Trial by Anxiety: Effects of Nervous Demeanour and Level of Evidence on Mock Jurors' Decisions

Michael Miller
Edith Cowan University
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Trial by Anxiety: Effects of Nervous Demeanour and Level of Evidence on Mock Jurors' Decisions

Michael Miller

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Faculty of Health and Human Sciences, Edith Cowan University

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Abstract

Pryor and Buchanan (1984), using participants drawn from jury venires, showed that persons exhibiting a moderately anxious demeanour were found guilty more often than those with a low anxiety demeanour when evidence presented was balanced. In a study that used three levels of evidence (pro-acquittal, balanced and pro-conviction) and two levels of demeanour (apparently deceptive and control) Hendry, Schaffer and Peacock (1989) found that the demeanour bias only occurred at the pro-acquittal level of evidence. They had not used a criminal offence and did not provide judges instructions. Additionally conviction rates at all levels of evidence in the control condition when demeanour was manipulated increased substantially indicating that evidence levels were all being treated as pro-conviction. The present study was designed to replicate the study by Pryor and Buchanan and extend it to the three levels of evidence used by Hendry, et al. Participants were 120 (69 female, 51 male, mean age $M = 38.76$) jury eligible members of the general population randomly allocated as mock jurors to a $2 \times 3$ (demeanour x evidence) experimental factorial design. The two levels of demeanour were low anxiety and moderate anxiety while the three levels of evidence were pro-acquittal, balanced and pro-conviction. Log linear analysis was performed on dichotomous guilty / not guilty verdicts. The analysis ended with a significant overall model $\chi^2 (4, N = 120) = 5.32, p = .256$ this indicated the data was a good fit to the model. The interactions that remained as significant contributors to the model were verdict x evidence $LR \chi^2 (2, N = 120) = 29.2, p < .0000$, and verdict x demeanour $LR \chi^2 (1, N = 120) = 11.18, p = .0008$. Because all variables were entered together they constitute main effects for evidence and demeanour. These results showed that persons
exhibiting a moderately anxious demeanour were found guilty more often across all levels of evidence than persons exhibiting a low anxiety demeanour.
Declaration

I certify that this thesis does not incorporate, without acknowledgment, any material previously submitted for a degree or diploma in any institution of higher education and that, to the best of my knowledge and belief, it does not contain any material previously published or written by another person except where due reference is made in the text.

Signature: ________________

Date: 31-10-97
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Table 4

Counts of comments regarding demeanour for all participants ordered by verdict and level of anxiety.
Trial by Anxiety: Effects of Nervous Demeanour and Level of Evidence on Mock Jurors' Decisions

Trial by jury as a right rather than a privilege was provided by the Magna Carta in 1251 (Forbes & Sommer, 1972). Originally juries were made up of local men who would be expected to know the accused. The juries' task was to "say the truth" based on their knowledge of the accused and local affairs. When you know someone and are aware of their everyday demeanour and how they cope in stressful situations it is likely you will be able to tell if they are being deceptive. The Latin word used in these early trials was verdiction meaning "truly said". This early function of the jury is reflected in the modern term verdict. The law has undergone many complex changes over the centuries, and from these rules have evolved regarding procedure and evidence (Forbes & Sommer). Many of these have contributed to the current central policy concern that innocents must not be convicted (Law Reform Commission, 1985).

Due processes of the law, its rules and procedures, are considered to address this concern. The judge's function is to maintain these rules and procedures and decide on points of law. Whilst the modern juror is required to develop an understanding of these procedural limitations, particularly with regard to evidence, that may arise during a trial. It is required of jurors that they learn to work within these restraints and also be able to dismiss biases that may arise. An additional difficulty for a juror is that they are not usually allowed to make notes and do not receive transcripts of the proceedings. Thus they must depend on memory. The law recognises that in these circumstances it is possible that jurors will turn to sources of information other than the facts of the case presented and admitted. "We all develop some opinions based upon observations that we
do not consciously apprehend, and therefore, cannot describe. Opinions of another
person’s character are of this kind” (Law Reform Commission, 1985, p.218). A concern
of the current legal system is that indications of bad character are not admitted as
evidence. To counter this a rule of evidence is that, generally, evidence of a person’s bad
character should not be admissible as it can extend beyond the facts of the case.

Wigmore, who is quoted by the Law Reform Commission, illustrates this. “The deep
tendency of human nature to punish, not because our victim is guilty this time, but
because he (sic) is a bad man and may as well be condemned now that he is caught, is
a tendency that cannot fail to operate with any jury, in or out of the court.” (Law Reform
Commission, 1985, p.445). The changes over the centuries have meant that today jurors
are considered to be “triers of fact” who preferably have no personal knowledge of the
accused. The “trier of fact” has never seen the accused before the trial and is unaware of
the person’s normal demeanour. The “trier of fact” is also ignorant of how the accused
will behave when under stress.

Pryor and Buchanan (1984) have suggested that jurors could mistake behavioural
cues caused by stress, for cues that suggest a deceitful demeanour. Kelley (1950)
provided a possible reason for this misinterpretation. Kelley was able to demonstrate that
any behavioural information, gained about a person through observation, was
consistently interpreted in light of the original evaluation made of that person. In
Kelley’s study the original evaluation was based on knowledge that the person had either
a warm or a cold character. It would follow from this that the initial impression of a
person charged with a serious crime could effect the interpretation of subsequent
non-verbal behavioural cues.
Ekman (1992) speculates that identifying deceitful behaviour still remains an integral part of the function of trial by jury and both judges' and jurors' benefit from seeing the way that the accused person presents him or herself. The question then arises; can a mock juror reliably identify deceit? If deceit can consistently be identified from behaviour then this ability would remain an important function of trial by jury. If not then it is possible a bias is created against those whose behaviour is mistakenly considered to be deceitful. In 1981 Pryor and Leone identified six behaviours that lay people associate with lying or deceptive communication. These were lack of eye contact, speech errors, backward lean, trunk swivel, excessive leg movement and body rocking. Burgess (1987) identified these same behaviours as signs of nervous demeanour in public speakers. Burgess further identified fidgeting or restricted movement, word repetition, loss of pitch control and hesitation of speech followed by a rapid delivery as other behaviours that indicate a nervous demeanour to an audience.

Hess and Kleck (1994) investigating facial behaviour have shown that individuals do consider they can tell if a target person is lying, and that individuals can accurately report the behaviours they use to rate a targets' honesty or dishonesty. Hess and Kleck concentrated on facial cues in their study. They secretly filmed a genuine expression of happiness or disgust while a subject was reliving an experience or when participants were shown video materials that had been previously demonstrated to elicit reliably happy and disgust responses. They also asked participants to pose episodes of happiness or disgust. Other participants who were presented with posed and spontaneous episodes differentiated between the episodes at a level no better than chance. Ekman and O'Sullivan (1991) and Littlepage and Pineault (1978) also found that observers could not detect deception, at a level greater than chance, whilst viewing an interviewee's facial
expressions. Prior to their main study Hess and Kleck provided participants with photographs of target persons to be rated as having either honest or dishonest faces.

During the main study participants considered those they had picked as honest as continuing to be honest even when posing. These studies suggest that observers considering facial behaviour can report accurately and consistently the cues they use to differentiate real from posed expressions. However observers using these cues identify the expressions at levels no better than chance and are subject to impression formation (Kelley, 1950) induced demeanour biases.

Another area that is considered to provide cues to deception is the pitch and tone of voice. Zuckerman, DeFrank, Hall, Larrance and Roseenthal (1979) secretly recorded participants’ spontaneous facial expression whilst they were either truthfully or deceptively providing answers to questions such as “what is your attitude toward the legalisation of Marijuana?” In a subsequent posed situation the participants were asked to answer the same question but now communicate with their facial expression that they were telling the truth in the truthful situation or that they were being deceptive in the deceptive situation. Zuckerman et al. then produced audio only presentations where content was masked electronically to make its meaning unintelligible whilst maintaining tonal and pitch quality. When participants were being spontaneously deceptive, the mean accuracy based on vocal cues was significantly below chance at $M = .476$. However, when participants used vocal cues to signal they were being deceptive accuracy rose significantly above chance ($M = .535$). The ability to identify spontaneous honest behaviour from signalled honest behaviour produced means whose values were significantly above chance ($M = .56$, and .590) respectively. This indicated a sharing of the meaning of these cues by participants but not an ability to detect deceit when it was
hidden. This experiment by Zuckerman et al (1979) indicated it is unlikely that a juror would be able to detect deception from the pitch or tone of voice at levels above chance.

Porter and Yuille (1996) identified 18 verbal indicators that people use as an identification of deception. These were; amount of detail supplied, coherence, spontaneous reproduction, unexpected complications, unusual details, peripheral details, related external associations, a subjective mental state, spontaneous corrections, admitting lack of memory, verbal hedges, self-references, number of words used, pauses, unnecessary connectors, pronoun deviations, component elements and lexical diversity. In their experiment Porter and Yuille told participants they should go to a certain office and retrieve a file for their professor, but to test the security system they were to avoid being seen. A second group of participants were told to go to a certain office, unseen, search it and find a $100 note that was hidden there. Upon return they were told that as a final test of security they would be interviewed by the new security officer regarding the theft of a $100 note from the office. They were either instructed to tell the truth, practice partial deception, provide a false alibi, or provide a truthful alibi in the case of those sent for the envelope. All participants were offered a $5 bonus if they could convince the interrogator that they were reporting truthfully. From this design some participants were actually being honest and some actually being deceptive. It could be argued however that these participants were still really only pretending to be deceptive and they had no real motive to hide any deception. Experts, trained to identify the 18 behaviours thought to predict deception, then analysed the interrogations. Porter and Yuille found that only three of the eighteen behaviours significantly differentiated truthful from deceptive accounts. These three were the amount of detail reported, level of coherence, and admitting a lack of memory. The studies discussed have confirmed
that jurors are unable to accurately identify deceitful behaviour using non-verbal cues. As far as the law is concerned, if the juror has considered only the legally admissible evidence there is not a problem. Psychologists have shown that jurors may use some evaluations based on non-verbal behaviours or characteristics in conjunction with admissible evidence to arrive at decisions. These evaluations are known by psychologists as extra legal biases (MacCoun, 1990).

