

Psychology & Trial Evidence – Head vs. Heart:

Head vs. Heart Strategy:

One of the first tactical decisions made by an attorney revolves around whether the presentation of evidence should be aimed at the cognitive level (head) or emotional level (heart), the decision is based on a number of variables including:

- **Trier of Fact** - Cognitive approach is most often selected when the judge is the trier of fact. In cases of a jury, either approach may be effective
- **Level of Emotional Content in the Trial** - Suggested that the higher the level of the emotional content (e.g. children, vulnerable individuals, vivid impact) the more likely an emotional presentation will be successful
- **Jury Demographic** - Suggested that the composition of the jury may dictate the approach (e.g. business professionals, front-line human service providers = cognitive; social work, teachers = emotional)
- **Defendant/Victim Appeal** - Suggested that less appealing individuals may indicate that a cognitive approach is better suited

Psychology & Trial Evidence – Attorney Tactics:

Attorney Tactics:

Heavily based on the importance of narrative and may be manipulated by:

- **Vivid Language** - The inclusion of vivid language is based on the input bias from the social cognition model and suggests that jurors will give more cognitive weight to vivid information (e.g. he lunged at me vs. he came toward me)
- **Repetition** - Based on cognitive and social psychology principles (e.g. mere exposure effect)
- **Loaded Questions** - Based on cognitive psychology principles and suggests that one may be able to subtly "implant" a particular concept in a person through the phrasing of the question (e.g. "did you see the broken window when you walked into the store?" indicates that the window was broken)
- **Subtle Shifts in Wording** - Based on cognitive and social psychology principles and employed to subtly impact the meaning for a sequence of events (e.g. "he decided to sit with her" vs. "he decided to sit near her")
- **Definitional Tactics** - Words and/or images employed by attorneys to "assist" jurors with how to define ambiguous concepts (e.g. not guilty question, beyond a reasonable doubt question)
- **Establishing and Disrupting Connections in the Stories Being Told** - Employed to assist jurors to see a smooth narrative in a witnesses story of across the evidence or to disrupt the smoothness of the story

Expert Evidence:

Expert Evidence:

In some instances, the court or one of the parties will request that evidence be provided to the trier of fact by an expert that may testify on opinion

- **Legal Standard:** The qualification of an expert witness generally involves a three-part test:
 - The subject matter is so complex or technical that it is beyond the ken of the average person
 - The witness must be qualified to speak to the issue at hand
 - There must be scientific acceptance of the information presented by the witness
- **Psychological Contribution:**

Topic 3 - Crime Rates: Objective & Subjective

Learning Objectives:

- Introduction
 - Sources of Objective Crime Rates
 - Subjective Perceptions of Crime & Rates
 - Fear of Crime Theories
 - Cultivation Theory
 - Cognitive Theory
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Introduction:

- Importance of examining the relationship between objective and subjective reality (e.g., increased patrols in the UK study)
- Importance of understanding why we need information on crime rates
- Is objective or subjective crime information more important? (subjective - how much you think there is)
- Does a crime have to be perceived to exist?

Sources of Objective Crime Rates:

- **Public experience** - surveys which ask people to estimate their experiences of crime during a specified time period
- **Police Records** - includes crime reports as well as recorded crimes
- **Court Statistics** - composed of data on the number and type of court cases
 - May not be having some people in court
- **Prison Statistics** - composed of data on the number of prisoners and the crimes for which they were sentenced
 - If it isn't done per cap - Tasmania will have more than Victoria
- **Offender Surveys** - gather information on number and type of offences committed

Objective Crime Rates:

General Challenges:

- Definitions of crime
- Accurate Recording (cite non-recording, missing persons)
- Multiple Recording - e.g. 1 person charged with 6 offences for the same act
- Crime based versus person based - records number of crimes rather than number of people committing crimes

Subjective Perceptions of Crime & Rates:

- Are often very different from actual (objective) crime rates
- Are very important for a variety of lifestyle decisions such as where to live, where to visit, where to go to school
- Are heavily influenced by "framing"

Fear of Crime Theories:

Why are people afraid of crime?