

A Few Words from the Bench:
Judges' Communication to and about the Jury

Traci Feller

A thesis
submitted in partial fulfillment of the
requirements for the degree of

Master of Arts

University of Washington

2013

Committee:

David Domke

Valerie Manusov

Lisa Coutu

Program Authorized to Offer Degree:

Communication

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University of Washington

Abstract

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Traci Feller

Chair of the Supervisory Committee:
Dr. David Domke
Department of Communication

A judge holds an important position during a jury trial. In a context that is typically unfamiliar and unknown to jurors, the judge regularly holds the highest amount of respect and is thought to be the most just, fair, and wise professional in the courtroom. The judge speaks *to* the jury, as well as *about* the jury, and both give the jury cues and information used to attribute meanings to the actions and events occurring. In short, judge communication during a trial can be very impactful to a jury and the trial process as a whole. This study looked specifically at the communication of judges pertaining to the jury itself, either *to* or *about* the jury, and how this may correlate with specific judge characteristics, particularly sex and race. When speaking *to* the jury, this study analyzed what instructions, explanations, informal, or praising communication they offered the jury. When speaking *about* the jury, this study analyzed what instruction, positive or negative characterizations, advocating, and informal statements they made regarding the jury. Additionally, this study examined two ceremonial acts a judge engaged in regarding a

jury: allowing them to ask questions after witness testimony in a civil trial, or having the entire room stand when the jury entered or exited; both are unrequired and up to the discretion of the judge. This study found that female and racial minority judges were more likely to advocate for the jury, to allow the jury to ask questions of witnesses in civil trials, and to have the room stand for the jury when it entered or exited than did White, male judges.

Keywords: judge, jury, communication, speak, courtroom, trial, sex, race

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Chapter 1

Introduction

The right to a trial before a jury is fundamental to the United States judicial system. Months before he drafted most of the Declaration of Independence in 1776, Virginia lawyer Thomas Jefferson wrote to a friend, “I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution” (cited in Vidmar & Hans, 2007, p. 16). More than two centuries later, the ability for plaintiffs and defendants to get a hearing in a courtroom remains an integral part of the U.S. justice system, with the Sixth Amendment’s guarantee of a fair and impartial jury trial written into law as well as into American public culture. In 1979, then-Supreme Court Associate Justice William Rehnquist put it in these terms: “[T]he founders of our nation considered the right of trial by jury in civil cases an important bulwark against tyranny and corruption, a ‘safeguard too precious to be left to the whim of the sovereign’” (Adler, 1995, p. 146). Given the centrality of the legal system in the United States, and the importance of juries within that environment, factors that impact trial outcomes are an essential piece of American democracy.

At present, much of the research on trials focuses, in one way or another, on verdicts. There have been numerous studies examining whether judges’ verdicts are related in any patterned way to the judges’ age, sex, demographic location, experience, race, and so forth (for more see Peresie, 2005; Steffensmeier & Britt, 2001; Steffensmeier & Demuth, 2001; Welch, Combs, & Gruhl, 1988). Additionally, research has examined whether judges decide cases in different ways than do juries (see Arel, Jennings, Pany, & Reckers, 2012; Krause, 2007). Research on trials from a communication perspective focuses mostly on how the key actors with motives for the trial—such as plaintiffs, defendants, attorneys, and witnesses—attempt to

influence the process (for more see Barge, Schlueter, & Pritchard, 1989; Brodsky, Griffin, & Cramer, 2010; LeVan, 1984; Remland, 1994; Spiecker & Worthington, 2002). Nonverbal communication in the courtroom has also been of interest to scholars, and work has focused on judges (e.g., Blanck, Rosenthal, & Cordell, 1985; Blanck, Rosenthal, Hart, & Bernieri, 1989; Ekman & Rosenberg, 1997; Halverson, Hallahan, Hart, & Rosenthal, 1997), but the verbal communication of judges has been relatively unexamined, in part because judges' communicative behaviors are constrained by courtroom rules and norms, so as to supposedly not affect the trial outcome. This dearth of scholarship informs my research.