A meta analysis by Mazzella and Feingold (1994) identified 80 North American studies that showed the decision reached by mock jurors can become different when extra legal biases are present. As discussed previously, decisions by juries should be reached exclusively from admissible evidence that has been presented during the course of the trial. The meta analysis of extra legal biases by Mazzella and Fiengold suggests, however, that personal attributes such as the race, physical appearance, socioeconomic status or gender of the accused may affect a mock jurors’ decision. Mazzella and Fiengold have speculated that these factors often covary with criminality. They pointed out that blacks, the poor, and the unattractive are over represented among perpetrators of crime in North America. Therefore jurors may consider these factors relevant indicators of criminality even though they may be unaware of the process of evaluation they used in arriving at their decision. As previously discussed evaluating the non-verbal behaviours of an accused person who is under stress may lead to the mistaken belief that the person is deceitful.

In Florida USA jurors are often instructed by the judge to evaluate the demeanour of an accused person to decide what weight to give to her / his testimony. Pryor and Buchanan (1984) approached jury venires and asked them to participate in a study on the use of technology in the legal system. Participants were told they would be
testing whether pre-recorded cross-examinations could be used in the court system. The mock jurors were to provide a verdict regarding the offence of breaking and entering a drug store with intent to commit a felony. The evidence was presented to the mock jurors by giving them ten minutes to read a two-page summary of the case. Two pages of evidence that contained the arguments for the prosecution and the defence were then provided. After mock jurors had read these materials they viewed a videotape that used a stationary camera to show the full face and torso of the accused as he answered questions from both defence and prosecuting lawyers. Lawyers were heard but not seen by mock jurors. The evidence presented to mock jurors was circumstantial and a matter of identity, that is, was it the accused who committed a known crime? Evidence had previously been pilot tested on a different group of participants it was found to provide a 50% conviction rate and thus defined as balanced. The evidence was not manipulated during the videotape; rather the videotape was used to manipulate the demeanour of the accused. Written judges instructions were provided to mock jurors just prior to them making a decision.

Four levels of demeanour were provided. The first of these was a control condition where mock jurors simply read the written evidence and did not view the videotape. The other three involved viewing the videotape at different levels of anxious demeanour. These three levels were achieved by varying the number of non-verbal behaviours that occurred. Three types of non-verbal behaviours were used. These were bodily self-manipulation, eye contact, and speech non-fluencies. The length of time the accused spent in self-manipulation varied from 2 seconds in the low anxiety condition, to 30 seconds in the moderate anxiety condition, and 190 seconds in the high anxiety condition. The amount of time the accused maintained eye contact with the camera was
varied from 154 seconds in the low anxiety condition, to 84 seconds in the moderate anxiety condition and 12 seconds in the high anxiety condition. The number of verbal non-fluencies exhibited by the accused varied from 9 in the low anxiety condition, to 28 in the moderate anxiety condition and 85 in the high anxiety condition.

Pryor and Buchan (1984) found a significant main effect for level of guilty verdicts, $X^2(3, N = 145) = 5.81, p < .02$ which showed that participants who viewed the moderate anxiety condition returned more guilty verdicts (25 guilty to 13 not guilty) than participants viewing the low anxiety condition (14 guilty to 23 not guilty). No other differences were significant. The control level, using vignettes, produced 14 guilty to 14 not guilty verdicts and the high anxiety level 20 guilty to 22 not guilty verdicts. This study indicates that mock jurors exhibit a bias against an accused with a moderately anxious demeanour.

Hendry, Schaffer and Peacock (1989) performed another study into demeanour. Unlike Pryor and Buchanan (1984) Hendry, et al. used introductory psychology university students as participants. In contrast to the study by Pryor and Buchanan this study did not use a criminal offence, rather participants were told that they would be evaluating testimony from a student judiciary hearing. The hearing regarded cheating in an exam and the participants were asked to determine if they could reproduce the verdict rendered by the officer who had supervised and decided the case. Hendry, et al, did not include judge’s instructions.

The evidence was presented to the mock jurors through written transcripts of the three witness’s testimonies. The participants then viewed videotape of the accused providing his version of the facts in a narrative fashion. The evidence was not manipulated during the videotape presentation. As with Pryor and Buchanan (1984) only
demeanour was manipulated on the video and not the evidence. However, unlike Pryor and Buchanan who used four levels of demeanour, Hendry, et al. (1989) manipulated only two levels of demeanour. These two levels are similar to those levels termed as low and moderate anxiety by Pryor and Buchanan. The expressed aim of the demeanour manipulation in the study by Hendry, et al. was different to that used by Pryor and Buchanan. The aim of Hendry, et al. was to produce a control demeanour were the accused appeared calm and confident and an apparently deceptive demeanour where the accused appeared anxious such that the viewer might consider the accused to be less truthful and sincere than the control accused. Hendry, et al. Performed one-way ANOVA's on two 9-point measures (sincerity and truthfulness). Both revealed significant differences in the means for the levels of demeanour (sincerity item $F(1, 22) = 11.09, p < .01$ and truthfulness item $F(1, 22) = 23.52, p < .01$). Participants considered the accused with the control demeanour more sincere ($M = 5.0$) than the accused with an apparently deceptive demeanour ($M = 3.33$) They also considered the accused more truthful when exhibiting the control demeanour ($M = 5.25$) than when appearing to be apparently deceptive ($M = 2.25$). Hendry, et al. considered that the pilot studies confirmed that their aim had been achieved. Hendry, et al. had intended that participants would be uncertain about the veracity and reliability of the accused shown in the control demeanour condition.

The non-verbal behaviours manipulated were the same as those manipulated by Pryor and Buchanan (1984) and were self-manipulation, eye contact, time and frequency of verbal non-fluencies. The moderately anxious demeanour manipulation by Pryor and Buchanan used 30 seconds self manipulation, 84 seconds eye contact time and 28 occasions of speech non-fluencies during 181 seconds deposition length. The
manipulation that provided an apparently deceptive demeanour for Hendry, et al. (1989) contained 6 seconds of self manipulation, greater than 174 seconds of eye contact time and 8 speech non-fluencies in a deposition that lasted 180 seconds. Hendry, et al. did not state what was happening in the video when these behaviours took place. Hendry, et al. did confirm that the accused appeared calm most of the time and experienced periodic situational stress. It appears that the difference in the perceived outcomes of participants from moderately anxious to apparently deceptive can be explained by the difference in volume and timing of the non-verbal behaviours.

Unlike Pryor and Buchanan (1984) this study manipulated the evidence that was provided via the written documentation. Three levels of evidence were presented. A balanced level of evidence as used by Pryor and Buchanan, and two other levels that were pro-conviction and pro acquittal. Pilot testing by Hendry, et al. (1989) using a 9-point scale, with a mid-point of 5, produced a significant effect for strength of evidence \( F(2, 31) = 5.24, p < .05 \). Participants were uncertain regarding the guilt of the accused in the balanced condition (\( M = 5.4 \)). In the pro conviction condition participants tended to say the accused was guilty (\( M = 6.7 \)), and in the pro acquittal condition participants favoured not guilty (\( M = 3.83 \)). Hendry, et al. did not report post hoc test results however the means reported indicate the manipulation was successful. The levels of evidence as per the written vignettes had been shown in the pilot study to vary as expected. However in the experiment with the demeanour manipulation present this was no longer the case. Hendry, et al. reported a main effect for strength of evidence as marginally significant \( F(2, 114) = 2.85, p < .10 \). The statistic reported does not indicate a significant effect. The means that the statistic was based on are Pro-conviction (\( M=7.7 \)), Balanced (\( M=7.32 \)), and Pro-acquittal (\( M=6.93 \)). These means indicate that the evidence
manipulation did not function as intended once demeanour was introduced. This indicated that, in the opinion of the participants, all the evidence presented in the experiment was pro-conviction. The difference in results for the manipulation of evidence between the pilot study with a written vignette carried out by Hendry, et al. and the results obtained with the demeanour manipulation in the experiment were not addressed by Hendry, et al.

Hendry, et al (1989) provided a possible explanation, for the shift that occurred when the demeanour manipulation is introduced, when discussing truthfulness and sincerity. During their pilot study, of the perception of truthfulness and sincerity for the control demeanour, participants rated means of 5.25 and 5 on a 9-point scale with a mid-point of 5. This indicated that participants were not at all sure that this person was either truthful or sincere. This being the case it is possible that participants considered both treatments of demeanour as deceitful and thus Hendry, et al. measured the same condition from two different perspectives. The ice cool deceiver who does nothing to give themself away and the not so skilled deceiver whose non-verbal behaviour gives him away. By contrast in the Pryor and Buchanan (1984) study the number of convictions for low anxiety demeanour drop below the pilot level, from 50% guilty and 50% not guilty in the pilot study to 37.8% guilty and 62.2% not guilty in the experimental condition. Zuckerman et al. (1979) found that when participants sent cues that they were being deceitful observers performed at higher levels than chance in picking them up. This is essentially what happened in the study by Hendry, et al. (1989). The actor was instructed to appear deceitful and sent appropriate signals to the mock jurors. This overwhelmed the evidence and the guilt rating, at the pro-acquittal level of
evidence, rose from a not guilty vote ($M = 3.83$) in the pilot study to a guilty vote ($M = 6.93$) in the experimental manipulation.

Hendry, et al (1989) did not use a guilty/not guilty verdict as the dependent variable. They chose as their dependent variable two measures. The first asked for the participants’ personal impression of the accused probable guilt on a 9-point scale from $1 = \text{very unlikely guilty;}$ through $5 = \text{uncertain;}$ to $9 = \text{very likely guilty.}$ The second asked for their verdict if they were trying this case, again on a 9-point scale from $1 = \text{definitely do not convict;}$ through $5 = \text{uncertain;}$ to $9 = \text{definitely convict.}$ These two measures were found to be highly correlated ($r = .88, p < .01$). MANOVA conducted on participants’ guilt ratings and verdict recommendations produced three significant outcomes: a main effect for strength of evidence, $F(4, 226) = 6.75, p < .01;$ a main effect of testimonial demeanour, $F(2, 113) = 11.74, p < .01;$ and a Strength of Evidence x Testimonial Demeanour interaction effect, $F(4, 226) = 2.82, p < .05.$ Subsequent univariate analysis of participants’ assessments of the defendant’s probable guilt produced the same three significant effects that emerged from the MANOVA. The main effect for strength of evidence, $F(2, 114) = 14.75, p < .01,$ reflects the findings that the defendant was judged as more likely guilty in either the pro-conviction evidence condition ($M = 8.03$) than in either the balanced evidence ($M = 6.45$) or the pro-acquittal evidence condition ($M = 6.13$). Examination of the main effect for testimonial demeanour, $F(1, 114) = 14.68, p < .01,$ revealed that participants thought the apparently deceptive defendant more likely to be guilty ($M = 7.43$) than the calmer and more confident control defendant ($M = 6.03$). Hendry, et al found an interaction emerged between strength of evidence and demeanour. $F(2, 114) = 5.76, p < .01.$ Participants judged, when the evidence presented was pro-acquittal, that the apparently deceptive
accused was more likely guilty ($M = 7.45$) than the accused with the control demeanour ($M = 4.8$). Demeanour did not have a meaningful effect on participants’ assessment of the accused when the evidence was balanced or pro-conviction.

