184	39.13	Oral	66.00
32. Horowitz, Kerr, Park, & Gockel (2006)	Nullification	Neutral	260	12.20	.00	111	45.95	Written	52.88
33. Isbell, Tyler, & DeLorenzo (2007)	Standard of proof	Acquittal	101	12.20	1.20	301	50.17	Oral	56.15
34. Kagehiro & Stanton (1985) (Exp. 1)	Standard of proof	Conviction	33	14.00	2.00	104	2.88	Written	31.00
35. Kagehiro & Stanton (1985) (Exp. 1)	Standard of proof	Conviction	55	14.00	1.50	111	2.70	Written	40.50
36. Kagehiro & Stanton (1985) (Exp. 1)	Standard of proof	Conviction	55	14.00	1.50	95	3.16	Written	65.00
37. Kagehiro & Stanton (1985) (Exp. 1)	Standard of proof	Conviction	55	14.00	1.50	92	3.26	Written	50.00
38. Kagehiro & Stanton (1985) (Exp. 1)	Standard of proof	Acquittal	55	14.00	1.50	87	3.45	Written	33.50
39. Kagehiro & Stanton (1985) (Exp. 1)	Standard of proof	Acquittal	33	13.90	1.67	149	14.77	Written	43.00
40. Kagehiro & Stanton (1985) (Exp. 2)	Standard of proof	Conviction	22	13.50	2.00	150	2.00	Written	34.00
41. Kagehiro & Stanton (1985) (Exp. 2)	Standard of proof	Conviction	22	13.80	2.00	183	27.87	Written	48.00
42. Kagehiro & Stanton (1985) (Exp. 2)	Standard of proof	Conviction	22	13.50	1.50	161	31.68	Written	59.00
43. Kagehiro & Stanton (1985) (Exp. 2)	Standard of proof	Acquittal	22	12.10	2.50	149	12.08	Written	39.00
44. Kagehiro & Stanton (1985) (Exp. 2)	Standard of proof	Acquittal	22	12.00	2.00	129	13.95	Written	41.00
45. Kamin & Rachlinski (1995)	Negligence	Conviction	25	11.10	1.00	268	36.57	Oral	57.70
46. Kassin & Wrightsman (1979)	Standard of proof	Acquittal	35	10.60	1.50	195	46.15	Oral	45.50
47. Kassin & Wrightsman (1981) (Exp. 1)	Confession	Acquittal	51	13.60	.00	126	34.13	Written	54.90
48. Kassin & Wrightsman (1981) (Exp. 1)	Confession	Acquittal	98	12.80	.00	205	40.00	Written	52.89

(table continues)

Table 1 (*continued*)

Study	Instruction content	Dominant focus of instruction content ^a	Sample size	Linguistic complexity ^b	Conceptual complexity ^c	Amount of information ^d	Proportion of supplementary information ^e	Presentation format ^f	Verdict punitiveness (%) ^g
49. Kassir & Wrightsman (1981) (Exp. 2)	Confession	Acquittal	47	14.00	.00	176	52.84	Written	55.27
50. Kassir & Wrightsman (1981) (Exp. 2)	Confession	Acquittal	47	13.40	.00	255	51.76	Written	43.59
51. Kerr, Atkin, Stasser, Meek, Holt, & Davis (1976)	Standard of proof	Acquittal	202	10.70	4.00	166	50.00	Oral	54.80
52. Kerr, Atkin, Stasser, Meek, Holt, & Davis (1976)	Standard of proof	Acquittal	202	11.30	1.00	242	38.84	Oral	34.65
53. Kerwin & Shaffer (1991)	Nullification	Conviction	108	13.60	.00	56	37.50	Written	77.78
54. Koch & Devine (1999)	Murder/self-defense	Neutral	59	12.00	1.91	703	25.75	Combined	38.46
55. Koch & Devine (1999)	Murder/self-defense	Neutral	59	12.00	1.86	586	30.89	Combined	33.33
56. Koch & Devine (1999)	Murder/self-defense	Neutral	60	12.80	1.64	605	21.32	Combined	63.64
57. Koch & Devine (1999)	Murder/self-defense	Neutral	59	12.60	1.57	488	26.43	Combined	7.69
58. Leippe, Eisenstadt, Rauch, & Seib (2004) (Exp. 1)	Eyewitness	Acquittal	154	13.60	.00	124	4.03	Written	39.50
59. MacCoun & Kerr (1988) (Exp. 2)	Standard of proof	Acquittal	188	8.80	2.50	189	25.40	Combined	21.28
60. MacCoun & Kerr (1988) (Exp. 2)	Standard of proof	Conviction	168	10.70	1.50	200	33.50	Combined	35.71
61. Meissner, Brigham, & Pfeifer (2003)	Nullification	Acquittal	80	13.10	.00	128	46.88	Oral	36.50
62. Miene, Park, & Borgida (1992)	Hearsay	Acquittal	97	10.80	3.00	228	68.42	Oral	47.65
63. Niedermeier, Horowitz, & Kerr (1999) (Exp. 1 & 2 & 3)	Nullification	Acquittal	443	13.40	.00	85	37.65	Oral	39.67
64. Niedermeier, Horowitz, & Kerr (1999) (Exp. 4)	Nullification	Conviction	58	13.40	.00	85	37.65	Written	41.89
65. Nikonova & Ogloff (2005)	Eyewitness	Acquittal	180	12.70	1.00	161	25.47	Oral	32.53
66. Pfeifer, Brigham, & Robinson (1996)	Nullification	Conviction	53	13.20	1.00	140	50.00	Oral	76.83
67. Pfeifer, Brigham, & Robinson (1996)	Nullification	Acquittal	54	13.10	1.00	252	47.62	Oral	57.17
68. Pfeifer, Brigham, & Robinson (1996)	Nullification	Acquittal	54	13.20	1.00	231	45.02	Oral	53.00
69. Platania & Berman (2006)	Capital penalty	Acquittal	61	14.00	.60	312	44.23	Oral	40.98
70. Platania & Small (2010)	Capital penalty	Neutral	47	13.40	1.33	439	22.10	Oral	27.66

Table 1 (continued)