A trial might reasonably be viewed as a series of communication interactions and discussions. From the moment attorneys speak to individuals during jury selection about attitudes and values through the final minutes of closing statements, in the introductions of evidence, in attorney questions and witness responses during examinations and cross-examinations, in lawyers' interruptions and objections, and in judges' decisions to sustain or overrule such claims, people are engaging in acts of communication. This set of processes is where I situate my research. In these interactions, judges occupy a special position. Many of the actors in a courtroom are bound to particular viewpoints, but judges are constitutionally upheld to remain impartial and free of bias (Blanck et al., 1985; Halverson, Hallahan, Hart, & Rosenthal, 1997). Still, a judge cannot avoid having some unintended impact, particularly when there is a jury. Rosenthal (1966) has shown that individuals who enter an unfamiliar situation and are unsure how to behave or interpret certain stimuli seek out the most experienced or powerful person present, watch how he or she acts, and then calibrate their behaviors accordingly. In a courtroom setting, this role model is the judge, who jurors typically view as being "just, fair, and wise" (Levan, 1984, p. 84). The result is that judges are potentially both guides and cue-givers

for jurors, and in these roles, their communication is crucial. What judges say, how they say it, and to whom they direct their communication are important matters.

With this in mind, I studied judges' communication in the courtroom. Specifically, I was interested in how judges communicate *to* and *about* juries and whether these patterns were potentially connected to judge characteristics. Such communication includes how and how often judges speak directly to the jury as well as how and how often judges invoke the jury as an entity during trial. To address these points of focus, I observed civil and criminal trials at the King County Superior Court in Seattle, Washington. I focused on the verbal communication of judges and took into account the judges' characteristics of sex and race. My hope is that this research will contribute to scholarly understanding of courtroom communication, judicial roles, and the trial process as a whole.

Chapter 2

Communication by Judges

The communication environment inside a courtroom is unique. In the words of Searcy, Duck, and Blanck (2005), “[t]he courtroom is a strongly defined context” (p. 42) with distinct, noteworthy rules of interaction and where greater scrutiny is placed on individuals and their statements than in typical communicative environments. For example, communication in a courtroom often occurs in question-and-answer styles that are uncommon in daily conversations, there are limitations on what each person is allowed to say, and only specific people are permitted to interrupt or ask questions. For those who do not spend much time in this environment—which is true of most jurors—there is a need to make sense of a space that in “physical setup and routine, represents a violation of daily interactive expectations” (Searcy et al., 2005, pp. 48-49). Steven Adler, a legal reporter for the *Wall Street Journal*, suggests that for jurors “watching a jury trial is much like watching a foreign movie without subtitles” (cited in Cate & Minow, 1993, p. 1101). That is, it can be difficult to understand what is happening and why. Searcy et al. (2005) argue that the court context can have disabling effects on people’s ability to attribute meaning to interactions because they aren’t familiar or confident in their understanding of the procedures occurring, and because the risk of a misunderstanding can be highly consequential. Jurors, in particular, may be uncertain how to interpret exchanges such as one attorney interrupting another and what it means when a judge overrules or sustains an objection made by one party. The process of trying to understand exchanges among actors and determine the relationships they share, in addition to selecting which side to believe and support, can be enormous tasks for jurors, particularly given the gravity of the outcomes.

In such uncertain circumstances, people look toward key others to help their sense-making. As a result, the way a judge communicates can be crucial to the trial process and to jurors' understandings. Research shows that different judges commonly produce distinct verdict outcomes—some determine guilt, while others determine innocence—when given the same hypothetical case information (Halverson et al., 1997). Furthermore, when a judge, who is predisposed to think the defendant is guilty—but nonetheless is directed to remain impartial—reads instructions to a jury, those jurors are more likely to replicate the judge's predisposed conceptions and determine the defendant guilty; when a judge who is predisposed to think the defendant is innocent reads those same instructions to a new jury, jurors are more likely to determine the defendant is innocent (Halverson et al., 1997). In short, judges' beliefs and behaviors exhibited intentionally or not through their mechanisms of communication, can matter greatly.

There are no defined rules governing how interactive and communicative a judge can or should be with a jury, thus, as would be expected, judges' communication styles differ. Some judges take a highly communicative role with the jury and interact with them on a consistent basis, whether it is to explain or clarify something or to provide additional instructions (Ungs & Baas, 1972). Other judges employ an approach in which they let the evidence and the witnesses “speak for themselves” and do not offer much clarification, because they deem such communication unnecessary or outside their purview (Fielding, 2011; Galanter, Palen, & Thomas, 1978). One potential reason for this latter approach may be the fear that clarifications can be harmful, because they could provide opportunity for a judge's biases to seep through. So long as judges do not act with detectable bias, the extent of interaction with the jury is at the discretion of each individual judge. With this in mind, I am interested in two kinds of judge

communication during a trial: first, how a judge speaks *to* the jury, and second, how a judge speaks *about* the jury.