Hendry, et al. (1989) had not provided judges instructions outlining that jurors must be satisfied beyond reasonable doubt in their verdict. Pfeiffer and Ogloff (1991) had shown that these instructions, when included, could be powerful enough to eliminate bias caused by the increased saliency of the manipulation due to shortened version of a real trial. Hendry, et al. chose to use cheating at a university make up exam rather than a criminal offence. Kaplan (1994) considers that the higher the severity of punishment that can be received for an offence the more likely it is that a juror will provide a not guilty verdict given the same amount of evidence. The Law Reform Commission (1985) considers that the more heinous the offence the more evidence required by jurors to enter a guilty verdict. This suggests that had Hendry, et al given judges instructions and used a criminal offence the participants may have been more reluctant to find the accused guilty.

Both Pryor and Buchanan (1984) and Hendry, et al. (1989) used the mock juror paradigm for their studies. Landy and Aronson introduced the mock juror paradigm in 1969. Since its inception it has been used in numerous studies. The mock juror study requests that participants cooperate by imagining themselves as a juror. Materials that describe a criminal case are then presented to the individual mock juror in various formats such as vignettes, videotapes, and audiotapes. The particulars of the case such as the characteristics of the accused, the victim, and witnesses or the facts available are then varied to assess the effects of these manipulations on the mock jurors decision regarding either guilt/innocence or level of punishment.
Mazzella and Feingold (1994) comment that mock juror research is often considered simplistic and lacking in ecological validity. They make this comment base on the premise that the mock juror paradigm often uses brief presentations that may inflate the saliency of the manipulation of the extra legal bias. Another criticism is that the experimental manipulations of extra legal biases in the mock juror paradigm are unduly potent either because judges instructions are omitted (Pfeiffer & Ogloff, 1991) or extremely brief scenarios are used that tend to inflate the impact of the extra legal biases manipulated (Baumeister and Darley, 1982). In an actual jury situation social interaction takes place and has the effect of exposing extra-legal biases to scrutiny thus weakening their potency. Weiten and Diamond (1979) found this was the situation and argued it is therefore inappropriate to examine the decision of a juror in isolation. Other concerns raised regard the fact that whilst entering into the spirit of the mock trial the mock juror is not actually making a decision that will result in another person possibly receiving a long prison sentence. Furthermore when an actor portrayed a role in courtroom simulations were they actually being deceitful as they had not committed a real crime or were not committing perjury in the case of the witness.

In contrast to the findings mentioned above, Kramer and Kerr (1989) were able to show that increasing the information provided to mock jurors, and thus reducing the saliency of the manipulation of bias, did not reduce effects found for extra-legal bias. MaCoun (1990) showed that in balanced cases the effect of extra-legal bias to increase mock jurors guilty verdicts was attenuated and provided stronger effects during the jury deliberation stage. MaCoun considers that the results of mock juror studies are transferred to the actual jury room decision. Hendry, et al. (1989) advised that a study with five 6-person juries confirmed the findings of the main study. This study had 30
participants, who had not participated in the main study; participants followed the procedure for judging the apparently deceptive defendant in the pro-acquittal condition. These participants, who formed the five juries, deliberated for up to 45 minutes before coming to unanimous verdicts. Four of these five juries voted to convict the accused. As with many areas of endeavour it is only by raising and discussing objections that improvements can be made. The mock Juror paradigm is a tool that evolves and produces additional reliability as these criticisms are addressed.

A practical development in the reliability of the mock juror paradigm has been provided by the use of detailed videotape presentations of trials. As Block (1991) points out providing detail of a case in a written format is artificial and far withdrawn from the reality of a court situation. In the written vignette participants can study the evidence presented at their own speed or re-read sections that were originally glossed over but later became pertinent. The personality of each of the participants is also missing in the written version. Block goes on to consider that a real case is heard only once and the materials are presented in a particular order governed by rules of procedure and evidence. All parties can be viewed and finally when it comes to the time for decision making memory must be relied upon. Block performed a study in England that is not really comparable to the two previous studies in that it used experienced magistrates as its participants and looked at social attractiveness. However the points raised by Block are relevant to the methodology of the mock juror paradigm “For the magistrates who acted as respondents, this was as close to the real thing as they could get.” (Block, 1991, p.23) While having weaknesses it would seem that the mock juror paradigm has been improved and when used correctly can provide useful insight into the processes contributing to jurors’ decisions.
The original jury system relied heavily on jurors “saying the truth” regarding the credibility of the accused. Modifications to the jury system over the past eight centuries have changed this to a situation were modern juror’s became “trier’s of fact”. The legal system however still considers that a juror can weigh evidence based on perceptions of non-verbal behaviour that indicate deceit. Psychologists showed, through research, that people’s abilities at identifying deceit from non-verbal behaviour clustered about the chance mark. Psychology added concerns regarding extra legal biases. One of these concerns was that non-verbal behaviours due to anxiety could be mistaken for deceit and innocent people found guilty because of this. Results of studies that addressed this concern using demeanour as an extra legal bias are contradictory. Pryor and Buchanan (1984) showed that a demeanour bias worked against a moderately anxious person at the balanced level of evidence. Results provided by Hendry, et al. (1989) indicated that a demeanour bias would only be found at levels of evidence that favoured acquittal. However the previous discussion of the study by Hendry, et al. has indicated that its findings might have been compromised by the high saliency given to producing deceitful demeanour.

The purpose of the present study was to investigate whether a person who exhibited a nervous anxious demeanour would be considered guilty more often than if they had exhibited a calm low anxiety demeanour. Also it sought to ascertain if this bias was pervasive and manifested itself at all levels of legally relevant evidence. To this end mock jurors were provided with evidence that either favoured acquittal, was balanced, or favoured conviction. While this evidence was presented the person accused of the crime was shown as exhibiting either a low or moderate level of anxiety. The goal of the
demeanour manipulation was to present an innocent person who was either slightly or moderately nervous.

It was predicted that the findings of Pryor and Buchanan (1984) would be replicated and that the demeanour bias identified by them would extend to all levels of legally admissible evidence. It was therefore anticipated that a main effect would be found for demeanour.

Method

Participants

Participants were 120 members of the general public who were eligible for jury duty in Western Australia. There were 69 females and 51 males with an age range from 18 to 74 (\(M = 38.76, \ SD = 13.46\), female \(M = 38.26, \ SD = 13.89\), male \(M = 39.43, \ SD = 12.97\)). Participants were recruited by having five people known to the experimenter list four people each. These five people were asked to ensure that the people chosen were not related, that there were two males and two females, that the people chosen were eligible for jury duty in Western Australia and finally that these people were prepared to assist and participate in this study. The twenty people chosen in this manner were asked to repeat the procedure with the same requirements, however this time they were to find five people, three females and two males. Excluding the five acquaintances, this produced the required 120 participants with the female to male ratio consistent with the juries norm used by Pryor and Buchanan (1984) of approximately 1.3 : 1. Two of these participants were of Aboriginal decent.

Participants were then randomly assigned to the experimental conditions. Random assignment was achieved by having one hundred and twenty numbers that had been allocated to participants placed in a box. As each participants’ number was drawn a
random number, that came from a table of random numbers and was between 1 and 6, was used to allocate the participant to a particular experimental condition. Once a condition was full (20 participants) its number was ignored in further draws. The participants were truthfully informed that the research was investigating how individual jurors made decisions and statements of informed consent were collected prior to commencement of the experiment. As soon as the data sheets had been collected participants were advised of the manipulation of evidence and demeanour.

**Materials**

In keeping with the recommendation of Block (1991) it was decided that the complete trial would be presented using videotape. The 6 videotapes each opened with a 30 second segment where a full-length view of the accused was shown, whilst charges were narrated off the screen. The accused pleaded not guilty at the completion of this segment. Pryor and Buchanan (1984) used a black actor to play the role of the accused. As previously mentioned many studies have shown that extra legal bias can be based on race (Mazzella & Feingold, 1994). To avoid racial bias confounding this study a white Australian actor was used. The offence used in this study was that of breaking and entering a home and stealing $80 in cash and a computer. No value was placed on the computer. Hendry, et al (1989) did not use a crime as previously noted; they used the offence of cheating at university make-up examinations. Pryor and Buchanan did use breaking and entering however it was not clear in their experiment what, if any thing at all, was stolen.

The strength of legal evidence against the accused was manipulated during the narrated section of the videotape. To insure that facial expressions of the narrator could not influence the decision of the mock jurors it was decided to leave the screen blue
during the narration. In keeping with the study by Pryor and Buchanan (1984) the evidence presented was circumstantial and was a matter of identity. That is, could the accused be identified as the person who had committed a known crime? Unlike Pryor and Buchanan this study contained three different versions of the evidence presented. This provided three levels of evidence similar to those used by Hendry, et al (1989). The same terms as those used by Hendry, et al were used to identify these manipulations. These are pro-conviction, balanced and pro-acquittal. This section contained evidence for the prosecution in the form of a witness who saw a car leave the scene of the crime. It also included a summary of the evidence from the police officer that had stopped the car because it had a broken headlight on the day after the breaking and entering had occurred. The officer saw the alleged stolen computer in rear of the car. A summary of interviews taken from the staff at the hotel where the accused claimed he had parked his car and walked home on the night of the offence. The evidence for the defence consisted of an interview of the friend of the accused who had been with the accused at the hotel on the night in question. In the next part of the video the examination of the accused forms part of the evidence, however the evidence was held consistent during this interview. The face and upper torso of the accused were seen on screen whilst the accused was being questioned from off the screen. Finally the screen returned to blue and the voice of the judge was heard who gave instructions regarding reasonable doubt and asked the mock jurors to please retire to make a verdict. At this point the presentation ended.