Study	Instruction content	Dominant focus of instruction content ^a	Sample size	Linguistic complexity ^b	Conceptual complexity ^c	Amount of information ^d	Proportion of supplementary information ^e	Presentation format ^f	Verdict punitiveness (%) ^g
71. Platania & Small (2010)	Capital penalty	Neutral	38	13.20	1.33	363	20.11	Oral	63.16
72. Platania & Small (2010)	Capital penalty	Neutral	32	13.10	1.33	395	23.29	Oral	53.13
73. Ramirez, Zemba, & Geiselman (1996) (Exp. 1)	Eyewitness	Acquittal	376	13.00	1.00	563	25.40	Oral	23.62
74. Ramirez, Zemba, & Geiselman (1996) (Exp. 2)	Eyewitness	Acquittal	112	10.70	1.00	723	25.86	Oral	15.05
75. Roberts, Golding, & Fincham (1987)	Insanity	Acquittal	180	14.00	4.00	64	.00	Oral	60.00
76. Roberts, Golding, & Fincham (1987)	Insanity	Acquittal	180	12.70	2.50	68	.00	Written	83.33
77. Roberts & Golding (1991); Roberts, Sargent, & Chan (1993)	Insanity	Neutral	196	14.00	2.33	99	.00	Written	41.00
78. Roberts & Golding (1991); Roberts, Sargent, & Chan (1993)	Insanity	Neutral	229	11.90	1.75	91	.00	Written	53.25
79. Savitsky & Lindblom (1986)	Insanity	Acquittal	52	14.00	4.00	64	.00	Combined	38.00
80. Schmolesky, Cutler, & Penrod (1988)	Drug possession	Conviction	44	13.90	1.00	74	45.95	Written	57.50
81. Schmolesky, Cutler, & Penrod (1988)	Drug possession	Conviction	44	13.20	2.00	121	39.67	Written	59.00
82. Schmolesky, Cutler, & Penrod (1988)	Drug possession	Conviction	44	14.00	.00	54	18.52	Written	57.25
83. Schuller & Pagalia (1999)	Hearsay	Conviction	64	13.20	1.00	103	17.48	Written	100.00
84. Semmler & Brewer (2002)	Self-defense	Acquittal	25	13.30	.75	902	51.00	Written	44.00
85. Semmler & Brewer (2002)	Self-defense	Acquittal	25	13.30	.75	902	51.00	Combined	44.00
86. Semmler & Brewer (2002)	Self-defense	Acquittal	31	13.30	.75	902	51.00	Oral	38.70
87. Severance & Loftus (1982) (Exp. 2)	Duties	Neutral	36	13.90	.00	536	24.63	Oral	54.60
88. Severance & Loftus (1982) (Exp. 2)	Duties	Neutral	36	13.90	.00	536	24.63	Combined	54.60
89. Severance & Loftus (1982) (Exp. 3); Severance, Greene, & Loftus (1984) (Exp. 2)	Duties	Neutral	122	12.80	1.75	936	29.70	Oral	43.36

(table continues)

Table 1 (*continued*)

Study	Instruction content	Dominant focus of instruction content ^a	Sample size	Linguistic complexity ^b	Conceptual complexity ^c	Amount of information ^d	Proportion of supplementary information ^e	Presentation format ^f	Verdict punitiveness (%) ^g
90. Severance & Loftus (1982) (Exp. 3); Severance, Greene, & Loftus (1984) (Exp. 2)	Duties	Neutral	108	12.80	1.75	936	29.70	Combined	13.39
91. Severance & Loftus (1982) (Exp. 3); Severance, Greene, & Loftus (1984) (Exp. 2)	Duties	Neutral	148	13.20	1.25	728	20.88	Oral	34.77
92. Severance & Loftus (1982) (Exp. 3); Severance, Greene, & Loftus (1984) (Exp. 2)	Duties	Neutral	144	13.20	1.25	728	20.88	Combined	50.13
93. Shaked-Schroer, Costanzo, & Marcus-Newhall (2008)	Capital penalty	Neutral	59	13.90	3.00	738	19.78	Written	35.59
94. Shaked-Schroer, Costanzo, & Marcus-Newhall (2008)	Capital penalty	Neutral	61	12.50	3.00	568	26.06	Written	40.98
95. Shaw & Skolnick (1995)	Extra-legal factors	Neutral	156	14.00	.00	45	51.11	Oral	65.06
96. Shaw & Skolnick (1995)	Extra-legal factors	Neutral	160	14.00	.00	46	50.00	Oral	44.81
97. Smith (1991) (Exp. 3)	Assault	Conviction	16	13.80	.67	84	.00	Oral	62.50
98. Smith (1991) (Exp. 3)	Kidnapping	Conviction	15	13.60	5.00	168	.00	Oral	83.50
99. Smith (1991) (Exp. 3)	Robbery	Conviction	15	13.10	2.00	107	.00	Oral	98.50
100. Smith (1991) (Exp. 3)	Burglary	Conviction	16	12.90	2.00	104	.00	Oral	70.00
101. Smith (1991) (Exp. 3)	Murder	Conviction	15	12.40	4.00	145	.00	Oral	98.50
102. Smith (1993) (Exp. 1)	Burglary	Conviction	21	12.50	2.00	126	24.60	Oral	50.00
103. Smith (1993) (Exp. 1)	Burglary	Conviction	42	12.40	2.00	124	25.00	Oral	59.67
104. Smith (1993) (Exp. 2)	Kidnapping	Conviction	71	14.00	5.00	242	39.26	Oral	44.58
105. Smith (1993) (Exp. 2)	Kidnapping	Conviction	40	14.00	5.00	239	38.91	Oral	48.00
106. Smith (1993) (Exp. 3)	Kidnapping	Conviction	20	13.30	5.00	215	4.19	Oral	42.00
107. Smith (1993) (Exp. 4)	Kidnapping	Conviction	31	11.80	7.00	302	19.87	Oral	50.75
108. Smith & Greene (2005)	Negligence	Conviction	94	10.60	2.50	120	31.67	Oral	96.00
109. Spackman, Belcher, Calapp, & Taylor (2002)	Murder / heat of passion	Neutral	179	14.00	2.33	218	22.02	Combined	100.00

Table 1 (continued)

Study	Instruction content	Dominant focus of instruction content ^a	Sample size	Linguistic complexity ^b	Conceptual complexity ^c	Amount of information ^d	Proportion of supplementary information ^e	Presentation format ^f	Verdict punitiveness (%) ^g
110. Spackman, Belcher, Calapp, & Taylor (2002)	Murder / heat of passion	Neutral	187	13.00	2.50	630	44.92	Combined	100.00
111. Stawiski, Dykema-Engblade, & Tindale (2012)	Standard of proof	Conviction	445	11.20	1.00	52	11.54	Written	67.00
112. Stawiski, Dykema-Engblade, & Tindale (2012)	Standard of proof	Acquittal	445	9.10	2.00	38	15.79	Written	49.00
113. Sue, Smith, & Gilbert (1974)	Pretrial publicity	Neutral	103	10.50	.00	95	31.58	Written	33.50
114. Tanford & Penrod (1984)	Joinder	Acquittal	275	11.30	.33	167	52.10	Oral	35.31
115. Tanford & Cox (1988)	Prior conviction	Acquittal	51	14.00	1.00	113	66.37	Oral	40.00
116. Wiener & Farnum (2013) (Exp. 1 & 2)	Age discrimination	Conviction	104	14.00	2.50	112	12.50	Written	56.50
117. Wiener & Farnum (2013) (Exp. 1 & 2)	Age discrimination	Conviction	100	14.00	1.00	88	39.77	Written	40.00
118. Wiener & Farnum (2013) (Exp. 1 & 2)	Age discrimination	Neutral	102	14.00	2.00	245	5.71	Written	56.50
119. Wolf & Montgomery (1977)	Inadmissible evidence	Acquittal	48	11.10	.00	67	55.22	Written	51.38
120. Woody & Greene (2012)	Standard of proof	Acquittal	90	13.60	2.50	62	.00	Written	70.35
121. Wright & Hall (2007) (Exp. 1)	Standard of proof	Acquittal	13	9.80	3.00	56	.00	Oral	54.00