Speaking to a Jury

Judges often speak directly to the jury in the courtroom. That is, judges can pause proceedings to communicate something to the jury in order, for example, to provide more information or clarification, or to provide specific instructions. In such communication with the jury, the judge directs his or her gaze at the jury typically, addresses them (e.g., as “jurors,” “members of the jury”) and delivers some kind of verbal message. As noted, some judges may adopt a more interactive role with jurors, allowing them to ask questions and providing them with answers. Other judges may prefer a more hands-off approach, in which they provide the jury more sovereignty to decide matters on their own (Blanck et al., 1989; Cate & Minow, 1993). The manner in which a judge speaks to a jury is important to the dissemination of knowledge in the courtroom as well as in setting the general tone and mood. In these situations, I am interested in both the frequency of communication by judges to the jury as well as the purpose of such communication. I am particularly interested in four kinds of messages that I find significant based on my experience watching trials: instructional, explanatory, informal, and praise.

Instructional comments by judges tell jurors how to perform their responsibilities. The role of a juror can often be vague, and jurors rely on their working knowledge of what a jury is, which can be based largely on what they see in television shows and movies (Adler, 1995). Therefore, jurors typically need to be instructed on what their role is, especially because the type of legal case guides that role. For example, in criminal trials, the prosecutors need to prove a case *beyond a reasonable doubt*, whereas in a civil trial the prosecutors need to prove their case upon

a *preponderance of the evidence* or with *clear and convincing evidence*. Jurors often do not know what these declarations mean, and for this reason a judge may explain what the jurors' job is and what is expected of them. A direction by a judge to a jury might be, "Members of the jury, the attorney mentioned some evidence that was not admissible to the trial. You should ignore this information. Do not attempt to speculate about why it was inadmissible, and do not let it affect your judgment during deliberation." Another instruction judges commonly give to jurors is to not discuss the trial with anyone or watch television or read any news that might cover the trial. This is because if jurors are exposed to outside information, their determinations may be biased and they could be fined and/or held in contempt of court. It could also be grounds for a mistrial. In short, if the jury does not understand its role, it can harm the process in many ways. Judges have the position to direct a trial as best they can, and instructions they provide are central interests of this research.

Explanational messages are ones in which judges clarify and define potentially difficult or confusing information to the jury. Such communication is common by judges (Blanck et al., 1989; Cate & Minow, 1993), because information and proceedings in a trial can be complex and are typically infused with legal jargon. For example, a direct explanational statement by a judge might be the following: "Attention jurors, counsel and I are about to partake in a sidebar conversation, but that does not mean someone is in trouble, or that we are arguing something secretive. It just means that we need to discuss a matter that we wish not to present on the record." Another explanational statement a judge might make to the jury is "Jurors, the statements made by the witness are based on their memory or opinion only, they are not proven as fact." These statements are typically meant to help jurors by explaining and clarifying information.

To explore the overall quantity of statements by a judge to a jury, I also identified a third category of judge communication: *informal*. Informal statements to a jury by a judge are ones that are simple pleasantries or unofficial declarations about tasks, timelines, or other logistics that are unrelated to the content of the trial. Informal statements might include “Did anyone catch the ball game last night?” or “Go enjoy the nearest happy hour after this long trial day.” These statements uphold the human aspect of the trial, distinct from instructional or informational messages that are targeting trial content or case-related information. For example, a general subtype of informality a judge might employ in communication to a jury is the use of humor. Some legal scholars condemn such behavior, labeling it “inappropriate,” “disrespectful,” and costly to the legal system’s reputation as a profession (Rudolph, 1989). Others praise its use, saying informal humor can improve the judicial process and breathe life into mundane concepts and processes (Hobbs, 2007). Regardless, Hochman (1994) says that humor is prevalent in the legal profession. The use of humor and other informalities can facilitate the development of a more interpersonal relationship between judge and jury, where the jury can feel more equal, human, and acknowledged. A degree of informal communication can also make judges *seem* more amicable and likeable, aiding in their ability to command the courtroom and oversee a smooth trial (Frecknall, 1992). In this study, I was interested in whether judges differed in their use of informal communication in the courtroom because it can be indicative of the communicative style of a judge.