Manipulation of evidence

The witness at the scene of the crime reported they had come out of their home because they heard an alarm ringing and saw either a brown Holden Kingswood for the
Trial by anxiety

pro-acquittal condition or a brown Holden Kingswood with a broken front right headlight in the other two conditions. The synopsis of the police evidence is quite extensive and the listener needs to absorb and remember a number of facts, however the actual difference in the manipulation is that in the pro-acquittal level of evidence identification of the computer is not mentioned at all. In the balanced level of evidence manipulation the mock jurors are told that the computer found in the car was identified as the stolen one. In the pro-conviction level of evidence manipulation the additional information that both the stolen computer and the computer found in the car of the accused had a long scratch on the right hand side was provided. In the synopsis of police evidence all mock jurors heard that the accused claimed that his car was parked at the bottle shop of the hotel overnight. The evidence from the hotel staff was manipulated by having one member of staff not see the car in the car park in the pro-acquittal level of evidence. In both of the other manipulations three of the bar staff had left the hotel together via the bottle shop entrance. They had looked around to make sure no one was hanging about and had not seen a brown Holden Kingswood parked in the car park.

Further evidence was manipulated during the examination of the defence witness. The witness supported the claim that the car belonging to the accused had been left at the hotel on the night in question and that the accused had walked home. This same witness claimed that the computer was the property of the accused and that he had taken care of the computer during the time the accused was working up north. In the pro-conviction and balanced levels of evidence this witness admitted to the prosecution that he did not have an alibi for the time of the breaking and entering. The implication was that he was the second person the witness at the scene of the crime saw in the car. It was intended this implication only be made available to the mock jurors in the
pro-conviction and balanced levels of evidence therefore in the pro-acquittal level of evidence the witness’s wife provided this person with an alibi. No further manipulations of evidence were made in either of the periods when demeanour was manipulated. Full Transcripts of the evidence presented both in the pilot study and by the narrator are provided in appendix A. Verbatim of interviews of the accused as they appeared in the videotapes are provided in appendix B.

It was mentioned when discussing the results of the study by Hendry, et al. (1989) that they had problems with the manipulation of evidence. In order that similar problems be avoided in this study a complete transcript of the proposed videos (appendix A) was tested with sixty subjects. ANOVA was performed on the data from this pilot study providing a significant result $F(2,60) = 143.8, p < .000, \eta^2 = .835$. Tukey post hoc tests confirmed that the difference between all levels of evidence was significant. A 9-point scale (1 = acquit, 5 = unsure, 9 = convict) had been used and means were $M = 6.61, 4.55$ and 2.48 for pro-conviction, balanced and pro-acquittal respectively.

**Manipulation of Demeanour**

A major concern that was raised previously regarding the Hendry, et al. (1989) study, was that rather than appear truthful the control condition produced a mean ($M = 6.03$) that indicated mock jurors considered the demeanour in the control condition to be untruthful. The actor in the control condition of Hendry, et al. maintained eye contact for 100% of the time and did not exhibit any self-manipulations or speech non-fluencies. By comparison, the actor in the Pryor and Buchanan (1984) study failed to make eye contact for 2 seconds and presented 2 self-manipulations and 9 speech non-fluencies. It was decided that the low anxiety level of demeanour as used by Pryor and Buchanan would also be used in this experimental manipulation.
For the purpose of this study it was decided to portray an anxious rather than a deceptive demeanour. The actor in this study was instructed in these requirements and was able to reproduce the demeanour used by Pryor and Buchanan (1984) closely. The non-verbal signals of eye contact, self-manipulation and speech non-fluencies are considered to be the behaviours used by a perceiver to judge demeanour by both Pryor and Buchanan and Hendry, et al. (1989). Eye contact includes behaviours such as rapid blinking, rolling eyes upwards or downwards and either closing eyes or looking elsewhere so as not to maintain eye contact. Self-manipulation includes behaviours such as rubbing and squeezing hands, touching parts of the face, scratching or rubbing face or other body parts, hand gestures, fidgeting, body rocking and swaying. Speech non fluencies take the form of word repetition, stuttering, rapid change in tone of voice, hesitation followed by rapid speech, and irregularities such as “um” and “ahs” as well as excessive pausing before answering questions.

The presentation in this study required 140 seconds for low anxiety condition and 164 seconds for the moderate anxiety condition. In the low anxiety condition there was 1 self-manipulation compared to 2 for Pryor and Buchanan (1984) and 10 speech non-fluencies compared to 9 for Pryor and Buchanan. Eye contact was broken for two seconds in both experiments. Eye contact time presented a problem for the actor in this study when replicating moderately anxious demeanour. When the actor attempted to withdraw eye contact for almost 50% of the time, as was done by Pryor and Buchanan, people who viewed the tape including the actor thought he looked sly and devious rather than anxious. The fact that Pryor and Buchanan used a black American as their actor was a possible explanation for this problem. It was normal for black people in the south of the United States to avoid direct eye contact with white people or persons in authority.
(LaFrance & Mayo, 1976). It was decided that it should be left with the actor to decide on the level of eye contact that would be used. Whilst Pryor and Buchanan’s black American actor maintained eye contact only 46% of the time in the present study the white Australian actor maintained eye contact 86% of the time to achieve a condition that Australians recognise as nervous anxiety. The occurrence of self-manipulation to produce the moderately anxious demeanour was 26 in this study to 30 in the study by Pryor and Buchanan and non-fluencies at 36 in this study to 28 in Pryor and Buchanan.

A pilot test of the two manipulations of demeanour was performed. Twenty participants were asked for a single word description of the person on the tape. Those who were shown the low anxiety manipulation considered the person to be reasonably calm (8) and honest (2). Those shown the high anxiety manipulation considered the person to be nervous (9) and dishonest (1). No participants in the pilot study used the word anxious.

It was decided that in an Australian context the word nervous equated to the word anxious and these video segments were used in the study. Verbatim transcripts of the manipulation of the two levels of demeanour are provided in appendix B.

The final section of the video contained the judge’s instructions. Gillies (1988) advises that for the crime used in the study a judge would normally advise the mock jurors regarding reasonable doubt. The following statement was used, “Members of the jury it is central to our legal system that you presume the accused is innocent until proven guilty. If after taking into account all the facts presented by the prosecution you consider their case proven beyond any reasonable doubt then you must return a guilty verdict. If the facts presented by the prosecution do not convince you beyond any reasonable doubt then you must return a verdict of not guilty. I would ask that you retire from this chamber and consider your verdict”. Gillies strongly recommends that no
attempt be made to explain the term beyond reasonable doubt to jurors. The components
produced were then edited onto six different videotapes in keeping with the research
design.

A letter was prepared that met the ethical requirements of informed consent. The
upper part advised participants that the research investigated how individual jurors made
a decision prior to jury discussion. The letter advised that their participation was entirely
voluntary and they were free to withdraw at any stage of the study. Participants were
assured of confidentiality and given contact numbers should they require further
information. The participant retained this portion. The bottom, tear off, section of the
letter contained a statement for the participant to sign. The statement confirmed the
participant had read the above information and any questions had been answered to their
satisfaction. Participants acknowledged that they understood they were free to withdraw
at any time and the data gathered could be published provided it did not identify them.
This portion was retained and stored separate from the questionnaire.

An A4 answer sheet was prepared for the collection of data. The front side was
headed “YOUR VERDICT” and provided two boxes, one marked “Guilty” and one
marked “Not-Guilty”. Below this a vertical scale was provided. The scale was divided
into three distinct sections each subdivided into tenths. The words “Extremely
Confident” were placed in line with the top of the scale and the words “Not Very
Confident” at the bottom of the scale. A question placed above this scale asked “How
confident are you in this verdict?” Immediately below this question was the instruction
“Please draw a line across the scale at the appropriate place.” Questions at the bottom of
this page asked for details of gender and age. On the reverse side of the sheet at the top
was printed a scale obtained from the Internet that is used to gather details for evaluation
in the affect control theory (Heise, 1979). It is essentially three 9-point categorical scales. The mid position is marked neutral. On either side the positions are marked from inside to out, slightly, quite, extremely, and infinitely. The top scale was marked “Good nice” on the left-hand end and “Bad awful” on the right-hand end. The next scale down was marked “Powerless little” on the left-hand end and “Powerful big” on the right-hand end. The bottom scale was marked “Slow quiet lifeless” on the left-hand end and “Fast noisy lively” on the right-hand end. The question that was placed above the scale read “As you are aware we are attempting to understand how individual jurors make decisions prior to jury discussion. To help with this would you please mark in the circles below how you regard the accused, Mr. Allen.” The rest of the page was broken into two columns headed “For” and “Against.” The question above these columns read “As a final measure of the individual jurors decision making process could you please note the items, both for and against conviction, that you considered in reaching your verdict.”

Research Design

A 2 x 3 (demeanour x evidence) experimental factorial design was used with two levels of demeanour (low anxiety, moderate anxiety) and three levels of evidence (pro-acquittal, balanced, pro-conviction). The 120 mock juror participants were randomly assigned to one of the six experimental conditions.

Procedure

Participants were contacted and it was arranged for the study to be performed at a number of homes that were central for participants undergoing the same treatment. Up to three people were processed at a time initially, however the majority of participants were treated individually in their own homes. The experimenter performed all treatments. A friend accompanied the experimenter to ensure that once the experiment
had begun it was not interrupted by children, phone calls etc. Before commencement of
the experiment informed consent was obtained from all participants, as well as their
permission to use results in any publication. A standard introduction to the experiment
was used for all participants. This was:

"Research has shown that jurors often make up their minds before
they enter the jury room. These jurors are often thought to be
instrumental in swaying the final decision of a jury (Macoun,
1990). This study looks at how individual jurors make decisions.
Could you please not discuss the case amongst yourselves until
today's study is completed (only if more than one participant
present). In Western Australia jurors are normally not allowed to
take notes and do not receive transcripts of the proceedings. This
forces them to rely on memory. To try to replicate this in a
10-minute video we are providing you with a large amount of
information that you will need to absorb in a short time. The case
chosen is a difficult one. I will show you the video then ask you
first to enter your verdict then indicate how confident you are in
this decision. You are then asked to complete two further
questions on the rear of the sheet. I will now start the video"

The participants were then shown one of the six videotapes. When the videotape
concluded a single A4 sheet containing the dependent variables were distributed. The
participants were then asked to enter their verdict of guilty or not guilty by placing a tick
or a cross in one of the boxes provided on the front page. They were then to complete
the scale asking "How confident are you in this verdict". The confidence in their verdict
scale ranged from not very confident to very confident. Participants then completed the questions on the back of the sheet. These sheets were then collected. After all materials were collected the participants were de-briefed regarding the manipulation of the independent variables, and asked not to discuss the study for at least a month to enable all data to be collected.

