

# AP-LS Teaching Techniques

## Illustrating Minority and Majority Influences Through a Jury Simulation Exercise

Bette L. Bottoms,  
University of Illinois at Chicago

**Editors Introduction:** We are pleased to present the second article in the new Teaching Techniques section. The Teaching Techniques section, sponsored by the APLS Teaching, Training, and Careers Committee, offers useful ideas and activities for those of us who teach (or plan to teach) courses in Psychology and Law, Forensic Psychology, or more specialized areas of legal psychology. We hope that the Teaching Techniques section of the Newsletter will become the best place to find activities, simulations, and demonstrations that engage students in the learning process and help professors to teach important content in psychology and law.

The Editors welcome your comments, ideas, suggestions, or submissions. We are especially interested in articles describing techniques that promote active learning in psychology and law. Please send submissions, questions, or ideas for articles to any of the four editors listed below.

Chief Editor: Mark Costanzo, Claremont McKenna College  
[mark.costanzo@claremontmckenna.edu](mailto:mark.costanzo@claremontmckenna.edu); phone: 909-607-2339

Co-Editor: Allison Redlich, Policy Research Associates, Inc.  
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Co-Editor: Jennifer Groscup, John Jay College of Criminal Justice  
[jgroscup@jjay.cuny.edu](mailto:jgroscup@jjay.cuny.edu); phone: 212-237-8774

The article below describes a brief jury simulation that can be conducted in a single class period. The simulation was developed by Professor Bette L. Bottoms at the University of Illinois at Chicago as a means of illustrating basic principles of group dynamics (e.g., minority influence, group polarization, normative influence).

### Illustrating Minority and Majority Influences Through a Jury Simulation Exercise

Here's a great way to illustrate various small group processes in a way that actively engages students. It can be done in classes of any size. I use it in an advanced class in "Social Psychology," as well as lower level "Introduction to Psychology." It's also appropriate for "Psychology and Law."

In the exercise, a 6- to 12-person "jury" hears about a child sexual abuse case, then deliberates to reach a verdict. The rest of the class watches and takes note of what happens. After a verdict is reached, or they hang hopelessly, the teacher engages the jurors and the class in a discussion of the group phenomena that occurred. It is a vehicle for teaching about group polarization, minority influences, majority influences, the leniency bias, gender differences in group interaction (e.g., men usually assert themselves as a foreman even if you don't ask the group to pick a foreman), differences in the nature of discussions if the jury starts with a vote versus with discussion (the literature shows that starting with a vote usually heads off discussion), etc.

The case is designed so that every juror will react with a "guilty" verdict. You, the teacher, will set it up so that there are two confederates on the jury: one who starts out voting "not guilty," and thus, is a minority of one; and another one who initially favors "guilty," but later joins the one lone confederate by changing to "not guilty." The case may seem ridiculously pro-prosecution to you, but believe me, every time I do this, no matter how strong the case is, I find that there is often one naïve juror who starts out with a "not guilty" stance, which requires that the confederates act a bit differently, as discussed in the instructions below that you will surreptitiously hand to your chosen confederates before the class starts. If it doesn't work for your population of students, change it.

## GENERAL INSTRUCTIONS:

Need a jury of 6 or more people and an audience. The audience has to take notes on any interesting group processes they see—tell them in advance that they will have to share their notes afterwards with the class.

Need two confederates. Pick them right before class and surreptitiously hand them the instructions below. Don't let other students see the handout or even see you talking with the confederate. Pick confederates who are not shy if possible.

Pick your jury – the size depends on the size of your group. You can have as few as 6 or many as 12, but I think 8 to 10 works better. Try to get an even number of males and females—err on the side of females if you have to, because they are more likely to vote guilty as revealed by so many of my and others' studies of jurors' reactions to child sexual abuse. Remember that two of the prospective jurors will be the aforementioned confederates.

Read the case facts (see below) to the jury and audience.