^a The coder's evaluation of the dominant focus of the instruction content, ranging from mostly on acquittal (−1) to mostly on conviction (+1). ^b The Reading Maturity Metric (RMM) for text complexity, calculated using the instruction's linguistic features: word frequency, syntax and semantic coherence. A higher RMM indicates a higher level of complexity. ^c The average number of components used to define a concept in an instruction. A higher average number of components per concept indicates a higher level of complexity. ^d The number of words used to outline the instruction. A greater number of words indicates a higher level of complexity. ^e The percentage of words used to outline the supplementary information in the instruction. A higher percentage indicates a higher level of complexity. ^f Either oral, written or combined oral and written. The oral format indicates a higher level of complexity. ^g The percentage of verdicts for the verdict option favouring the plaintiff/prosecution. A higher percentage indicates more punitive verdicts.

core-and-text-complexity/). The RMM is more accurate than previous measures of text complexity (e.g., the Flesch-Kincaid Grade-Level), because it takes into account how meanings of words change with reading experience (Landauer, 2011). Using this measure, a higher RMM indicated a higher level of linguistic complexity. The RMM across the instructions ranged from 6.20 to 14.00 (median = 12.92, $M = 12.42$, $SD = 1.52$; skewness = −1.06, $SE_{\text{skewness}} = 0.22$; kurtosis = 0.86, $SE_{\text{kurtosis}} = 0.44$).¹ The grade required to read and understand the instructions ranged from Grade 9 to college graduate.

Conceptual complexity. The independent concepts within each instruction were identified. A *concept* was defined as a definable term or phrase used in a legal context to tell jurors what something is or means. Example concepts included insanity, burden of proof, and preponderance of evidence (see Appendices A and B). For each instruction, the number of concepts in the instruction was coded. The number of components used to define each concept was also coded. For instance, if the concept of

murder was defined as “when a person causes the death of another and intends to cause their death,” two components were coded: causes death and intends to cause death. The total number of concepts and components for each instruction was then calculated.

Two legally trained coders (Author 1 and an independent coder) individually identified the independent concepts across all instructions. Both coders identified 82.50% of the same concepts. The concepts only identified by one coder were discussed, and an agreement between the coders was reached as to whether each was a concept. Using these identified concepts, Author 1 coded the number of concepts in each instruction. Both coders then coded the

¹ Consistent with our analyses, the descriptive statistics provided for each feature of complexity are weighted—each instruction was weighted by the total sample size for the studies that provided a measure of verdict punitiveness for that instruction.

number of components used to define each concept in each instruction. Both coders coded the same number of components for 88.70% of the defined concepts.

The average number of components per concept in an instruction was calculated by dividing the number of components by the number of concepts, as it was assumed that concepts are more complex when more components are used to define them. Although some concepts may be complex because they are undefined, and therefore vague (e.g., reasonable doubt; Kerr et al., 1976), these concepts are generally undefined because defining them does not make the concept clearer to a jury (Horowitz, 1997). Therefore, a higher average number of components per concept indicated a higher level of conceptual complexity. The average number of components per concept across the instructions ranged from 0 to 7 (median = 1.33, $M = 1.44$, $SD = 1.17$; skewness = 0.76, $SE_{\text{skewness}} = 0.22$; kurtosis = 1.17, $SE_{\text{kurtosis}} = 0.44$).²

Amount of information. For each instruction, the total number of words used to outline the instruction was calculated. Using this measure, a greater number of words indicated a higher level of complexity, because a larger amount of information meant jurors had to attend to the instructions for a longer period of time. The total number of words across the instructions ranged from 35 to 936 (median = 162.01, $M = 245.22$, $SD = 223.13$; skewness = 1.34, $SE_{\text{skewness}} = 0.22$; kurtosis = 1.00, $SE_{\text{kurtosis}} = 0.44$).

Proportion of supplementary information. For each instruction, the independent key principles in the instruction were identified. An *independent key principle* was defined as any statement that directly described the process to evaluate the evidence and decide a verdict. The information not identified as independent key principles was classified as supplementary information. This included, for instance, information that summarized the trial (see Appendix C), further explained the key principles (through providing factual examples of the key principles or statements about why the key principle is provided; see Appendices A and C), or reinforced the key principles (through restating the key principles; see Appendix B). The total number of words used to outline the supplementary information was then calculated. This total was converted to a percentage—the number of words used to describe the supplementary information was divided by the total number of words in the instruction, and multiplied by 100.

Two legally trained coders (Author 1 and an independent coder) individually evaluated each instruction. There was a high correlation between the coders for the percentage of words used to describe the supplementary information in the instructions, $r = .81$, $p = .000$, and there was no significant difference between the coders' average percentage of words used to outline the supplementary information across the instructions ($M = 26.37$, $SD = 18.05$; $M = 27.22$, $SD = 19.79$), $t(120) = -0.78$, $p = .435$, 95% confidence interval (CI) $[-2.99, 1.29]$, $\eta^2 = .01$. Given the high agreement between both coders, Author 1's coding was used in the analyses.

We assumed the key principles would be harder to identify as the proportion of supplementary information increased. Therefore, a higher percentage of words used to describe the supplementary information indicated a higher level of complexity. The percentage of words to describe the supplementary information across the instructions ranged from 0% to 68.42% (median = 25.40, $M =$

27.27, $SD = 18.13$; skewness = 0.16, $SE_{\text{skewness}} = 0.22$; kurtosis = -0.71 , $SE_{\text{kurtosis}} = 0.44$).

Presentation format. Each instruction was coded based on how the instruction was presented to jurors in the original published study: an oral format ($n = 50$), a written format ($n = 47$) or a combined oral and written format ($n = 24$). Compared to instructions presented in either a written format or a combined oral and written format, instructions presented in an oral format do not provide jurors with the opportunity to read the instructions at their own pace, consistent with their rate of learning. Instructions presented in an oral format therefore indicated a higher level of complexity.