Results

The study was able to show that a person exhibiting a nervous moderately anxious demeanour will be found guilty more often than if they had remained calm and exhibited a low anxiety demeanour. This finding applied at all levels of evidence presented and mock jurors who considered the accused guilty were the most confident about their verdict. This confidence was highest when the evidence presented was pro-conviction and lowest when the evidence was balanced. The gender of the juror had no bearing on these results.

A preliminary analysis was conducted to establish if there were any effects attributable to the gender of participants. This was performed using a log linear analysis that contained the variables; gender of participants, verdict, demeanour of the accused, and level of evidence provided. No main effects or interactions involving gender were identified. The data were then collapsed across gender for further analysis.

A log linear analysis was performed on the dichotomous guilty/not guilty verdicts and the independent variables demeanour (low anxiety and moderate anxiety) and level of evidence (pro-acquittal, balanced, pro-conviction). Log linear analysis uses a saturated model to begin then proceeds through a process of backward elimination until the most parsimonious model of best fit is found. This may mean that the process will stop with first order interactions or continue through until all possible interactions are eliminated.
with none proving significant to the model. The saturated model, by default as it contains all possible combinations of data, has the best fit and has a probability of 1.

Thus the final model needs to contain the least number of interactions as possible and have a non-significant probability. The closer to 1 the more robust the model. To achieve this aim interactions with a chi-square probability for change greater than .05 are progressively eliminated until all remaining interactions have a significant probability for change if removed from the model (p < .05). In this study because the number of participants exposed to each of the six experimental conditions was held constant, at 20, the number of guilty verdicts perfectly predicts the corresponding number of not guilty verdicts. The analysis for the present study ended with a significant overall model $\chi^2 (4, N = 120) = 5.32, p = .256$ indicating the data was a good fit to the model. The interactions that remained as significant contributors to the model were verdict x evidence $\text{LR } \chi^2 (2, N= 120) = 29.2, p < .0005$, and verdict x demeanour $\text{LR } \chi^2 (1, N = 120) = 11.18, p = .0008$). Because all variables are entered together these constitute main effects for evidence and demeanour. Table 1 gives descriptive statistics. The main effect for demeanour when guilty verdicts were recorded showed that the accused with a moderately anxious demeanour was found guilty significantly more often ($n = 43$) than when shown exhibiting a low anxiety demeanour ($n = 25$). As discussed previously because each verdict perfectly predicts the other it follows that the difference for not guilty verdicts is significant in the opposite direction.
Table 1

**Observed guilty/not guilty verdicts at three levels of evidence, (pro-acquittal, balanced, pro-conviction) and two levels of demeanour (low anxiety, moderate anxiety).**

**Guilty Verdicts**

<table>
<thead>
<tr>
<th></th>
<th>Pro Acquittal</th>
<th>Pro Balanced</th>
<th>Pro Conviction</th>
<th>N</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Low Anxiety</strong></td>
<td>1</td>
<td>9</td>
<td>15</td>
<td>25</td>
<td>20.8</td>
</tr>
<tr>
<td><strong>Moderate Anxiety</strong></td>
<td>9</td>
<td>16</td>
<td>18</td>
<td>43</td>
<td>35.8</td>
</tr>
<tr>
<td><strong>Sub Total</strong></td>
<td>10</td>
<td>25</td>
<td>33</td>
<td>68</td>
<td>56.6</td>
</tr>
</tbody>
</table>

**Not Guilty Verdicts**

<table>
<thead>
<tr>
<th></th>
<th>Pro Acquittal</th>
<th>Pro Balanced</th>
<th>Pro Conviction</th>
<th>N</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Low Anxiety</strong></td>
<td>19</td>
<td>11</td>
<td>5</td>
<td>35</td>
<td>29.2</td>
</tr>
<tr>
<td><strong>Moderate Anxiety</strong></td>
<td>11</td>
<td>4</td>
<td>2</td>
<td>17</td>
<td>35.8</td>
</tr>
<tr>
<td><strong>Sub Total</strong></td>
<td>30</td>
<td>15</td>
<td>7</td>
<td>52</td>
<td>43.4</td>
</tr>
</tbody>
</table>

**Total**

|                | 40            | 40           | 40             | 120 | 100 |

Goodness of fit Likelihood ratio $\chi^2 (4, N = 120) = 5.32, p = .256.$
Post hoc chi square analyses of levels of evidence revealed a significant difference in the relationship between not guilty and guilty verdicts at the two levels of evidence, pro-acquittal and balanced $\chi^2 (1, n=80) = 11.43, p = .0007$. As can be seen from table 1 a ratio favouring not guilty verdicts (30 to 10) occurred at the pro-acquittal level of evidence, while the ratio favouring not guilty verdicts (15 to 25) reversed at the balanced level of evidence.

Post hoc chi square analyses of levels of evidence revealed a significant difference in the relationship between not guilty and guilty verdicts at the two levels of evidence, pro-conviction and balanced $\chi^2 (1, n=80) = 4.01, p = .045$. As can be seen from table 1 the greatest ratio favouring guilty verdicts occurred at the pro-conviction level of evidence (33 to 7), while a smaller ratio favouring guilty verdicts occurred at the balanced level of evidence (25 to 15).

The results of the post hoc comparisons confirm that the manipulation of level of evidence was successful. It is possible that the true balanced level condition, for this set of evidence, would have occurred if slightly less evidence had been presented. This is confirmed by the high $\chi^2 (1, n=80) = 11.43, p = .0007$ result between the pro-acquittal to balanced manipulation and the lower $\chi^2 (1, n=80) = 4.01, p = .045$ between the balanced and pro-conviction levels of evidence. It is considered that the manipulation of the level of legally admissible evidence was successful in the present study.

A $2 \times 3 \times 2$ (demeanour x evidence x verdict) between subjects ANOVA was performed on the confidence expressed by participants in the verdict they had reached. The assumptions of ANOVA were deemed to be satisfactory ($\text{Levene's } n_s = .247$). Only
main effects for level of evidence and verdict prior to discussion were found to be significant. Descriptive statistics are given in Table 2.

<table>
<thead>
<tr>
<th>Table 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Level of confidence in own verdict at two levels of verdict (guilty, not guilty) and three levels of evidence (Pro-acquittal, balanced, pro-conviction).</strong></td>
</tr>
<tr>
<td><strong>Verdict</strong></td>
</tr>
<tr>
<td><strong>Evidence</strong></td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td>Pro-acquittal</td>
</tr>
<tr>
<td>Balanced</td>
</tr>
<tr>
<td>Pro-conviction</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

Conf. is level of confidence in verdict scale scored from 0 to 3.

Evidence, F(2, 120) = 3.74, p = .027, η² = .065 and verdict, F(1, 120) = 11.73, p = .001, η² = .098 both returned significant results as main effects. Post hoc comparison of level of evidence was conducted using Tukey HSD test. This revealed that confidence was significantly higher at the pro-conviction level of evidence (M = 2.17, SD = 0.63) than at the balanced level of evidence (M = 1.76, SD = 0.71). No other pairwise difference achieved significance. Confidence in verdict was significantly higher when the accused was found guilty (M = 2.12, SD = 0.64) than when the accused was found not guilty (M = 1.75, SD = 0.67).
Table 3

Level of belief that accused is of good or bad character at two levels of verdict (guilty, not guilty) and two levels of demeanour (low anxiety, moderate anxiety).

<table>
<thead>
<tr>
<th>Demeanour</th>
<th>Guilty</th>
<th>Not guilty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>n</td>
<td>M good.</td>
<td>n</td>
</tr>
<tr>
<td>Low Anxiety</td>
<td>25</td>
<td>0.52</td>
<td>35</td>
</tr>
<tr>
<td>Moderate Anxiety</td>
<td>43</td>
<td>-0.37</td>
<td>17</td>
</tr>
<tr>
<td>Total</td>
<td>68</td>
<td>-0.04</td>
<td>52</td>
</tr>
</tbody>
</table>

Good is Rating from 4 = good to -4 = bad

A 2 x 3 x 2 (demeanour x evidence x verdict) between subjects ANOVA was performed on the participants rating of whether the accused was of good or bad character. The assumptions of ANOVA were deemed to be satisfactory (Levene's ns = .119). Only main effects for demeanour of the accused and verdict prior to discussion were found to be significant. Descriptive statistics are given in Table 3. Demeanour, $F(1, 120) = 6.32, \eta^2 = .013$, and verdict, $F(1, 120) = 5.13, \eta^2 = .025$, both returned significant main effects. Participants considered the accused was of good character ($M = 0.73, SD = 1.26$) when he exhibited a low anxiety demeanour. When the same accused exhibited a moderately anxious demeanour participants considered he was of bad character ($M = -0.17, SD = -1.45$). When participants returned a not guilty verdict they considered the accused was of good character ($M = 0.71, SD = 1.26$)
however when returning a guilty verdict this changed towards an opinion of bad character ($M = -0.04$, $SD = -1.47$).

A content analysis of the answers to the open-ended question revealed five content items (table 4). This data was analysed using logistic regression. Only the description “body language” significantly predicted verdict however it only explained 2.6% of the variance in verdict. It can be seen from table 4 that thirteen mock jurors wrote the term “body language” with no further explanation. Inspection revealed that 12 of these mock jurors had found the accused guilty and 1 had found the accused not guilty. Of the 12 guilty verdicts 2 occurred in the low anxiety demeanour manipulation and 10 occurred in the moderately anxious demeanour manipulation.

When the accused was portrayed as moderately anxious a similar number of mock jurors considered him to be nervous whether they decided he was guilty or not guilty (7 guilty, 5 not guilty). This indicated that for these mock jurors the manipulation of demeanour worked as anticipated. However 2 mock jurors considered the accused to be nervous in the not guilty low anxiety condition indicating that these individuals used fewer non-verbal cues to establish that the accused had a moderately anxious demeanour. The low anxiety manipulation contained lack of eye contact for 2 seconds, 1 second of self-manipulation and 10 non-fluencies. This low level of non-verbal behaviour was able to establish the awareness of nervousness for these two mock jurors.