Have each juror make a private, pre-deliberation judgment of “guilty” or “not guilty” on a piece of paper before they are allowed to speak.

Let the mock jury deliberate, ask them to reach a unanimous verdict.

If deadlocked after maybe 10 minutes, interrupt and tell them to try harder to reach a unanimous verdict. Then if they are still deadlocked, announce a quorum rule (4 out of 6 or 8 out of 10 majority, or 2/3 majority, or something like that). It will result in a verdict, and then you can talk about how the majority treated the minority when that rule was established (i.e., they usually immediately ignore the minority).

Have each juror make a private, post-deliberation judgment of “guilty” or “not guilty” on a piece of paper.

Compare the pre- and post-deliberation judgments of guilt—assess whether there was a leniency bias (a bias toward the defense even if the group started out balanced or all for the prosecution), and whether group polarization occurred.

See “Handout” below for points to make during accompanying lecture.

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## INSTRUCTIONS TO BE GIVEN TO CONFEDERATE #1:

Don't let anyone else read this. Read silently to yourself:

I am going to stage a mock trial in class today: I'll select a “jury” and I want you to be on it. The jury will deliberate and reach a verdict about a child sexual assault case. The case details that I will give the jury will point almost without doubt to the defendant's guilt. Therefore, I expect all of the jurors to vote guilty almost immediately.

This is a set-up: I want you to be a “confederate” member of the jury. (If you don't want to do this, tell me immediately so I can get someone else—it's o.k. if you don't want to). Specifically, I want you to be the minority person voicing a different opinion. I want you to VOTE NOT GUILTY and argue that the defendant is not-guilty in a convincing manner. It really doesn't matter what arguments you use, just so you hold your ground, believably. You can argue that “guilty beyond a reasonable doubt” is a hard thing to prove. Expect the rest of the jury to treat you like you are crazy, but try not to look suspicious, but like you genuinely believe the verdict should be not-guilty.

THANKS!

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## INSTRUCTIONS TO BE GIVEN TO CONFEDERATE #2:

Don't let anyone else read this. Read silently to yourself:

I am going to stage a mock trial in class today: I'll select a “jury” and I want you to be on it. The jury will deliberate and reach a verdict about a child sexual assault case. The case details that I will give the jury will point almost without doubt to the defendant's guilt. Therefore, I expect all of the jurors to vote guilty almost immediately.

But I have already asked one person to be a “confederate” member of the jury. That person is going to argue for a NOT GUILTY verdict from the start of the deliberations, even though his or her position might seem a little stupid.

I also want you also to be a confederate member of the jury (if you agree—if not, tell me immediately so I can get someone else—it's ok if you don't want to). Specifically, I want you to begin the deliberations by strongly going along with the majority opinion, for a guilty verdict.

Then, after few minutes, I want you to “change your mind” and start agreeing with the lone confederate minority person and help that person argue for “not guilty.” The other confederate does not know that you will do this! No one else knows.

It really doesn't matter what arguments you use, just so you hold your ground, believably. You can argue that “guilty beyond a reasonable doubt” is a hard thing to prove. Expect the rest of the jury to treat you like you are crazy, but try not to look suspicious, but like you genuinely believe the verdict should be “not guilty.”

IMPORTANT: If there is already someone else – someone other than the one confederate—helping to argue for NOT GUILTY, don't help the other confederate. Just go ahead with the majority and argue for GUILTY. (So I don't want 3 of you arguing “not guilty”). All I want you to do is help show what happens when a lone person who is arguing something gets help from one other person. You don't need to help if the confederate is already getting help.

THANKS!



### THE CASE:

The defendant, Bubba Stanly, has been charged with child sexual assault and making pornography. It is your duty to find him guilty or innocent of these charges against him. You must base your decision on the evidence as it is presented here. To find him guilty, you must think that he is guilty beyond a reasonable doubt.