Coding the Dominant Focus of the Instruction Content

Given the instructions outline the process juries should follow to evaluate the evidence of the defense and prosecution, the dominant focus of the instruction content was evaluated on a 3-point continuous semantic differential scale, from -1 (*mostly on acquittal*) to $+1$ (*mostly on conviction*). For the dominant focus of the instruction content to be coded as mostly on conviction, substantive instructions had to describe the factors jurors had to consider for an offense (e.g., murder) to be proved, evidentiary instructions had to either direct jurors to act in a way that favored the plaintiff/prosecution (e.g., cannot nullify the law in a murder trial when they sympathize with the defendant) or tell jurors to be cautious when evaluating the defense's evidence (e.g., eyewitness for defense), and procedural instructions had to define a lower standard of proof (e.g., preponderance of evidence) to prove an offense. For the dominant focus of the instruction content to be coded as mostly on acquittal, substantive instructions had to describe the factors jurors had to consider for a defense (e.g., insanity) to be proved, evidentiary instructions had to either direct jurors to act in a way that favored the defense (e.g., can nullify the law in a murder trial when they sympathize with the defendant) or tell jurors to be cautious when evaluating the plaintiff's/prosecution's evidence (e.g., eyewitness for plaintiff/prosecution), and procedural instructions had to define a higher standard of proof (e.g., reasonable doubt) to prove an offense.

Two legally trained coders (Author 1 and an independent coder) individually evaluated each instruction. There was a high correlation between the coder's evaluations of the dominant focus of the instruction content, $r = .92$, $p = .000$, and there was no significant difference between the coders' average evaluation of the dominant focus of the instruction content across the instructions ($M = -0.13$, $SD = 0.85$; $M = -0.12$, $SD = 0.81$), $t(120) = -0.53$, $p = .595$, 95% CI $[-0.08, 0.05]$, $\eta^2 = .00$. Given the high agreement between both coders, Author 1's coding was used in the analyses (median = 0.00, $M = -0.18$, $SD = 0.82$; skewness = 0.35, $SE_{\text{skewness}} = 0.22$; kurtosis = -1.42 , $SE_{\text{kurtosis}} = 0.44$).

² The average number of components per concept was zero for instructions that had no concepts, and therefore no components (e.g., evidentiary instructions).

Table 2

Weighted Zero-Order Correlations Between the Features of Complexity, the Dominant Focus of the Instruction Content and Verdict Punitiveness

Variable	1	2	3	4	5	6	7
1. Linguistic complexity ^a	—						
2. Conceptual complexity ^b	-.03	—					
3. Amount of information ^c	.20*	.16	—				
4. Proportion of supplementary information ^d	-.14	-.39***	.02	—			
5. Presentation format (oral vs. oral + written) ^e	-.08	-.20*	-.30**	.18*	—		
6. Presentation format (oral vs. written) ^f	.04	.14	.30**	.28**	.39***	—	
7. Dominant focus of instruction content ^g	.26**	.15	.04	-.18	-.39***	-.21*	—
8. Verdict punitiveness ^h	.14	.31**	-.16	-.16	-.22*	-.07	.44***

^a The Reading Maturity Metric (RMM) for text complexity, calculated using the instruction's linguistic features: word frequency, syntax and semantic coherence. A higher RMM indicates a higher level of complexity. ^b The average number of components used to define a concept in an instruction. A higher average number of components per concept indicates a higher level of complexity. ^c The number of words used to outline the instruction. A greater number of words indicates a higher level of complexity. ^d The percentage of words used to outline the supplementary information in the instruction. A higher percentage indicates a higher level of complexity. ^e Either oral or combined oral and written. The oral format indicates a higher level of complexity. ^f Either oral or written. The oral format indicates a higher level of complexity. ^g The coder's evaluation of the dominant focus of the instruction content, ranging from mostly on acquittal (-1) to mostly on conviction (+1). ^h The percentage of verdicts for the verdict option favouring the plaintiff/prosecution. A higher percentage indicates more punitive verdicts.

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

Coding Verdict Punitiveness

Verdict punitiveness was coded as a percentage for the verdict options favoring the plaintiff/prosecution (e.g., guilty of murder and guilty of manslaughter). Mean levels of guilt were converted into percentages by dividing the mean by the highest score on the guilt likelihood scale and multiplying this score by 100. If the lowest score on the guilt likelihood scale was not 0, then both the scale and mean were first recoded, so the lowest score on the scale was 0. For each instruction, verdict punitiveness was calculated by averaging the percentage of verdicts provided in each study that used the instruction. The percentage of verdicts ranged from 7.69% to 100.00% (median = 49.00, $M = 50.08$, $SD = 19.48$; skewness = 0.51, $SE_{\text{skewness}} = 0.22$; kurtosis = 0.32, $SE_{\text{kurtosis}} = 0.44$). Using this measure, a higher percentage indicated more punitive verdicts.

Results

A weighted standard multiple regression analysis was conducted to investigate whether simplifying the individual features of complexity was associated with increased application of the instructions. Each instruction was weighted by the total sample size for the studies that provided a measure of verdict punitiveness for that instruction. Weighted contrast coding was also used to account for the unequal number of instructions in the oral format and combined oral and written format. Preliminary multivariate analyses showed no violation of the assumptions of normality, linearity, multicollinearity and homoscedasticity, nor the presence of outliers. Table 2 shows the weighted zero-order correlations between each feature of complexity and verdict punitiveness.

Each feature of complexity, and the interactions between each feature of complexity and the dominant focus of the instruction content, was entered into the analysis. Together, these variables explained 40.80% of the variance in verdict punitiveness, $F(13, 107) =$

5.67, $p = .000$, $\eta^2 = .41$. Table 3 shows, in support of our prediction (H1), that an increase in the dominant focus of the instruction content, toward mostly on conviction, was significantly associated with an increase in verdict punitiveness. However, three features of complexity significantly moderated this effect—conceptual complexity, proportion of supplementary information and presentation format (oral vs. written; see Table 3). As predicted (H2), an increase in the dominant focus of the instruction content, toward mostly on conviction, was significantly associated with an increase in verdict punitiveness, for lower levels of conceptual complexity, but not for higher levels of conceptual complexity (see Figure 1 and Table 4) and also for lower proportions of supplementary information, but not for higher proportions of supplementary information (see Figure 2 and Table 4). However, contradicting our prediction (H2), an increase in the dominant focus of the instruction content, toward mostly on conviction, was significantly associated with an increase in verdict punitiveness, for instructions provided in an oral format, but not a written format (see Figure 3 and Table 4).

