**TAIT — Digital Evidence**

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**Digital Evidence in the Jury Room: The Impact of Tablets on Communication and Decision**

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One of the most onerous responsibilities a citizen may have to perform is jury duty: listening in silence to days, even months, of people talking at you, then trying to reach an unanimous decision with a group of strangers. This task violates the normal rules of communication: the decision-makers do not engage with the speaker; they are forbidden from any form of personal enquiry; rather than being experts they are chosen precisely because they have no knowledge of the subject; and further, confronted with a confusing set of facts, they are expected to make a simple decision.

Into this complicated communication task enters digital evidence. Criminal trials that were once characterised by oral testimony in the form of eyewitness statements and confessions now include displays of scientific diagrams, photographs, interview transcripts, witness statements, intercepted phone calls, and video evidence. For more complex trials, courts typically give jurors a DVD containing some of this evidence to take into the jury room. The next step in the process of digital transformation, under active consideration by courts, is giving jurors individual copies of digital evidence on a tablet.

Having information on a tablet may improve both individual and group processes. For individual jurors, technological aids can prompt juror memory, and enhance comprehension and engagement; for the jury as a whole it may improve the thoroughness of the deliberation. Providing each juror with his or her own copy of the evidence may encourage critical discussion and healthy debate among jurors, which in turn can challenge prejudices and lead to fairer outcomes. Combining oral discussion with visual display could produce the jury with an efficient way of managing cognitive load. Alternatively, giving jurors tablets could increase prejudice against the accused, undermining the right to a fair trial, making visually memorable images more significant, and inhibiting the free flow of debate as individual jurors are diverted from their collective task. Because courts have been unsure which of these two scenarios is more likely, there has been some hesitation about giving jurors tablets. Empirical research will therefore assist in making the relevant policy decisions.

This paper reports on an experimental study at the University of Queensland using 106 mock jurors and a written scenario, with six-person juries deliberating for 15 to 30 minutes with visual evidence provided to them either on paper or iPads. The study shows that jurors who deliberated with iPads were significantly more likely to find the accused guilty than those who deliberated with paper. Before deliberation both groups had virtually identical conviction levels, but after deliberation the ‘paper’ group had shifted twice as far as the ‘iPad’ group. Explanations for this include undue weight given to prosecution evidence amongst the tablet users, less attention to group processes, greater willingness to disagree, and less pressure to reach a compromise. The paper reports on a subsequent, more elaborate study with an expanded scenario and evidence list, plus collaboration software that allows the jurors to post images to a shared screen in the jury room. Collaboration technologies are of considerable interest to digital humanities scholars. This study tests how a one-to-many display facilitates collaboration in the highly constrained jury deliberation process. These constraints include deliberating as a single group, complying with judicial directions about the weight to be given to different pieces of evidence, and chairing of discussion by a single foreperson.

The study is funded by the Canadian Social Sciences and Humanities Research Council as part of the Cyberjustice consortium based at the University of Montreal and headed by Karim Benyekhlef. The study has been developed by a team including David Tait (Digital Humanities Group, University of Western Sydney), Christian Licoppe (Paris Tech), Meredith Rossner (LSE), and Blake McKimmie (University of Queensland). The cyberjustice consortium brings together scholars from several countries with an interest in the impacts of emerging technologies on justice processes.