Fifteen mock jurors (table 4) considered that the accused exhibited a deceitful demeanour, 9 occurred where the mock juror had decided upon a guilty verdict in the condition where the accused exhibited a moderately anxious demeanour. One other mock juror, whose verdict was guilty, indicated that the accused was deceitful in the low
Trial by anxiety manipulation. Five individuals (4 in moderate anxiety and 1 in low anxiety) also consider the accused to be deceitful yet found him not guilty.

Table 4

Counts of comments regarding demeanour for all participants ordered by verdict and level of anxiety.

<table>
<thead>
<tr>
<th>Verdict</th>
<th>Guilty</th>
<th>Not Guilty</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>low</td>
<td>moderate</td>
<td>low</td>
</tr>
<tr>
<td>No comment</td>
<td>21</td>
<td>17</td>
<td>28</td>
</tr>
<tr>
<td>Nervous</td>
<td>-</td>
<td>7</td>
<td>2</td>
</tr>
<tr>
<td>Deceitful</td>
<td>1</td>
<td>9</td>
<td>1</td>
</tr>
<tr>
<td>Calm</td>
<td>1</td>
<td>-</td>
<td>4</td>
</tr>
<tr>
<td>Body Language</td>
<td>2</td>
<td>10</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>25</td>
<td>43</td>
<td>35</td>
</tr>
</tbody>
</table>

Five mock jurors considered that the witness was calm (Table 4) in the low anxiety condition (4 of them found him not guilty and 1 found him guilty). Seventy-four mock jurors did not make any comment (table 4) regarding demeanour to the open ended question. Of these 49 had been exposed to the accused with a low anxiety demeanour while 24 saw a moderate anxiety manipulation. Guilty verdict had been recorded by 38 mock jurors and not guilty by 35. The logistic regression performed did not indicate a systematic no-comment rate based on verdict.
Discussion

The study was able to show that persons exhibiting a nervous, moderately anxious demeanour were found guilty more often than if they remained calm and exhibited a low anxiety demeanour. This finding applied at all levels of evidence presented and mock jurors who considered the accused guilty were the most confident in their verdicts. This confidence was highest when the evidence presented was pro-conviction and lowest when the evidence was balanced. The gender of the juror had no bearing on these results.

These findings replicated those of Pryor and Buchanan (1884) who found that moderately anxious persons were judged guilty more often than persons who exhibited low levels of anxiety, when the evidence presented was balanced. In selecting the balanced level of evidence Pryor and Buchanan were guided by their own beliefs that the ambiguity of the evidence in a balanced condition would enhance effects of non-verbal behaviour on mock jurors judgements. This study has shown mock jurors were least confident in their verdict when evidence presented was balanced however non-verbal behaviour effected mock jurors judgements across all levels of evidence presented.

The present study raised concerns regarding conviction rates at all levels of evidence in the control condition used by Hendry, et al. (1989). When demeanour was manipulated convictions increased substantially above those found in a pilot study indicating that evidence levels were all being treated as pro-conviction. Hendry, et al. found that non-verbal behaviour effected the judgements of mock jurors, but only at the pro-acquittal level of evidence. Demeanour was manipulated at two levels. The first provided a control condition and the second an apparently deceptive condition.
Zuckerman, et al. (1979) showed that people share indicators of deceit. The study by Hendry, et al. provided strong indicators of deceit to mock jurors and did not provide judges instructions to counterbalance this. The result was that mock jurors in the control demeanour condition provided convictions ($M = 6.13$) at a pro-conviction level when the evidence presented was pro-acquittal (pilot study $M = 3.83$). In the present study when the evidence presented was pro acquittal mock jurors returned 10 guilty and 30 not guilty verdicts being equivalent to a mean of 3.33. In the pilot study a 9-point scale was used providing a mean ($M = 2.32$). Both produced convictions at pro-acquittal levels.

Hendry, et al. (1989) provided non-verbal behavioural cues to mock jurors that the accused was deceitful. Burgess (1987) identified all the behaviours used in Hendry, et al., Pryor and Buchanan (1984) and the present study as those that indicate nervousness in a public speaker. The present study showed that contextual cues, timing and the volume of behaviours were used to provide the various interpretation reached by the mock jurors. The expressed aim of the present study was to send cues that the accused was nervous. A pilot study using video clips, that showed the interviews with the accused, confirmed that participants considered the low anxiety condition calm (calm, 8 and honest, 2) and the moderate as nervous (nervous, 9 and dishonest, 1). When the experiment was performed and comments regarding reasons for verdict analysed this balance had changed. Of mock jurors who found the accused not guilty 7 considered him nervous, while 5 considered him deceitful. Of those whose verdict was guilty 7 considered the accused nervous, while 10 considered him deceitful. Within the present study these results were not statistically significant, however when compared to the results of the pilot study they do indicate that mock jurors mistakenly interpret these cues in the context of the trial as indications of deceit.
The present study as well as those by Pryor and Buchanan (1984) and Hendry, et al. (1989) were essentially designed to establish whether demeanour bias existed in the context of a trial. For this reason these studies do not offer insight into the underlying psychological and legal factors that bring about the phenomenon of demeanour bias. The present study introduced the ACT theory (Heise, 1997) scale attempting to establish whether the moderately anxious demeanour manipulation provided mock jurors with evidence of bad character. Had this been the case it would have been argued that moderately anxious demeanour constituted evidence of bad character and therefore became inadmissible evidence. The scale had been shown to provide different profiles for persons who were considered to have different characters. This was not the case in the present study where the total scale provided a non-significant result. Analysis of the sub-scale good/bad revealed a significant difference for demeanour however analysis of the sub-scale powerful/weak and sub-scale fast slow provided non-significant results. A strong argument against the bad character hypothesis is that a mock juror will justify their verdict by deciding that the accused is of bad character. This alternative hypothesis was supported by the data that produced a significant main effect for verdict on the good bad sub-scale.

The video used, whilst not as artificial as using vignettes or as good as the full length video produced by Block (1991), is not the real experience that is provided for a juror. For this reason caution must be observed if it is intended to generalise to the legal system. The present study was designed to establish that the bias of moderately anxious demeanour was real in the mock juror paradigm and existed regardless of the level of evidence presented.

Conclusion
Presently this study could not be reproduced using an actual trial due to ethical and methodological considerations. If it were shown by future research that a vignette or short video could reliably reproduce the findings of a full court then generalisation of results from the mock juror paradigm could be made with greater confidence. An issue that emerged from the present study regarded the rule that prohibits the introduction of evidence of bad character. Future research is needed to define this accurately and develop measures that are not susceptible to the justification bias.


Appendix A

Pro-Acquittal Evidence Condition

(Opens with full length view of accused on screen)

Clerk of Courts (off screen) Are you Mr. John Allen of unit 15/175 Harborne Street, Glendalough?

Accused (On Screen) Yes

Clerk of Courts (Off Screen) You are accused of breaking and entering the premises of Miss Joan Myer, a widow with two young children, at 16 Wattle street West Perth on Wednesday 16th April at approximately 11:30pm. The home was ransacked and an Apple Macintosh computer, as well as $88.00 in cash was stolen. How do you plead?

Accused (On Screen) Not Guilty

(Screen goes blue narrator reads as below)

The accused (Mr. Allen) has pleaded “Not guilty”.

Evidence for the prosecution

Witness at scene of crime

Mrs Amelia Jones of 11 Wattle street West Perth came out of her front door at 11:30pm on Wednesday 16th April because she heard an alarm ringing. She saw a brown Holden Kingswood come out of number 16 Wattle Street, turn down the road and travel away from her. Mrs. Jones immediately phoned the police and reported the incident.

When questioned further by police Mrs Jones said that she thought there may have been two people in the car but from the angle and the distance she could not really be sure. She could not say if the driver was male or female.
Review and summary of Police Evidence against the accused (Mr Allen)

Mr Allen was stopped on Thursday 17th April at 8:00pm driving a brown Holden Kingswood with a broken right front head light. The officer noticed a computer in the rear of the vehicle. The officer realised that the vehicle fitted the description of one seen at the scene of a break and enter the previous night, at which an Apple Mac computer had been stolen. The officer first asked if Mr Allen was aware that his headlight was not working. Mr Allen replied that he was not. The officer then asked where Mr Allen’s car had been at 11:30pm on Wednesday 16th April. Mr Allen replied that he had left his car at the Nookenburgra Hotel last night, walked home and gone straight to bed. When asked if anyone could verify this, his reply was that they could not.

Mr Allen was asked where at the hotel he had parked his car. Mr Allen replied that it was parked by the bottle shop. The officer then asked if it was Mr Allen’s computer in the rear of the car. Mr Allen replied that it was. The officer enquired when and where the computer was purchased. Mr Allen replied “about 2 years ago from a shop in Perth”. The officer asked if Mr Allen had a receipt for the computer. “I don’t think so” replied Mr Allen. The officer asked “where are you taking the computer now?” Mr Allen replied “I just picked it up from my friend’s house, he has been looking after it for me while I was working up north”.

When the computer was examined the hard disc had been formatted. A record of the serial number had not been available from the stolen computer.

Evidence from Mr Murphy a neighbour of the accused (Mr Allen).

Mr Ronald Murphy of unit 5/175 Harborne St, Glendalough left his flat at 11.15pm on Wednesday 16th April to go to his work as a garage attendant. His parking spot is next to that of Mr Allen. Mr Allen’s car was not parked in its bay at that time. When Mr Murphy returned home from work at 8:30 am on Thursday 17th April Mr Allen’s car was parked in its bay. Mr Murphy does not pass Mr Allen’s unit to get to the parking bays.
Evidence from staff at the Nookenburra Hotel.

Ms Susan Freehand, bar attendant of the Nookenburra Hotel, Liege Street, Woodlands, stated that she saw both the accused [Mr. Allen] and his friend Ian [Mr Walters] leave the pub together at 10:30pm on Wednesday 16th April. She is sure of this because they were the only people in the lounge at the time and she had looked at the clock to see how long she had left of her shift. She knows Ian [Mr Walters] because he drinks at the pub regularly. There were a number of cars in the car park when Ms Freehand left and she did not notice a brown Holden Kingswood.

Evidence for the defence.

Evidence of Mr Ian Walters a close friend of the accused (Mr Allen).