Further, we did not find support for our prediction (H2) that linguistic complexity, amount of information and presentation format (oral vs. combined oral and written) would moderate the effect of the dominant focus of the instruction content on verdict punitiveness (see Table 3). Finally, we found an effect not predicted—reducing the amount of information was significantly associated with an increase in verdict punitiveness, independently of the dominant focus of the instruction content (see Table 3).³

³ This finding cannot be explained by an increase in the number of instructions (where the dominant focus of the instruction content was coded as mostly on conviction) being associated with a decrease in the amount of information, as there was no significant correlation between the dominant focus of the instruction content and the total number of words used to outline the instruction, $r = .04$, $p = .63$.

Table 3

Weighted β Coefficient, t , p , Confidence Interval (CI) and sr (Effect Size) for the Features of Complexity and Interactions Between the Features of Complexity and the Dominant Focus of the Instruction Content When Predicting Verdict Punitiveness[#]

Variable	β	t	p	CI	sr
Linguistic complexity ^a	.15	1.69	.095	[-.34, 4.24]	.13
Conceptual complexity ^b	.24*	2.51	.013	[.83, 7.01]	.19
Amount of information ^c	-.30**	-3.16	.002	[-.04, -.01]	-.24
Proportion of supplementary information ^d	.04	.45	.651	[-.15, .24]	.03
Presentation format (oral vs. oral + written) ^e	-.10	-.87	.386	[-17.76, 6.92]	-.07
Presentation format (oral vs. written) ^f	.10	.95	.347	[-4.89, 13.80]	.07
Dominant focus of instruction content ^g	.37***	3.88	.000	[4.26, 13.17]	.29
Dominant focus of instruction content \times linguistic complexity	-.07	-.76	.449	[-3.80, 1.69]	-.06
Dominant focus of instruction content \times conceptual complexity	-.24*	-2.59	.011	[-8.44, -1.13]	-.19
Dominant focus of instruction content \times amount of information	.04	.36	.717	[-.02, .03]	.03
Dominant focus of instruction content \times proportion of supplementary information	-.25**	-2.82	.006	[-.61, -.11]	-.21
Dominant focus of instruction content \times presentation format (oral vs. oral + written)	-.05	-.48	.635	[-16.87, 10.34]	-.04
Dominant focus of instruction content \times presentation format (oral vs. written)	.30**	2.67	.009	[4.24, 28.80]	.20

[#] The percentage of verdicts for the verdict option favouring the plaintiff/prosecution. A higher percentage indicates more punitive verdicts. ^a The Reading Maturity Metric (RMM) for text complexity, calculated using the instruction's linguistic features: word frequency, syntax and semantic coherence. A higher RMM indicates a higher level of complexity. ^b The average number of components used to define a concept in an instruction. A higher average number of components per concept indicates a higher level of complexity. ^c The number of words used to outline the instruction. A greater number of words indicates a higher level of complexity. ^d The percentage of words used to outline the supplementary information in the instruction. A higher percentage indicates a higher level of complexity. ^e Either oral or combined oral and written. The oral format indicates a higher level of complexity. ^f Either oral or written. The oral format indicates a higher level of complexity. ^g The coder's evaluation of the dominant focus of the instruction content, ranging from mostly on acquittal (-1) to mostly on conviction (+1).

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

Discussion

The aim of this study was to examine how simplifying each feature of complexity individually affects mock jurors' application of instructions. For each feature of complexity, we predicted that an increase in the dominant focus of the instruction content, toward mostly on conviction, would be associated with an increase in verdict punitiveness (H1); however, this would occur to a greater extent at lower levels of complexity, compared to higher levels of complexity (H2). Our results supported H1 and partially supported H2—specifically; for conceptual complexity and proportion of supplementary information, but not for linguistic complexity, amount of information and presentation format (oral vs. combined oral and written). Further, for presentation format (oral vs. written), our results contradicted our hypothesis (H2)—an increase in the dominant focus of the instruction content, toward mostly on conviction, was associated with an increase in verdict punitiveness when the instructions were provided in an oral format, but not a written format. Finally, and unexpectedly, our results also showed that reducing the amount of information was associated with an increase in verdict punitiveness, independently of the dominant focus of the instruction content.

Our results suggest that reducing the conceptual complexity, but not the linguistic complexity, and reducing the proportion of supplementary information, is associated with increased application of the instructions because mock jurors' verdicts were consistent with the dominant focus of the instruction content for lower levels of conceptual complexity and lower proportions of supplementary information, but not for higher levels of conceptual complexity and higher proportions of supplementary information. The fact that mock jurors did not rely on the instructions to decide their verdict when the instructions were more complex is not surprising, as research shows that mock jurors will be persuaded by factors

other than the content of a message, when the message is complex (e.g., Cooper et al., 1996). Given jurors can only apply instructions to the extent they comprehend them (Elwork & Sales, 1985) and that application implies comprehension (McGuire, 1968, 1972), these findings suggest that reducing the conceptual complexity and proportion of supplementary information, is associated with improved comprehension, but reducing the linguistic complexity is not.

Consistent with the beliefs of legal practitioners and judges, this study provides strong evidence that it is the complexity of legal concepts, rather than the complexity of language, that is the primary cause of difficulties with comprehension (Charrow & Charrow, 1979; Ogloff et al., 2006; Ogloff & Rose, 2005). This may explain why psycholinguistic simplification only results in small, if any, improvements in comprehension, and why overall comprehension with this form of simplification remains low (e.g., Diamond & Levi, 1996). Despite the difficulty of doing so, this study strongly suggests a need to find a way to effectively simplify legal concepts. Although providing factual examples of legal concepts shows promise as a technique to reduce this complexity and improve jurors' comprehension, it has yet to maximize mock jurors' comprehension (Smith & Haney, 2011).

Our results also provide strong support for using decision-aids in trials. Although not widely used in courts to date, reducing the proportion of supplementary information surrounding the key principles appears to have clear benefits for jurors' comprehension and application of the instructions. It may be the presence of supplementary information that explains why comprehension remains low for other simplification techniques, including psycholinguistic simplification (e.g., Diamond & Levi, 1996), providing factual examples of legal concepts (e.g., Smith & Haney, 2011) and providing a written copy of the instructions (e.g., Semmler & Brewer, 2002). Despite