A final type of communication to the jury that I examined was *praise*. Some judges may compliment the jury on doing a good job or otherwise applaud them for the work that they do. A statement of praise to the jury might be “Great job listening today everyone, you are taking your civic duty seriously and we appreciate that.” Another example of praising communication would

be “This jury has done an excellent job asking questions of each witness and I now turn the case over to you to decide.” Judges might use praising communication to instill confidence among jurors to decide the case. A judge may also want to promote good juror behavior by verbally rewarding them when applicable. By including praising communication as a fourth category in my coding scheme, I captured four important types of judges’ verbal communication to juries.

Speaking about a Jury

In their courtroom communication, judges also often speak to other actors in the courtroom about the jury. The way that a judge speaks *about* a jury can set the tone for how the jury conceives of its role and responsibilities, as well as how others in a courtroom treat and feel about the jury. For purposes of my study, this communication can occur in the form of several types: *instructional* content to attorneys about the jury, *characterizations* of a jury ranging from criticism to praise, *advocation* for the jury by requesting that other actors act in the best interests of the jury, *informally* speaking about the jury to others; and, finally, in *ceremonial* actions by judges that are solely at the discretion of the judge, such as asking audiences to stand for juries and allowing jurors to ask questions after witness testimony in a civil trial. Each of these types of communication is about a jury, either directly or indirectly, and may affect how a jury perceives a judge as well as the process as a whole, which can carry through their deliberations and affect verdict outcomes (Ryan, Ashman, Sales, & Shane-DuBow, 1980). As such, this study assessed how judges communicate about juries as well as how such communication correlates with judge characteristics, specifically sex and race.

One way a judge may communicate about a jury is to simply provide instructions to the attorneys about the role or actions of the jury. Attorneys can inadvertently influence the jury, and

some scholars argue that their deficiencies can be a nuisance to the fairness and impartiality to a trial (Strier, 1996). Often, judges need to instruct attorneys to correct for potential issues such as overzealous advocacy, argumentative language, determinations of the scope of litigation, as well as imbalanced attorney skills and attorney domination that could unfairly impact jury decision making. In these instructions, a judge may remind an attorney that they should not phrase certain remarks in such ways to the jury, or talk about certain facts. A judge may also instruct an attorney to not ask certain questions of the witnesses in the presence of the jury. These types of communication invoke the jury as an entity and remind attorneys of the jury's role as well as how their actions may affect the jury. I call this category *instructional*, and an example of instructional communication about the jury is, "The parties may take a break while the jury is asking their questions," or "that evidence will not go back to the jury." If a judge provided instruction to another actor in the trial that included an invocation of the jury in some form, it was identified as instructional.

The second and third forms of speaking about a jury in this study captured whether a judge offered positive or negative *characterizations* of a jury when addressing other actors in the courtroom. For example, judges might say, "The jury is smart and can make their own decisions" or "I trust the jury," both of which would be positive characterizations, or *praise* statements about the jury. Alternatively, judges might say, "The jury cannot understand this matter" or "The jury is not capable of assessing this claim," both of which would be negative characterizations, or *criticism* about the jury. In these kinds of characterizations, judges either encourage or discourage reverence for the jury. So, in capturing positive characterizations of the jury relative to negative ones, I sought insight about judicial communication of respect for juries.

A fourth way a judge might speak about a jury is to *advocate* on its behalf, by speaking out for the members' needs or concerns. To be an advocate for the jury is, for a judge, to communicate in certain ways in a courtroom that he or she makes clear are being done explicitly to aid a jury. For instance, the judge might ask a lawyer or witness to explain something to the jury; judges might ask trial participants to speak up or slow down; or the judge might make statements reminding the attorneys to respect the time and commitment of jurors (Blanck et al., 1989; Cate & Minow, 1993). Other judges may offer little explicit communication on behalf of the jury, largely appearing to ignore them or treating them like quiet spectators (Blanck et al., 1989; Cate & Minow, 1993). How often a judge advocates for a jury can differ among judges, and this treatment is likely critical to the jury's experience. Some juries may be more comfortable in the jury box and can easily hear testimony and see visual aids if a judge is looking out for them and telling other trial actors to do the same. Without a judge engaging in this type of communication about a jury, a jury might have a difficult time seeing and hearing everything in a trial, or they may be distracted by elements in the room if the judge is not proactive about controlling for them. For these reasons, advocating for a jury can be a very important form of communication by a judge.

