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# **The Predictive ability of Psychological Constructs upon Verdict Outcome:**

**A Latent Profile Analysis of Juror Decision Making**

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# Rape & The English CJS

## Ministry Of Justice (2015)

- ❖ 34,741 Cases Recorded by Police
- ❖ 3,851 Cases Proceeded to Court Stage  
< 11% of total reported
- ❖ 1,297 Cases – Defendant Convicted  
< 4% of cases reported

\*\* UK Home Office estimates: 60,000 – 95,000 Rapes per year

# Rape Attrition

## 1. *Decision to Report*

Victim may never report - e.g. relationship to offender, fear disbelief, 're-raped'

## 2. *Investigation Stage*

Suspect never detected, police drop due to lack of evidence or victim withdraws

## 3. *Discontinuation by Prosecutors*

CPS decide not enough evidence to secure conviction, e.g. consent contested or victim not considered credible

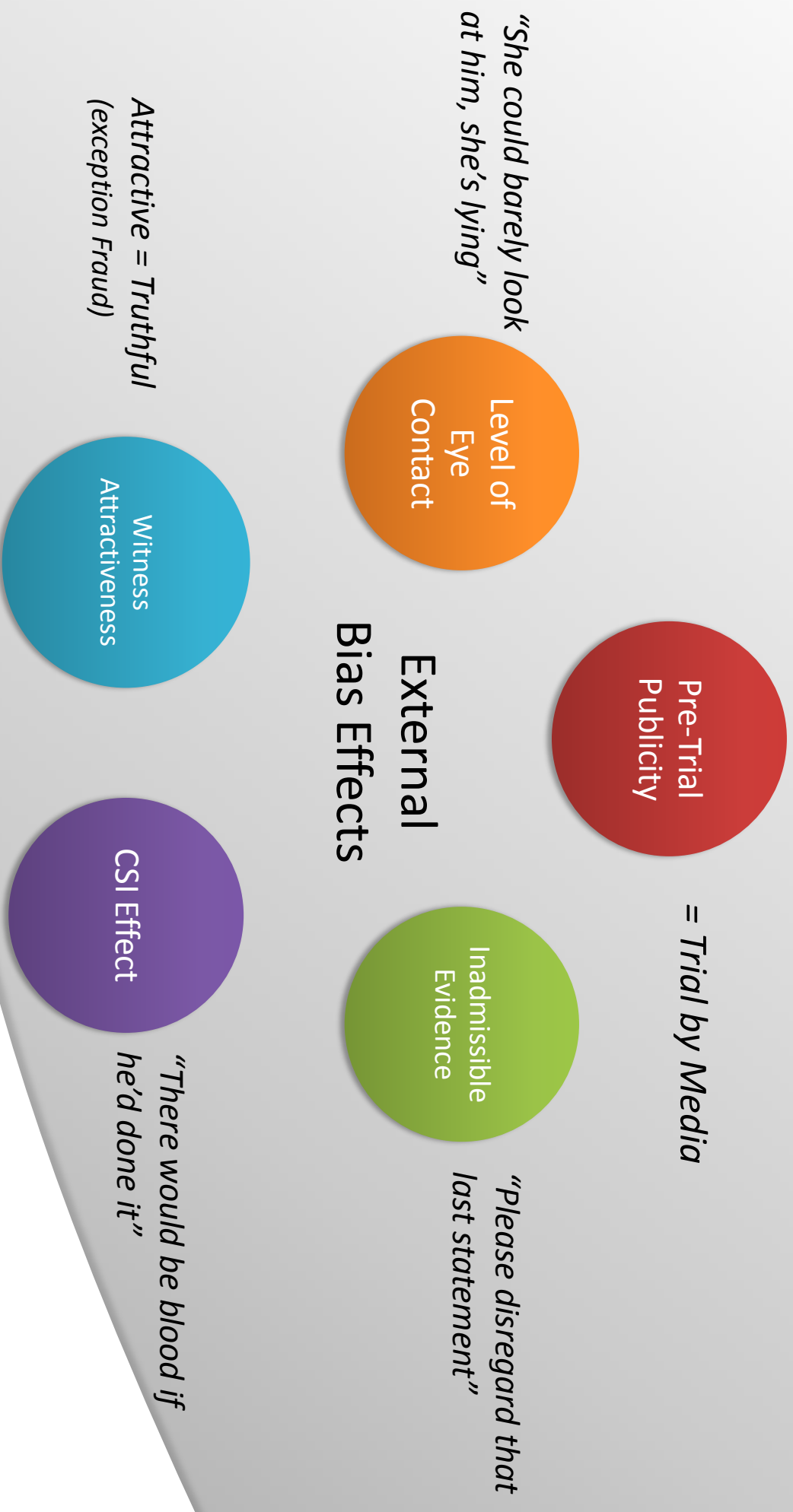
## 4. *Trial*

Judge dismissal or more likely **Jury decide Not Guilty**

# Jury Trials – E&W

- ❖ **12 Lay Jurors** make verdict decisions in isolation
- ❖ **Judges role:** provide legal directions only
- ❖ **Eligibility Criteria**
  - Inc. criteria: 18-75 & registered voter
  - Exc. criteria: serious mental health issues / criminal convictions
- ❖ **Randomly Selected**
  - Local electoral register
  - No Pre-trial Questioning or Peremptory Challenges – *Criminal Justice Act, 1988*
- ❖ Jurors **prohibited from discussing case** post-trial – *Contempt of Court Act, 1981*
- ❖ **No Justification** for verdict required
  - So Jury Decision Making must work just fine then...

# Jury Bias Research



*Daftary-Kapur et al, (2010)* Assumption that jurors process cases in rational & unbiased manner, largely inaccurate

# Jury Bias Research

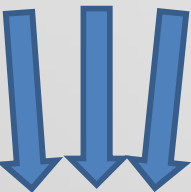
- ❖ However the role of *implicit bias* deriving from individual juror characteristics and psychological constructs - less well documented
- ❖ Research has produced mixed findings of a relationship between the person you are and the verdict decision individuals make