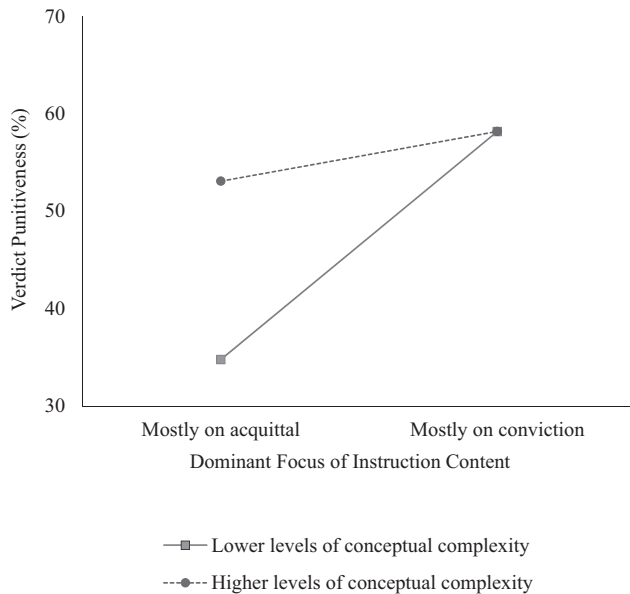


Figure 1. Interaction between conceptual complexity and the dominant focus of the instruction content when predicting verdict punitiveness.

providing strong evidence for the value of reducing the proportion of supplementary information, this value has not always been observed in the research on decision-aids—comprehension does not always improve (e.g., Essex & Goodman-Delahunty, 2014; Ogloff, 1998), but if it does, comprehension remains low (e.g., Ede & Goodman-Delahunty, 2013; Semmler & Brewer, 2002). This is surprising and it suggests there may be other factors inhibiting the benefit of reducing the proportion of supplementary information from always being realized. Our results with regard to presentation format may help to identify what this factor may be.

Interestingly, the results of our analysis of presentation format suggest that altering the presentation format to reduce complexity, by presenting the instructions in a combined oral and written format, is not associated with increased application of the instructions because mock jurors' verdicts were consistent with the dominant focus of the instruction content to the same extent for instructions presented in a combined oral and written format and

instructions presented in an oral format. Consistent with the extant research, this result suggests that reducing complexity, through providing a written copy of the instructions, is not associated with improvements in comprehension beyond the levels achieved from only listening to the instructions (Greene & Johns, 2001; Heuer & Penrod, 1989; Prager et al., 1989; Reifman et al., 1992). Although this conclusion might suggest there is no benefit of self-paced reading, it is also possible that mock jurors did not thoroughly read the written instructions—they were either not motivated to thoroughly read the instructions, or they were not able to thoroughly read the instructions because they were not proficient readers. A lack of motivation perhaps provides a more plausible explanation given 72.04% of mock jurors were university students, who are typically presumed to have a high level of reading proficiency.

Research supports this differential reading explanation—mock jurors only referred to written instructions for a minimal amount of time or not at all during deliberations, when the instructions were provided as either a written copy of the oral instructions (Heuer & Penrod, 1989) or a decision-aid (Ogloff, 1998), respectively. In fact, there is also support for this differential reading explanation in our results comparing instructions presented in an oral format to instructions presented in a written format—mock jurors' verdicts were consistent with the dominant focus of the instruction content when mock jurors received the instructions in an oral format, but not when mock jurors received the instructions in a written format. If mock jurors had thoroughly read the written instructions, their verdicts should have been consistent with the dominant focus of the instruction content to the same extent as oral instructions (where mock jurors heard all the instructions), even if there was no benefit of self-paced reading.

Together, our presentation format findings can be used to reconcile the inconsistent findings observed in prior research. In studies where the instruction was provided in a written format, either as a written copy of the instruction or a decision-aid and mock jurors' comprehension did not improve or only improved to a limited extent, it is likely that mock jurors did not thoroughly read the written instructions (e.g., Essex & Goodman-Delahunty, 2014; Greene & Johns, 2001; Wiener et al., 2004). This meant the written instructions could not benefit comprehension because mock jurors did not carefully attend to the instructions, thus omitting the necessary step for comprehension in McGuire's model of persuasion (McGuire, 1968, 1972). In other studies,

Table 4

Weighted β Coefficient, t , p , Confidence Interval (CI) and sr (Effect Size) for Simple Slopes Analyses of Significant Interactions Between the Features of Complexity and the Dominant Focus of the Instruction Content When Predicting Verdict Punitiveness[#]

Variable	β	t	p	CI	sr
Dominant focus of instruction content for lower levels of conceptual complexity ^a	.60***	4.33	.000	[7.75, 20.85]	.32
Dominant focus of instruction content for higher levels of conceptual complexity ^a	.13	1.07	.286	[-2.65, 8.89]	.08
Dominant focus of instruction content for lower proportions of supplementary information ^b	.64***	5.27	.000	[9.46, 20.87]	.39
Dominant focus of instruction content for higher proportions of supplementary information ^b	1.00	.64	.521	[-4.70, 9.21]	.05
Dominant focus of instruction content for presentation format (written) ^c	.05	.36	.721	[-5.88, 8.46]	.03
Dominant focus of instruction content for presentation format (oral) ^c	.68***	4.56	.000	[9.12, 23.14]	.34

^a The coder's evaluation of the dominant focus of the instruction content, ranging from mostly on acquittal (−1) to mostly on conviction (+1). [#] The percentage of verdicts for the verdict option favoring the plaintiff/prosecution. A higher percentage indicates more punitive verdicts. ^a The average number of components used to define a concept in an instruction. A higher average number of components per concept indicates a higher level of complexity. ^b The percentage of words used to outline the supplementary information in the instruction. A higher percentage indicates a higher level of complexity. ^c Either oral or written. The oral format indicates a higher level of complexity.

*** $p < .001$.

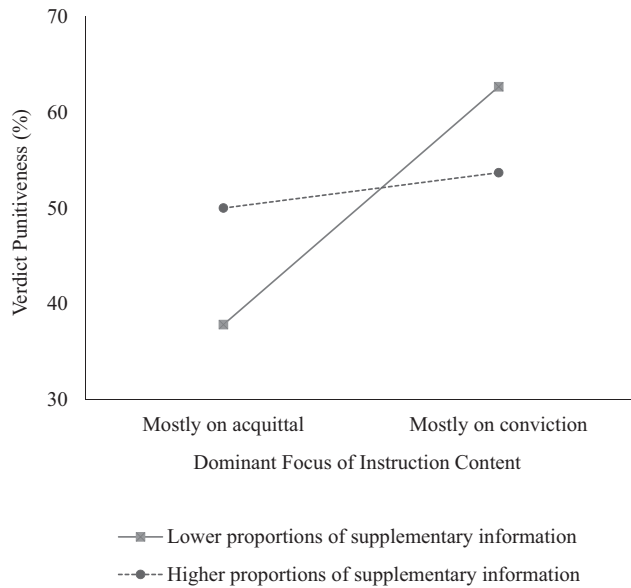


Figure 2. Interaction between the proportion of supplementary information and the dominant focus of the instruction content when predicting verdict punitiveness.

where mock jurors' comprehension improved when they were given written instructions (e.g., Ede & Goodman-Delahunty, 2013; Semmler & Brewer, 2002), it is likely that mock jurors read the instructions thoroughly, resulting in improvements in comprehension.