Mr Ian Walters of 112 Weaponess Road, Scarborough stated that he had been a friend of Mr Allen’s for many years. They had gone to school together. Mr Walters confirmed that Mr Allen’s Apple computer had been left with him about 2 years ago when Mr Allen went north to work. He [Mr Walters] says that he received a call from Mr Allen on Wednesday 16th April around 5pm. Mr Allen advised him that he had just returned from up north and would like to pick up his Apple computer. He [Mr Walters] told Mr Allen that he had some personal stuff on the computer that he would have to remove, so it was arranged that he [Mr Walters] would format the hard disc, to remove all his information, and Mr Allen would pick it up on Thursday 17th April around 7pm. After talking further they mutually decided that Mr Allen would meet him at the “Nooky” [Nookenburra Hotel] that evening for a drink. Mr Walters says that they left the pub about 10:30pm and because Mr Allen thought he would be over the limit Mr Allen left his car in the car park and walked home. Mrs Emily Walters confirmed that her husband Ian Walters arrived home just before 11:00pm on Wednesday 16th April.
Examination of the accused (Mr. Allen).

Q: Where were you on the night of Wednesday 16th April at 11.30pm?
A: I was home asleep.

Q: Where were you earlier in the evening?
A: I was at the Nookendurra pub with my mate Ian Walters.

Q: How did you get home.
A: I had enough to put me over the limit so I walked home.

Q: What time would that have been when you walked home?
A: About 10.30 it takes about 20 minutes so I was home before 11 O’Clock.

Q: Where was your car.
A: I left it at the pub. I normally get up early so I picked it up about 6.15am the next morning.

Q: Is the computer yours?
A: Yes

Q: But the police claim this is the stolen computer!
A: I can see how they can make that mistake, all Macs look the same.

Q: Where did you get your computer from?
A: I bought it a couple of years ago in a shop in Hay Street.

Q: What was the shop called?
A: I don’t remember. It was at the top end by Milligan Street. I had a look after I was stopped but it must have shut down.

Q: How did you pay for it?
A: I paid cash for it. I had been working up north and had plenty of money.

Q: What happened to the receipt?
A: I went back up north and must have lost it when I was travelling around.

Q: Why was the computer in your car on the evening that the police stopped you?
A: I had just picked it up from my friends house. He had been looking after it for me.
Q: Did you erase the hard drive on the computer?
A: No. I rang Ian [Mr Walters] the night before I was stopped, Ian said he had stuff on the computer and that he would get it ready for me to pick up on Thursday evening. He formatted the hard disk.

Q: Do you own car?
A: Yes

Q: What kind of car is it?
A: A brown Holden Kingswood

Q: When the police stopped you were you aware that one of your headlights was not working?
A: No, I just got back to Perth. I drove down from up north a couple of days before. It could have broken on the way. I mostly use my spotlights on country trips so I would not have noticed.

Q: In summing up Mr Allen. Who's computer is this?
A: Mine.
Balanced Evidence Condition

(Opens with full length view of accused on screen)

Clerk of Courts (off screen) Are you Mr. John Allen of unit 15/175 Harborne Street, Glendalough.

Accused (On Screen) Yes

Clerk of Courts (Off Screen) You are accused of breaking and entering the premises of Miss Joan Myer a widow with two young children at 16 Wattle Street West Perth on Wednesday 16th April at approximately 11.30pm. The home was ransacked and an Apple Macintosh computer as well as $88.00 in cash was stolen. How do you plead?

Accused (On Screen) Not Guilty

(Screen goes blue narrator reads as below)

The accused (Mr Allen) has pleaded “Not guilty”.

Evidence for the prosecution.

Witness at scene of crime

Mrs Amelia Jones of 11 Wattle street West Perth came out of her front door at 11:30pm on Wednesday 16th April because she heard an alarm ringing. She saw a brown Holden Kingswood with a broken headlight come out of number 16 Wattle Street, turn down the road and travel away from her. Mrs. Jones immediately phoned the police and reported the incident.

When questioned further by police Mrs Jones said that there were two people in the car, but from the distance she could not really be sure if the driver was male or female.

Review and summary of Police Evidence against the accused (Mr Allen)

Mr Allen was stopped on Thursday 17th April at 8:00pm driving a brown Holden Kingswood with a broken right front head light. The officer noticed a computer in the rear of the vehicle. The officer realised that the vehicle fitted the description of one seen at the scene of a break and enter the previous night, at which an Apple Mac computer had been stolen. The officer first
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asked if Mr Allen was aware that his headlight was not working. Mr Allen replied that he was not. The officer then asked where Mr Allen's car had been at 11:30pm on Wednesday 16th April. Mr Allen replied that he had left his car at the Nookenburra Hotel last night, walked home and gone straight to bed. When asked if anyone could verify this, his reply was that they could not. Mr Allen was asked where at the hotel he had parked his car. Mr Allen replied that it was parked by the bottle shop. The officer then asked if it was Mr Allen's computer in the rear of the car. Mr Allen replied that it was. The officer enquired when and where the computer was purchased. Mr Allen replied “about 2 years ago from a shop in Perth”. The officer asked if Mr Allen had a receipt for the computer. “I don’t think so” replied Mr Allen. The officer asked “where are you taking the computer now?” Mr Allen replied “I just picked it up from my friend’s house, he has been looking after it for me while I was working up north”.

When the computer was examined the hard disc had been formatted. A record of the serial number had not been available from the stolen computer. The Apple Mac was positively identified as the stolen computer.

Evidence from Mr Murphy a neighbour of the accused (Mr Allen).

Mr Ronald Murphy of unit 5/175 Harborne st, Glendalough left his flat at 11.15pm on Wednesday 16th April to go to his work as a garage attendant. His parking spot is next to that of Mr Allen. Mr Allen's car was not parked in its bay at that time. When Mr Murphy returned home from work at 8:30 am on Thursday 17th April Mr Allen's car was parked in its bay. Mr Murphy does not pass Mr Allen’s unit to get to the parking bays.

Evidence from staff at the Nookenburra Hotel.

Mz Susan Freehand, bar attendant of the Nookenburra Hotel, Liege Street, Woodlands, stated that she saw both the accused [Mr. Allen] and his friend Ian [Mr Walters] leave the pub together at 10:30pm on Wednesday 16th April. She is sure of this because they were the only people in the lounge at the time and she had looked at the clock to see how long she had left of her shift. She knows Ian [Mr Walters] because he drinks at the pub regularly.
Ms Freehand; Ms Marie Williams and Mr William Fredrick, all employees of the Nooknburra Hotel, said that they had left the hotel together that night as they normally do through the bottle shop entrance. They always look around to make sure no one is hanging about. They did not see a Brown Holden Kingswood when they left that night.

**Evidence for the defence.**

**Evidence of Mr Ian Walters a close friend of the accused (Mr Allen).**

Mr Ian Walters of 112 Weaponess Road, Scarborough stated that he had been a friend of Mr Allen's for many years. They had gone to school together. Mr Walters confirmed that Mr Allen's Apple computer had been left with him about 2 years ago when Mr Allen went north to work. He [Mr Walters] says that he received a call from Mr Allen on Wednesday 16th April around 5pm. Mr Allen advised him that he had just returned from up north and would like to pick up his Apple computer. He [Mr Walters] told Mr Allen that he had some personal stuff on the computer that he would have to remove so it was arranged that he [Mr Walters] would format the hard disc to remove all his information and Mr Allen would pick it up on Thursday 17th April around 7pm. After talking further they mutually decided that Mr Allen would meet him at the “Nooky” [Nooknburra Hotel] that evening for a drink. Mr Walters says that they left the pub about 10:30pm and because Mr Allen thought he would be over the limit Mr Allen left his car in the car park and walked home.

When questioned by the prosecution Mr Walters admitted that he did not have anyone who could say were he, Mr Walters, was at 11.30pm on Wednesday evening 16th April.

**Examination of the accused (Mr. Allen).**

Q: Where were you on the night of Wednesday 16th April at 11.30pm?

A: I was home, asleep.

Q: Where were you earlier in the evening?

A: I was at the Nooknburra pub with my mate Ian Walters.
Q: How did you get home.
A: I had enough to put me over the limit so I walked home.

Q: What time would that have been when you walked home?
A: About 10:30, it takes about 20 minutes, so I was home before 11 O’Clock.

Q: Where was your car.
A: I left it at the pub. I normally get up early so I picked it up about 6.15am the next morning.

Q: Is the computer yours?
A: Yes

Q: But the police claim this is the stolen computer!
A: I can see how they can make that mistake, all Macs look the same.

Q: Where did you get your computer from?
A: I bought it a couple of years ago in a shop in Hay Street.

Q: What was the shop called?
A: I don’t remember. It was at the top end by Milligan Street. I had a look after I was stopped but it must have shut down.

Q: How did you pay for it?
A: I paid cash for it. I had been working up north and had plenty of money.

Q: What happened to the receipt?
A: I went back up north and must have lost it when I was travelling around.

Q: Why was the computer in your car on the evening that the police stopped you?
A: I had just picked it up from my friends house. He had been looking after it for me.

Q: Did you erase the hard drive on the computer?
A: No. I rang Ian [Mr Walters] the night before I was stopped, Ian said he had stuff on the computer and that he would get it ready for me to pick up on Thursday evening. He formatted the hard disk.

Q: Do you own car?
A: Yes

Q: What kind of car is it?

A: A brown Holden Kingswood

Q: When the police stopped you were you aware that one of your headlights was not working?

A: No, I just got back to Perth. I drove down from up north a couple of days before. It could have broken on the way. I mostly use my spotlights on country trips so I would not have noticed.

Q: In summing up Mr Allen. Who's computer is this?

A: Mine.
Pro-Conviction Evidence manipulation

(Opens with full length view of accused on screen)

Clerk of Courts (off screen) Are you Mr. John Allen of unit 15/175 Harborne Street, Glendalough.

Accused (On Screen) Yes

Clerk of Courts (Off Screen) You are accused of breaking and entering the premises of Miss Joan Myer a widow with two young children at 16 Wattle street West Perth on Wednesday 16th April at approximately 11:30pm. The home was ransacked and an Apple Macintosh computer as well as $88.00 in cash was stolen. How do you plead?

Accused (On Screen) Not Guilty

(Screen goes blue narrator reads as below)

The accused (Mr Allen) has pleaded “Not guilty”.

Evidence for the prosecution.