### Facts of the case:

Linda Little, a 5-year-old, and Belinda Little, her 8-year-old sister, claim that the defendant (Bubba) stopped them on their way home from school. They claim that he approached the little girls and told them that he was a friend of their mother, and that he would give them a ride home in his car. The girls said that they went with him and he proceeded to take them to his apartment. The girls said he made them play the “Naked Movie Star” game, in which they posed naked for movies. The girls also described with great accuracy details of sexual acts that they were forced to perform with each other and on the defendant.

The girls said that Bubba, the defendant, let them go home, but Bubba threatened them that if they ever told about the games he would kill their mother. Even though they were frightened, the girls ran home and told their mother who notified the police immediately. The police immediately investigated the case and found a witness who testified that she saw the defendant pick the girls up in his car. That witness gave an accurate description of the defendant’s car and the defendant.

The police searched the defendant’s apartment within 6 hours of the incident and found video equipment: cameras, lights, and a VCR. They also found that the defendant also had a stash of home-made child pornography tapes of girls about the same age of Linda and Belinda. (Other charges are pending concerning these tapes.) Of concern to this case, the police found a tape showing Linda and Belinda in the defendant’s apartment with the defendant, but this footage ended abruptly. There was no footage of the girls without their clothes on, or of the girls engaged in sexual acts with the defendant. However, the footage did show the children dancing and posing in a provocative manner before the film clip ended.

The girls were examined by a medical doctor who said that there was clear evidence of sexual abuse to the girls during the time they claimed to have been with Bubba. The doctor could not say who the perpetrator was, because there was no DNA evidence.

Bubba just got out of jail 6 months ago where he spent a five-year sentence for sexual assault and pornography involving his own twin daughters, aged 6.

Now, you must discuss this case with your fellow jurors and you must decide whether Bubba is GUILTY or NOT GUILTY. You must decide this unanimously, and then tell the judge (me) your verdict.

### DISCUSSION QUESTIONS FOR THE CLASS:

What did you see happening in the group?  
(e.g., group polarization, groupthink, minority and majority influences, conformity & compliance).

Was there a minority and a majority opinion? Did people with these opinions act differently? How were the people holding the minority opinion treated? How were the majority people treated?

What do you think the person(s) holding the minority opinion felt?  
(Ask the minority people what they felt.)

How did the majority feel about it?  
(Ask the most annoyed majority jury members what they felt about the minority members.)

If the jury deadlocked, what happened after a quorum or majority decision rule was announced?  
(Schachter says that at first a minority is given inordinate attention, then ignored if they aren’t needed for a majority to reach its goal – I usually see that behavior in these simulations.)

What did you see happening in the group?  
(e.g., group polarization, groupthink, minority and majority influences, conformity & compliance). Note that you might see one of the most robust effects in the literature on juror decision making in child sexual abuse cases: a gender difference, with women taking a more pro-prosecution stance than men do.

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### HANDOUT &/OR LECTURE GUIDE: JURY DEMONSTRATION: GROUP PROCESSES

#### 1. Trial demonstration:

What pressure does a minority (in terms of numbers, not race!) feel? How did the majority feel about it? Did you see evidence of group polarization, minority and majority influences, conformity & compliance? If the jury deadlocked, what happened after a quorum or majority decision rule was announced? (Schachter says that at first a minority is given inordinate attention, then ignored if they aren’t needed for a majority to reach its goal.)

#### 2. Why do minorities usually conform to majority influence, in juries and other small groups?

Kalven and Zeisel (1966) found that 9 out of 10 juries rendered final verdicts in the direction of the verdict favored by the initial majority. They concluded that “the deliberation process might well be likened to what the developer does for an exposed film: it brings out the picture, but the outcome is predetermined . . . [The deliberation] is an interesting combination of rational persuasion, sheer social pressure, and the psychological mechanism by which

individual perceptions undergo change when exposed to group discussion” (p. 489). What has more recent research found (a lot of support, some dissention; for review, see recent Devine et al., P,P,P & L article).