What we do not yet know, however, are which factors contribute to whether jurors read written instructions thoroughly or not. In saying this, research on persuasion suggests two factors that may be relevant, because they affect motivation to engage in effortful processing: the extent to which jurors feel either personally responsible for their decision or accountable for their decision-making process (Petty, Harkins, & Williams, 1980; Scholten, van Knippenberg, Nijstad, & De Dreu, 2007). Even though it is premature to draw conclusions about the extent to which written instructions improve comprehension when read thoroughly, these results provide important insight into jurors' potential lack of thoroughness in reading written instructions. This, of itself, is a critical finding; one that suggests a future direction for research to explore in order to improve the quality of jury decision-making.

Surprisingly, our results suggest that reducing the amount of information was not associated with increased application of the instructions because mock jurors' verdicts were consistent with the dominant focus of the instruction content to the same extent for instructions containing both a smaller and larger amount of information. Drawing on McGuire's model of persuasion (McGuire, 1968, 1972), this suggests that reducing the amount of information did not improve mock jurors' attention to the instructions, nor did it improve their memory of the instructions. Although both these conclusions seem counterintuitive, it is possible that the proposed detrimental effect of fatigue on attention and the additional detrimental effect on memory did not occur because the instructions analyzed in this study, obtained from mock trials, did not contain enough information to induce fatigue and impair memory. As a

result, reducing the amount of information had no effect. This explanation seems plausible, as the longest instruction in this study only contained 936 words, or approximately 6 minutes of listening. However, it is possible that inattention, due to fatigue, and impaired memory does occur in real trials, given jurors listen to instructions for an average of 103 minutes in a 5-day trial and 272 minutes in a 20-day trial (Ogloff et al., 2006). If this is the case, reducing the amount of information in real trials may affect both jurors' comprehension and application of the instructions.

Although it is not yet possible to definitively conclude that reducing the amount of information is not associated with improved comprehension and increased application of the instructions, examining the effect of reducing the amount of information in this study was important. It not only suggests that this effect may be contingent on the amount of information provided, it also revealed an unintentional, and previously overlooked, negative effect of simplification—reducing the amount of information is associated with increased verdict punitiveness, independently of the dominant focus of the instruction content. One possible explanation for this may involve jurors' subjective experiences of the instructions; jurors may feel less doubt and more confidence about deciding a verdict when they have to consider less information. In fact, the findings of Heuer and Penrod (1994) provide some support for this—mock jurors reported less difficulty deciding a verdict as the quantity of information in the trial decreased. Jurors may then be more likely to attain the confidence required to decide a more punitive verdict. Regardless of the reason, this result raises serious concerns for upholding the principles of fair process that underlie the judicial system, as simplifying instructions should not directly affect the punitiveness of verdicts, independently of the instruction content (e.g., Essex & Goodman-Delahunty, 2014; Severance et al., 1984; Wiener et al., 2004).

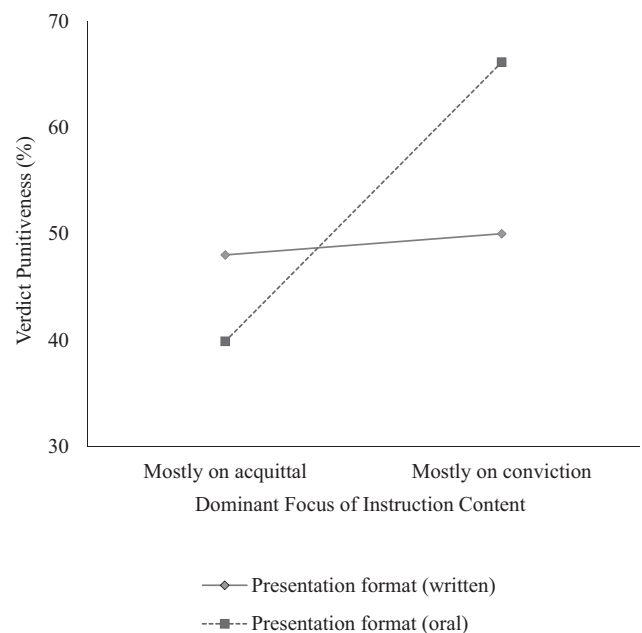


Figure 3. Interaction between presentation format (oral vs. written) and the dominant focus of the instruction content when predicting verdict punitiveness.

Strengths and Limitations

This study deconstructed current simplification techniques to provide a critical insight into how simplifying each feature of complexity, present in standardized instructions, individually affects jurors' application of the instructions to decide their verdict. This, in turn, enabled us to infer how simplifying each feature of complexity individually affects jurors' comprehension, without encountering the estimation problems associated with relying on traditional paraphrase and multiple-choice tests of comprehension. By showing that reducing only some features of complexity was associated with enhanced comprehension and application of the instructions, this study allowed us to better understand why current simplification techniques are ineffective in improving and maximizing jurors' comprehension. Drawing on McGuire's model of persuasion (McGuire, 1968, 1972), to explain why some features of complexity are not associated with enhanced comprehension and application of the instructions, we were able to broaden the scope of current discussions in this area. Finally, our study also highlighted a negative effect of simplification; an important outcome that has been overlooked in the research to date.

Although our study is informative about written instructions not being associated with enhanced comprehension and application of the instructions, we are unable to conclude whether this is because there is no benefit of self-paced reading or because jurors do not thoroughly read written instructions. While our differential reading explanation seems plausible, future research should investigate whether written instructions, provided alone, with or after oral instructions, improve jurors' comprehension and application of the instructions when jurors thoroughly read them. Ensuring jurors attend to the instructions in this way will allow us to demonstrate the true value of providing jurors with the opportunity to read the instructions at their own pace, consistent with their rate of learning. This is important, given the growing trend for law reform commissions to recommend providing jurors with written instructions as a way of improving comprehension (e.g., *New Zealand Law Reform Commission*, 2001).

Although this analysis is an important first step in investigating whether reducing the amount of information is associated with improved comprehension and increased application of the instructions, our conclusions are limited because the instructions provided in mock trials may not have contained a large enough amount of information to induce fatigue and impair memory. Future research should therefore independently investigate these effects when a substantial amount of information is provided. This may involve having jurors attend to the instructions for 60 to 90 minutes—a period of time that jurors would reasonably be expected to attend to the instructions in a trial, before being able to take a break—and then asking them to recall those instructions. Disentangling the effects of inattention on comprehension and impaired memory on application will inevitably be a challenge. However, doing so is necessary to draw definitive conclusions about whether or not simplifying the amount of information improves jurors' comprehension and application of the instructions, and why this is the case, in the context of McGuire's model of persuasion (McGuire, 1968, 1972). It will also provide important information about the upper limit for jurors' attention to and memory of the instructions, before the effects of fatigue and impaired memory, if any, are observed.