- ❖ Dominant theory maintains the strength of the case and sway of the evidence to have the greatest effect upon verdict inclinations (*Pennington and Hastie, 1992*)
- ❖ However as Ellsworth (1993) points out – where individual jurors form *different conclusions despite hearing the same testimony* in a case, evidence alone is unlikely to be the main factor impacting verdict choices

# Juror Characteristics & Decisions

## ❖ Demographics

- Age, Gender, SES, Race, Occupation – mixed findings
- Older Males → More Conviction Prone

## ❖ Broad Personality Characteristics

- High Authoritarianism
  - Internal locus of control
  - Just World Belief's
- 
- Greater Likelihood of Conviction

## ❖ Crime Specific Attitudes

- Directly related to crime - thought to be greatest predictor of verdict preferences
- High RMA → N.G verdicts (*Dinos et al, 2014*)

- ❖ However, despite some support, overall personality characteristics and demographics appear inconsistent & weak predictors of verdict outcome



# Present Rationale

- ❖ Constructs examined in past research generally favour examining broad world views and neglect intuitively important aspects of JDM

E.g.

- Emotional Responsiveness & Empathic understanding
- Desire to be in control, ability to manipulate others & egocentricity
- Need for peer acceptance, inclusion & self-esteem

- ❖ Most research conducted in North American context – few explorations within legislatively restrictive English context

- ❖ Explorations of JDM often significantly lacking in Ecological Validity
  - Far removed from trial context / environment conducted
  - Written format, too brief

# Study Aims

To investigate if there is any relationship between psychological traits, crime specific attitudes and jury decision making, within rape trials;

1. Whether there is **any relationship between** the dimensions of **Psychopathy, Rape Attitudes**, and **Self-Esteem**, with **jurors initial verdict decisions**.
2. Where a relationship exists, is this consistent **post deliberation**.