The overwhelming tendency for a jury to reach consensus in the direction of the initial majority, drowning out minority influences, is a classic example of **GROUP POLARIZATION**: the tendency for group opinions to be in the same direction and more extreme after group discussion than the average pre-discussion individual opinions. In other words, group interaction only magnifies pre-existing majority attitudes and opinions so that the group product is a more extreme version of the opinions held by the individuals of the initial majority. The implication is that minorities conform to the majority beliefs.

### **3. Why does group polarization occur? 2 reasons:**

#### **A. PERSUASIVE ARGUMENTS THEORY:**

Opinions of group members will shift toward an extreme of the majority opinion (conform) because there are simply more arguments (more information) and better quality arguments put forth in favor of the initial majority opinion because, by definition, there are initially more persons that hold that opinion, and therefore more people to generate and elaborate on information in support of it (Stasser, Kerr & Davis, 1980).

For example, let's say most members of a jury are initially in favor of a guilty verdict. Simply because there are more people in favor of guilt, there will be more chances that pieces of damning evidence will be discussed during deliberation. Because there are fewer people favoring acquittal, fewer pieces of information and lesser quality information can be offered to support the not-guilty stance. So when weighing the evidence, minority members (those favoring acquittal) may be swayed to change their verdict preference due to the perceived relative lack of information supporting their view.

#### **B. SOCIAL CONTEXT OR NORMATIVE INFLUENCES:**

Normative influences, including a **NEED FOR SOCIAL APPROVAL** (Schachter, 1951): Minority members may comply with the group norm to fulfill selfish needs to gain social approval from the other jurors. We fear the consequences of being considered different, so we go along with what others are saying.

Some early evidence: deadlocking (failure to reach consensus) is most common among juries who use a secret written ballot rather than outward show of hands (Hawkins, 1960). If social approval was not at work, there should be no difference in public or private ballots.

### **4. Under what conditions are minority voices heard?**

When do minorities maintain their positions without conforming? One important factor is whether or not the minority person has the support of other people. Even the support of one additional person can make a big difference. Evidence comes from a classic study by Asch (1952): Subjects were put into a group of 7 other people and were shown three lines. They had the task of saying which of three lines was the same length as a target line. The catch is that the 7 people were trained confederates, not real subjects. They had all been trained to say the wrong answer before the real subject gave an answer. The wrong answer was to point to the line that was obviously not the right line. Even though it was obviously wrong, 1/3 (32%) of the real subjects also gave the wrong answer. However, when one of the 7 confederates also gave the correct answer before the subject answered, the error rate dropped to 5.5%. Such results led Asch to conclude that “it is clear that the presence in the field of one other individual who responded correctly was sufficient to deplete the power of the majority, and in some cases, to destroy it, . . . the results clearly demonstrate that a disturbance of the unanimity of the majority markedly increased the independence of the critical subjects” (p. 8).

Given this information, can you tell why the US Supreme Court was so very wrong in its decision in the case *Williams v Florida* (1970)? Here is the story: In some states such as Florida, there are 6-person juries for some cases. In this case, the defendant appealed his conviction made by a 6-member jury. He used psychological research like Asch's to argue that minority influence is less likely to be expressed in a smaller jury than in a larger jury because:

- a) a partner is necessary for someone to have the courage to express a minority opinion, and
- b) it would be less likely for a minority voice to have a partner in a 6-member than in a 12-member jury, because there are simply fewer chances of finding a partner among 5 other jurors than among 11 other jurors.

The Supreme Court rejected this rationale. The Court used simple mathematical logic to reason that 10-2 and 5-1 ratios of majority to minority influence are the same. This is naive and incorrect reasoning that does not take into account the psychological difference in those ratios. The fact that they ignored scientific data to the contrary rightfully incurred the wrath of many social psychologists.