Once we better understand how the cognitive processes of attention and memory affect jurors' comprehension and application of the instructions, future research should then draw upon the persuasion literature to examine what factors affect whether jurors attend to and remember the instructions. Future research should also examine both the role of acceptance on jurors' comprehension and application of the instructions, and the factors that affect this, in the context of standardized instructions that form the basis of instruction simplification research. This is necessary to know how to adapt current trial processes in a way that will enhance jurors' comprehension and application of the instructions.

Finally, future research should investigate the reason why reducing the amount of information was associated with increased verdict punitiveness. Although we have suggested this may have occurred because less information increases jurors' confidence about deciding a verdict, more research is required to confirm this is the case. Understanding this reason is essential for developing a way to overcome this detrimental effect.

Implications

The results of our analysis have important implications for developing a simplification technique that effectively improves and maximizes jurors' comprehension, and subsequent application of instructions. First, our results suggest the need to make the instructions comprehensible, through reducing the conceptual complexity, and to highlight the key principles in the decision-process, through reducing the proportion of supplementary information surrounding the key principles. This may involve providing case-specific facts to convey the legal concepts in a framework similar to decision-aids. Second, our results emphasize the need to ensure jurors thoroughly read written instructions if these are provided. This may involve providing jurors with a decision-aid, which they are required to use to decide their verdict. This could be similar to a Special Verdict Form, where jurors have to provide the judge with written responses about their decisions for each issue in the trial (Faulkner, 1989; Wiggins & Breckler, 1990). Finally, our results suggest that it is necessary to identify a way to eliminate the negative effects of reducing the amount of information on the punitiveness of jurors' verdicts. Using Special Verdict Forms may also be useful in this regard—they would ensure jurors decide their verdicts using the content of the instructions, rather than their subjective experiences.

Our results also have important implications for designing research on jurors' comprehension and application of instructions in the future. This research should incorporate tests of jurors' attention, acceptance, and memory of instructions, in addition to tests of their comprehension and application of instructions. It is only through examining these additional cognitive processes that we can further advance our current knowledge about why current simplification techniques have had limited success in improving and maximizing jurors' comprehension and application of instructions.

Conclusions

The dominant thought in the legal profession and the research on instruction simplification to date, is that simplification will be beneficial—it will enhance jurors' comprehension and application

of instructions. Our study shows support for this perspective, but only when simplifying certain features of complexity. In addition, our analysis also shows that simplifying certain features of complexity unintentionally and adversely affects the punitiveness of jurors' verdicts. Recognizing that instruction simplification is not straightforward or universally beneficial is a necessary step for advancing current simplification techniques. Identifying a simplification technique that maximizes the positive effects of simplification, while minimizing the negative effects of simplification, will ultimately enhance the quality of jury decisions.

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Appendix A

Substantive Instruction

This is an example substantive instruction coded for the features of complexity and the dominant focus of the instruction content. Concepts are CAPITALIZED, independent components of concepts are *italicized*, and independent key principles are **bolded**.

To help you reach a verdict, the following legal definition of INSANITY is provided: **In claiming a defense of insanity, the question is whether the defendant had the use of her reason and senses at the time the act in question was committed.** Was she aware, for example, that she had a gun in her hand, and that she was squeezing the trigger? Could she perceive that she was shooting at a person, and not at a tree, for example? **If you believe that her awareness and perception were so distorted, as a result of**

mental disease or defect, that she did not know what she was doing, no more than an infant, brute or wild beast, then you should find her “Not Guilty by Reason of Insanity.” If, on the other hand, you believe that her awareness and perception were not so distorted, then you should find her “Guilty”. **Mental disease or defect does not otherwise constitute a defense.**

Linguistic complexity: 11.20 (reading maturity metric)

Conceptual complexity: 1 (average components per concept)

Amount of information: 160 words

Proportion of supplementary information: 31.88%

Presentation format: Written

Dominant focus of instruction content: Mostly on acquittal

Appendix B

Procedural Instruction

This is an example procedural instruction coded for the features of complexity and the dominant focus of the instruction content. Concepts are CAPITALIZED, independent components of concepts are *italicized*, and independent key principles are **bolded**.

The BURDEN OF PROOF for this charge in this state is upon the prosecution. Before you can find a man guilty of a crime, the prosecution must show by a PREPONDERANCE OF THE EVIDENCE that the defendant committed the crime. That is, it is up to the prosecution to prove that there is more evidence of the defendant's guilt than of his innocence. If the weight of the evidence for the defendant's guilt is greater than the weight of the evidence for his innocence, then the prosecution has met its burden and you must find the defendant guilty as charged. If, on the other hand, you feel that the

evidence for the defendant's innocence has greater weight than the evidence for his guilt, then you must find him not guilty of auto theft. If the evidence suggests to you that it is more likely that the defendant committed auto theft than not, the law requires you to find him guilty, as charged; but if you feel that it is more likely that he is innocent than guilty, the law requires you to find him not guilty. In summary, your verdict must favor the side that has presented the stronger evidence.

Linguistic complexity: 10.70 (reading maturity metric)

Conceptual complexity: 1 (average components per concept)

Amount of information: 200 words

Proportion of supplementary information: 33.50%

Presentation format: Combined oral and written

Dominant focus of instruction content: Mostly on conviction

(Appendices continue)

Appendix C

Evidentiary Instruction

This is an example evidentiary instruction coded for the features of complexity and the dominant focus of the instruction content. Concepts are CAPITALIZED, independent components of concepts are *italicized*, and independent key principles are **bolded**.

Before you retire to the deliberation room, I must ask that you consider this: You will recall that the prosecution introduced testimony from Patrolman Alvin Matheson who testified that while under arrest, the defendant, Ronald Oliver, confessed that he had stolen the car. **However, before you accept this fact that the defendant confessed, you must first consider the circumstances and decide for yourselves whether he confessed voluntarily and without coercion. If you decide that the confession was coerced or involuntary, then you should disregard this confession entirely and not allow it to influence your verdict** because it is constitutionally unfair to an accused person who is under arrest for an officer of the law to pressure him through threats or

trick him through offers of immunity into admitting to something against his will. Such tactics violate the individual's constitutional right to due process of law. **On the other hand, if you are convinced that Ron Oliver did confess freely and without coercion, then you should consider this fact as evidence in the case against the defendant.**

Linguistic complexity: 14.00 (reading maturity metric)

Conceptual complexity: 0 (average components per concept)

Amount of information: 176 words

Proportion of supplementary information: 52.84%

Presentation format: Written

Dominant focus of instruction content: Mostly on acquittal

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