Witness at scene of crime

Mrs Amelia Jones of 11 Wattle street West Perth came out of her front door at 11:30pm on Wednesday 16th April because she heard an alarm ringing. She saw a brown Holden Kingswood with a broken headlight come out of number 16 Wattle Street, turn down the road and travel away from her. Mrs. Jones immediately phoned the police and reported the incident.

When questioned further by police Mrs Jones said that there were two people in the car. From the distance she could not really be sure if the driver was male or female.

Review and summary of Police Evidence against the accused (Mr Allen)

Mr Allen was stopped on Thursday 17th April at 8:00pm driving a brown Holden Kingswood with a broken right front head light. The officer noticed a computer in the rear of the vehicle. The officer realised that the vehicle fitted the description of one seen at the scene of a break and enter the previous night, at which an Apple Mac computer had been stolen. The officer first
asked if Mr Allen was aware that his headlight was not working. Mr Allen replied that he was not. The officer then asked where Mr Allen’s car had been at 11:30pm on Wednesday 16th April. Mr Allen replied that he had left his car at the Nookenburra Hotel last night, walked home and gone straight to bed. When asked if anyone could verify this, his reply was that they could not. Mr Allen was asked where at the hotel he had parked his car. Mr Allen replied that it was parked by the bottle shop. The officer then asked if it was Mr Allen’s computer in the rear of the car. Mr Allen replied that it was. The officer enquired when and where the computer was purchased. Mr Allen replied “about 2 years ago from a shop in Perth”. The officer asked if Mr Allen had a receipt for the computer. “I don’t think so” replied Mr Allen. The officer asked “where are you taking the computer now?” Mr Allen replied “I just picked it up from my friend’s house, he has been looking after it for me while I was working up north.”

When the computer was examined the hard disc had been formatted. A record of the serial number had not been available from the stolen computer. The Apple Mac was positively identified as the stolen one. Both the stolen computer and the one found in Mr Allen’s possession have a long scratch on the right hand side.

Evidence from Mr Murphy a neighbour of the accused (Mr Allen).

Mr Ronald Murphy of unit 5/175 Harborne St, Glendalough left his flat at 11.15pm on Wednesday 16th April to go to his work as a garage attendant. His parking spot is next to that of Mr Allen. Mr Allen’s car was not parked in its bay at that time. When Mr Murphy returned home from work at 8.30 am on Thursday 17th April Mr Allen’s car was parked in its bay. Mr Murphy does not pass Mr Allen’s unit to get to the parking bays.

Evidence from staff at the Nookenburra Hotel.

Mz Susan Freehand, bar attendant of the Nookenburra Hotel, Liege Street, Woodlands, stated that she saw both the accused [Mr. Allen] and his friend Ian [Mr Walters] leave the pub together at 10:30pm on Wednesday 16th April. She is sure of this because they were the only people in
the lounge at the time and she had looked at the clock to see how long she had left of her shift.

She knows Ian [Mr Walters] because he drinks at the pub regularly.

Ms Freehand; Ms Marie Williams and Mr William Fredrick, all employees of the Nookenburre Hotel, said that they had left the hotel together that night as they normally do through the bottle shop entrance. They always look around to make sure no one is hanging about. They did not see a Brown Holden Kingswood when they left that night.

**Evidence for the defence.**

Evidence of Mr Ian Walters a close friend of the accused (Mr Allen).

Mr Ian Walters of 112 Weaponess Road, Scarborough stated that he had been a friend of Mr Allen’s for many years, They had gone to school together. Mr Walters confirmed that Mr Allen’s Apple computer had been left with him about 2 years ago when Mr Allen went north to work. He [Mr Walters] says that he received a call from Mr Allen on Wednesday 16th April around 5pm. Mr Allen advised him that he had just returned from up north and would like to pick up his Apple computer. He [Mr Walters] told Mr Allen that he had some personal stuff on the computer that he would have to remove so it was arranged that he [Mr Walters] would format the hard disc to remove all his information and Mr Allen would pick it up on Thursday 17th April around 7pm. After talking further they mutually decided that Mr Allen would meet him at the “Nooky” [Nookenburre Hotel] that evening for a drink. Mr Walters says that they left the pub about 10:30pm and because Mr Allen thought he would be over the limit Mr Allen left his car in the car park and walked home.

When questioned by the prosecution Mr Walters admitted that he did not have anyone who could say were he, Mr Walters, was at 11.30pm on Wednesday evening 16th April.
Examination of the accused (Mr. Allen).

Q: Is your name John Allan
A: Yes

Q: Where were you on the night of Wednesday 16th April at 11.30pm?
A: I was home, asleep.

Q: Where were you earlier in the evening?
A: I was at the Nookerburra pub with my mate Ian Walters.

Q: How did you get home.
A: I had enough to put me over the limit so I walked home.

Q: What time would that have been when you walked home?
A: About 10.30 it takes about 20 minutes so I was home before 11 O’Clock.

Q: Where was your car.
A: I left it at the pub. I normally get up early so I picked it up about 6.15am the next morning.

Q: Is the computer yours?
A: Yes

Q: But the police claim this is the stolen computer!
A: I can see how they can make that mistake, all Macs look the same.

Q: Where did you get your computer from?
A: I bought it a couple of years ago in a shop in Hay Street.

Q: What was the shop called?
A: I don’t remember. It was at the top end by Milligan Street. I had a look after I was stopped but it must have shut down.

Q: How did you pay for it?
A: I paid cash for it. I had been working up north and had plenty of money.

Q: What happened to the receipt?
A: I went back up north and must have lost it when I was travelling around.
Q: Why was the computer in your car on the evening that the police stopped you?
A: I had just picked it up from my friend's house. He had been looking after it for me.
Q: Did you erase the hard drive on the computer?
A: No. I rang Ian [Mr Walters] the night before I was stopped, Ian said he had stuff on the computer and that he would get it ready for me to pick up on Thursday evening. He formatted the hard disk.
Q: Do you own car?
A: Yes
Q: What kind of car is it?
A: A brown Holden Kingswood
Q: When the police stopped you were you aware that one of your headlights was not working?
A: No, I just got back to Perth. I drove down from up north a couple of days before. It could have broken on the way. I mostly use my spotlights on country trips so I would not have noticed.
Q: In summing up Mr Allen. Who's computer is this?
A: Mine.
Appendix B

Moderately Anxious Demeanour

Examination of the accused (Mr. Allen).

Q: Is your name Mr John Allan
A: Yes

Q: Where were you on the night of Wednesday 16th April at 11.30pm?
A: Um, I was home, I was at home asleep.

Q: Where were you earlier in the evening?
A: I was at the pub, the Nookanburra pub with my mate Ian Walters.

Q: How did you get home.
A: Um, I walked home, I'd had a few too many.

Q: What time would that have been when you walked home?
A: Ah, it would have been about 10.30 its about a 20 minutes to walk, so I'd, so I would have been home about 11 O'Clock.

Q: Where was your car.
A: The car? I left it, the car was back at the pub. I'd had a few too many drinks so I decided I'd pick it up about 6.15am the next morning. I wake up early so I could pick it up.

Q: Is the computer yours?
A: Yes

Q: But the police claim this is the stolen computer!
A: Ah well I can see how they can make that mistake, all Macs look the same.

Q: Where did you get your computer from?
A: Ahm, I bought my computer from a store in Hay street.

Q: What was the shop called?
A: Ah, ah, I couldn’t tell you. It was quite a while ago, I went back to check but it wasn’t there, so.

Q: How did you pay for it?

A: Ah, I paid cash, paid cash for it.

Q: What happened to the receipt?

A: I must have lost it when I went back up north, I did a fair bit of travel, so.

Q: Why was the computer in your car on the evening that the police stopped you?

A: Um, the computer was in my car because, ah, my friend lan, ah, had been looking after it for me. Ah, while I, ah, was up North and ah, I called him ah, um, had some stuff, um, ye, yep, so I was picking it up from him.

Q: Did you erase the hard drive on the computer?

A: No. no, no, I didn’t. I rang lan [Mr Walters] to do that, he had stuff on it. He said he’d get it ready for me.

Q: Do you own car?

A: Yes

Q: What kind of car is it?

A: Ah, it’s a brown Holden Kingswood

Q: When the police stopped you were you aware that one of your headlights was not working?

A: Ah, no, no, I wasn’t, ah, I mean I had just come down from up North, I’m usually use my spotlights on that trip. It must have got damaged.

Q: In summing up Mr Allen. Whose computer is this?

A: Ah, mine.
Low Anxiety Demeanour

Examination of the accused (Mr. Allen).

Q: Is your name Mr John Allan
A: Yes

Q: Where were you on the night of Wednesday 16th April at 11.30pm?
A: I was home, asleep.

Q: Where were you earlier in the evening?
A: Ah, at the pub, the Nookunburra pub with my mate, ah, Ian Walters.

Q: How did you get home?
A: I walked home, um, I’d had a few too many so I didn’t want to drive the car

Q: What time would that have been when you walked home?
A: Ah, it would have been about 10.30 it takes about 20 minutes to walk so I would have got home about 11 O’clock.

Q: Where was your car.
A: The car, um, I left it at the pub. Um, I’d drank a few too many. I woke about 6.15am the next morning so I walked down there then.

Q: Is the computer yours?
A: Yes

Q: But the police claim this is the stolen computer!
A: Ye, but I can see how they can make that mistake, all Macs look the same.

Q: Where did you get your computer from?
A: I bought it ah, in, in Perth, in Hay street.

Q: What was the shop called?
A: Um, I’m not sure, I went back after I got back. It’s gone, it’s not there any more. But it must have shut down.
Q: How did you pay for it?
A: I paid cash for it. I had been working up north and had plenty of money.

Q: What happened to the receipt?
A: The receipt, well I went back up north and probably must have misplaced it up there or something.

Q: Why was the computer in your car on the evening that the police stopped you?
A: I was picking it up from Ian’s house. He had been looking after it for me, while I was up North, um, I was just picking it up again.

Q: Did you erase the hard drive on the computer?
A: No. I didn’t Ian [Mr Walters] said he um, had some stuff on there, so he just wiped it for me.

Q: Do you own car?
A: Yes, I do.

Q: What kind of car is it?
A: Ah, a brown Holden Kingswood

Q: When the police stopped you were you aware that one of your headlights was not working?
A: No, I wasn’t, I’d just come back to Perth actually and on that trip I normally only use my spotlights, so I would not have noticed. It probably got broken on the way.

Q: In summing up Mr Allen. Who’s computer is this?
A: Mine.