# Methods

## Live Trial Simulation

### Participants

- ❖  $N = 108$  (9 x 12 person jury panels)
- ❖ Systematic Random Sample
  - Age range 18 – 73 ( $M = 45.00$ ,  $SD = 15.75$ )
  - 51% females & 49% males
- ❖ Electoral Role – Random Comp Generation
- ❖ Jury Eligibility Assessed



# Methods

## Measures – Completed upon arrival

- Demographics questionnaire
- Psychopathic Personality Traits Scale (PPTS) – *Boduszek et al (2016)*
- Acceptance of Modern Myths About Sexual Aggression Scale (AMMSA) – *Greger et al (2007)*
- Self Esteem Scale – *Rosenberg (1989)*

## Completed *Post-trial*

- Verdict Decision Sheet 1 & 2



# Methods

## Trial Simulation Procedure

- ❖ Live trial re-enactment (Lawyers / Actors)
- ❖ Based on genuine case - Evidentially neutral content
- ❖ 'Jurors' observed trial in mock courtroom – 1 full day
- ❖ Instructions given by the judge
- ❖ Pre-deliberation verdict decision
- ❖ Deliberate as group
- ❖ Post-deliberation verdict decision



# Descriptive Results

**Table 1.** *Individual Juror Decisions Pre and Post Deliberation*

	Individual Verdict Decision 1		Individual Verdict Decision 2	
	Not Guilty	Guilty	Not Guilty	Guilty
Acquaintance				
Rape Case	78.8%	21.2%	85.9%	14.1%

- ❖ 13% of ‘jurors’ changed verdict decision after exposure to deliberation
- ❖ Worryingly – 92% of those who changed stated they voted for a verdict other than for the one they actually believed
  - N = 9 (69%) – Thought defendant to be Guilty but voted N.G.
  - N = 4 (31%) - Thought defendant to be Not Guilty but voted G.

# Analysis - Inferential

## Binary Logistic Regression



## Latent Profile Analysis

Table 1. *Fit Indices for the Latent Profile Analysis of the Four Psychopathy Factors of PPTs*

