

# How Individual Jurors and the Jury Group Interact to Reach a Decision



By  
Richard Waites, J.D., Ph.D.  
Cynthia Zarling, Ph.D.

The Advocates

Jury Consultants and Trial Consultants  
[www.theadvocates.com](http://www.theadvocates.com)

## How Individual Jurors and the Jury Group Interact to Reach a Decision

By

**Richard Waites, J.D., Ph.D.**

Attorney\* and Chief Trial Psychologist

**Cynthia Zarling, Ph.D.**

Psychologist and Senior Trial Consultant

*“Ironically, the same limitations and characteristics of jurors which give meaning to individuality are also strengths with which the jury group as a whole can arrive at a fair and equitable decision.”*

It is impossible for a single juror to comprehend all of the facts, events, and nuances contained in a courtroom case presentation. No matter how intelligent or experienced a juror is in making important decisions, every juror, like every person, has limitations. For example, individual jurors engage in a variety of coping mechanisms which "filter" information and shape perceptions so as to create understanding and comfortable feelings and to minimize dissonance. Individual jurors are also limited in their decision making abilities by varying emotional reactions, differing assessments of attribution, varying intellectual capacities, varying abilities to recall, differences in cultural views and sensitivities, widely varying life experiences, and many other factors.

As a result, jurors construct different stories or assessments of court cases even though every juror was exposed to the same facts, evidence and arguments in the case. They construct their own version of the facts and motivations of each of the trial participants. This process of applying a juror's understanding of life and the creation of a narrative or story for the case being presented to them in court is the driving force behind an individual juror's decision about the case. Once a narrative has become firmly visualized, jurors will rarely change their opinions about what happened, although they will occasionally change their minds about how the events in the case should be legally classified.

\* Board Certified – Civil Trial Law.

Ironically, the same limitations and characteristics of jurors which give meaning to individuality are also strengths with which the jury group as a whole can arrive at a fair and equitable decision. Differing insights and differing views of events and motivations provide the group with a more complete perspective out of which better quality decisions can be made.

There are a number of ways in which various processes within a jury influence another juror's individual decision making. For example, in the context of group decision making, information is exchanged as a by-product of the social interaction which occurs within the group. Knowledge may be acquired that might not have otherwise occurred to individuals without the interaction because of inexperience or lack of knowledge. It is in this critical point in the jury deliberation process, for example, that jurors with any relevant life experience will generally speak up, and sometimes become *instant experts*.

It is human nature for jurors to talk to each other about the case during the trial and certainly during deliberations despite court admonitions. But regardless of when the substantive interaction begins, each member of the group typically begins with a set of ideas about his or her own goals and the alternative choices. As discussion emerges, individuals share their ideas with others, and in a larger jury 8-12 people, they are especially likely to share their ideas with other members of a subgroup with whom they share characteristics. Gradually, the sharing of ideas through their social interaction influences the development of each individual's cognitive representations of the case and the decision to be reached, as well as those of the entire jury or any subgroup.

The information exchanged by members of the group includes both cognitive and affective information (i.e.

how each of the jurors thinks and feels about the issues in the case). The differences in the effects of each are interesting and profound. As a practical matter, it is also impossible to separate one's thinking about a set of circumstances from one's emotional reaction to them. However, in the process of sharing cognitive and affective information, the recipient of a shared idea will likely react differently than the originator, although the recipient may be motivated to act in complete concert with the originator. As a result, jurors will often (if not usually) arrive at the same conclusion, although their thoughts and feelings (rationale) about it may be different.

Similarly, in the quest to comprehend and solve any dilemmas presented in a case, jurors almost always learn and understand the case more completely only after discussion within the group. There are many reasons which underlie this principle. For example, the group as a whole usually has a more complete data base than any of its members for problem-solving. It is not likely that any individual member of the jury has acquired or has access to all of the pieces of information needed to solve the group's problem.

One of the most important lessons for us is that as a general proposition, the knowledge presented in a case in court is not developed or presented in an explicitly stated and usable form for individuals to easily adapt in making a complete decision. For this reason, one of the most important challenges for any trial attorney is to arrange the case into a simple and easily digestible story form that conforms with the way jurors go about resolving the case.

The interaction of a group can provide motivation to arrive at a more complete and morally supportable decision than one individual juror acting

alone. Interpersonal energy among jurors, either positive or negative, tends to enliven and stimulate more complete and acceptable discussion and results.

Because of the limitations that an individual experiences in the formation of a story which explains the case, a narrative which at first appears to be complete to those of us on the trial team, is often determined to be inadequate or inappropriate once expressed before the rest of the jury group. The checks and balances offered by a multiple person jury helps to insure what is often referred to as *justice*. Whether there is more justice dispensed by a 6 person jury or a 12 person jury, we will leave to the philosophers.

---

### About the Authors

Dr. Richard Waites is a board certified civil trial lawyer and is the chief trial psychologist and CEO for Advocacy Sciences, Inc. and **The Advocates**, the nation's leading trial and advocacy consulting firm.

Dr. Cynthia Zarling is an experienced clinical/forensic psychologist and senior **trial consultant** with **The Advocates**.

The Advocates' clients include major law firms and corporations in the United States ([www.theadvocates.com](http://www.theadvocates.com)).

**The Advocates** is the nation's leading jury and trial consulting firm with offices in more than 17 major U.S. cities. The **trial consultants** and **jury consultants** with **The Advocates** have more than 32 years experience assisting trial attorneys and corporations in some of the most high profile cases in the areas of torts, products liability, complex business litigation, intellectual property, employment and most other areas of practice.

The firm provides support for many state and national professional organizations, including the American Bar Association, American Psychological Association, American Society of Trial Consultants, and the Association of Corporate Counsel. Dr. Waites is the author of the new book, [\*Courtroom Psychology and Trial Advocacy\*](#), published by American Lawyer Media.

For questions about the subject of this article, the authors can be reached by email at [rwaites@theadvocates.com](mailto:rwaites@theadvocates.com) or [czarling@theadvocates.com](mailto:czarling@theadvocates.com) or toll-free at 1.877.621.1098.

**THE ADVOCATES**  
TRIAL & ADVOCACY SCIENCES