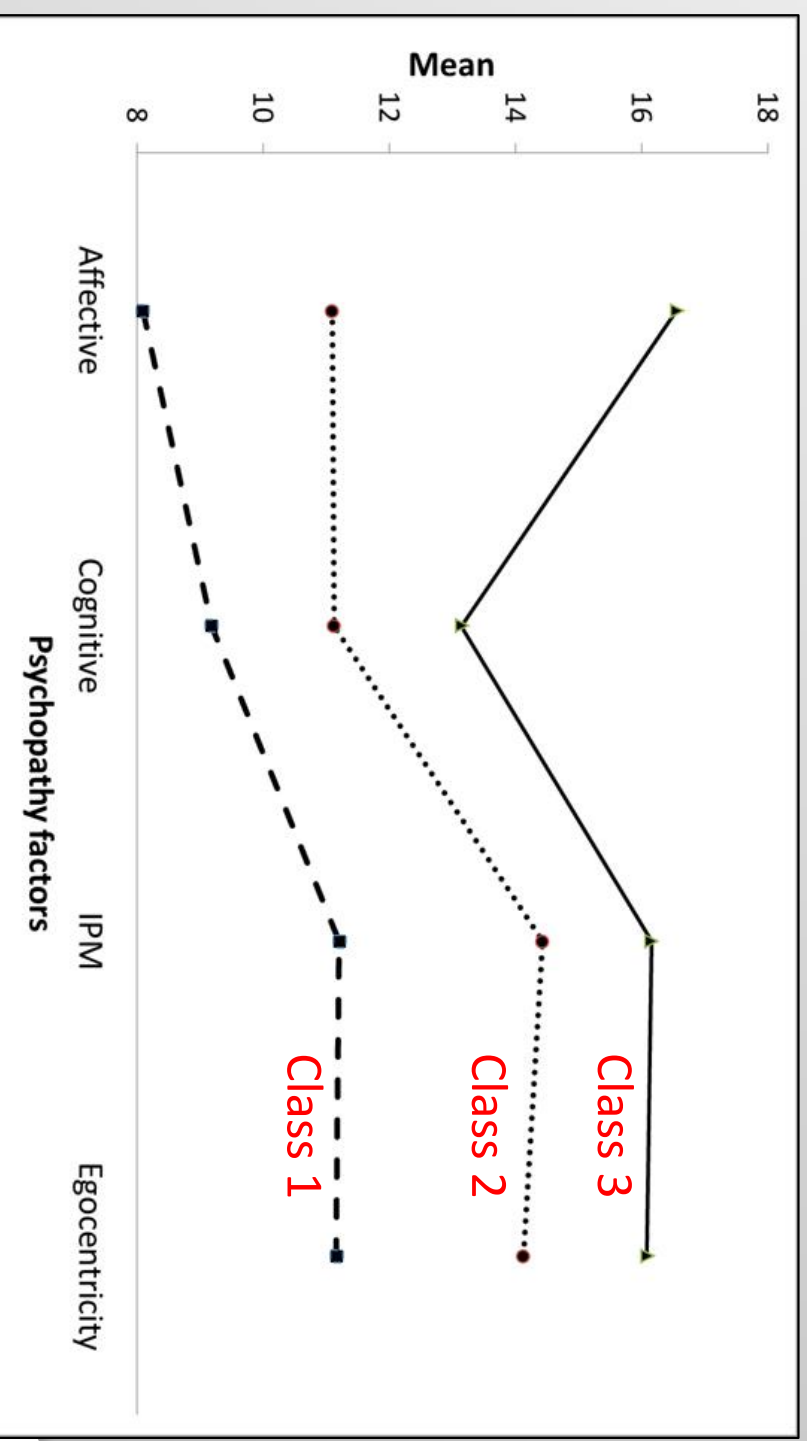
Model	AIC	BIC	SSA-BIC	LRT	p	Entropy
1 class	2066.35	2087.11	2061.84	N/A	N/A	N/A
2 class	2030.51	2064.25	2023.19	43.93	< .001	.850
3 class	2011.70	2058.42	2001.57	27.60	.034	.746
4 class	2005.32	2065.01	1992.37	15.70	.158	.876

Note. AIC = Akaike information criterion; BIC = Bayesian information criterion;

SSA-BIC = sample size adjusted BIC; LRT = Lo-Mendell-Rubin's adjusted likelihood ratio test.

# Analysis - LPA

Figure 1.  
*Latent Profile Analysis Plot of  
Psychopathy in Live Trial  
Sample*



- ❖ Evidence of **3 distinct PPTS Profiles** within juror population
- ❖ Subsequent MLR – Displayed **Class 3, sig. more likely to return NG verdict than Class 1**
  - ❖ Key finding - This was consistent both pre-deliberation & post-deliberation



# Implications & Applications

- ❖ Evidence of relationship between psychological constructs and verdict outcome, draws into question CJS practices e.g. **how impartial are jurors really?**
- ❖ The need to overhaul legislative restrictions to allow for greater questioning of jurors is highlighted
- ❖ Possibility making a case for 'screening out' jurors whose characteristics predispose them towards certain verdicts
- ❖ Main Outcome & Objective – Ensure jury trials & verdict decisions are fair for both victims & defendants
- ❖ **Future research**
  - ❖ Test the effect upon verdicts when screening techniques employed
  - ❖ Does the predictive relationship hold up in other cases, homicide / DV?

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# Rape & Jury Trials

## Ministry Of Justice (2015)

- ❖ 2,257 Tried before a Jury (e.g NG Plea)
- ❖ 834 Guilty Verdict Returned
  - Around 1 in 3
- ❖ 1,423 Not Guilty Verdict Returned
  - Around 2 in 3

\*\*Only a 37% Chance of being convicted if plead NG and opt for trial by jury