To capture a larger range of communication about a jury, I included a fifth type of communication: *informal*. Informal communication about the jury mirrors the informal communication to the jury as discussed previously. These types of messages about a jury by a judge might offer simple pleasantries, jokes, small talk, or statements that are unrelated to the content of the trial but invoke the jury. Informal statements about a jury might include "Tomorrow we'll have some fresh coffee for the jury," or "The jury won't mind going home early today with this sunshine." These statements encourage members of the courtroom to keep

alive the sociable, human aspect of the trial by taking a small break from the hefty and substantial formal dialogue, and do not target trial content or case-related information.

Finally, there are two *ceremonial* ways a judge might communicate about a jury. The first is by instructing members of the court to stand when the jury enters or exits. This behavior is traditionally done for judges, at their request, but some judges may distinctly pay such respect to the jury as well. Second, a judge may allow jurors to ask questions of a witness at the end of their testimony in a civil trial. This is not traditionally done, and is only allowable during civil trials and only in certain states—with Washington¹ being one of them. According to the jury manager at the King County Superior Court, allowing juror questions is becoming a more common practice among the judges there, but it is up to the individual judge and not required by law. I was interested in whether judges engaged in these behaviors as well.

For this thesis research, therefore, I was interested in four types of judge communication to the jury and seven types of judge communication that are, either directly or indirectly, about the jury. In turn, I also was interested in whether these kinds of communication were related to some characteristics of judges. I now discuss these possibilities.

Characteristics of Judges and Communication Behaviors

Considerable research suggests that individuals' demographic characteristics and experiences are related to how they communicate. Scholars often suggest that for communication to be deemed effective, the sender must encode and the receivers must decode the meanings of messages (Giles & Le Poire, 2006; Smith & Wilson, 2010). Scholarship on "communication styles" looks at how personal characteristics are related to how a sender might

¹ Washington State, where the fieldwork for this study was conducted, permits judges to allow jurors to ask questions of witnesses after their testimony in civil trials.

intend a communication and how a receiver might interpret it (for an overview, see De Vries, Bakker-Pieper, Siberg, Van Gameren, & Vlug, 2009). On a general level, some people tend to be more expressive, enthusiastic, stimulating, interactive, and animated than are others (Potter & Emanuel, 1990). Some are more interpersonal, social, and warm in their communication—for example, being responsive, friendly, and showing empathy for others—whereas others can be more disconnected from the relational interactions and be less empathic and more task-driven (Kern, 1982; McCroskey, Richmond, & McCroskey, 2006; Wanzer & McCroskey, 1998). In short, there are many ways in which people differ in communication style, and these distinctions are often related to their characteristics and socio-cultural experiences (Roloff, 2010). I am interested in communication styles of judges, and in this section I consider whether they might be associated with certain demographic characteristics. Because judges are expected to downplay as much of their individual values as possible to reduce the possibility of bias, it is intriguing to examine how they communicate differently. We know from previous literature (Beiner, 2002; Chew & Kelley, 2008; Farhang & Wawro, 2004; Halverson et al., 1997) that their differences may affect the outcome of a trial so I want to see how their communication may reflect that. With this in mind, I am interested in whether judges' communication to and about the jury are related to their biological sex or ethnicity.

Sex of Judge

In the legal system, men have long predominated in positions of power. Historically as well as at present, men have a much greater presence in the field of law, especially in the more prestigious positions in the field. For example, women outnumbered men entering law school in 2006, but women represented only 17% of law firm partners and 21% of state judges that same year (Miller & Maier, 2008). Five years later, women represented 84% of paralegals and only

32% of lawyers (U.S. Dept. of Labor, 2011). As a sign of our cultural acceptance of this difference, in entertainment media judges are traditionally portrayed as White males (Hodson, 1992). Remarkably, this male dominance of judge roles in media has decreased with the introduction of reality court television. In those shows, women are *over*represented: In 2009 women made up 6 of 10 daytime TV judges (Banks, 2009). These shows, however, decide cases that are often viewed as ridiculous and low-brow, so the conception that the official legal field is a male-dominated arena remains.

As a result, females in the legal field, and especially those in the positions of a judge, do not fit the commonly portrayed, official prototype in U.S. culture. Their limited representation may negatively affect a female's experience of being a judge and may even create hardships for them (Kay & Gorman, 2008). In support of this, females in legal professions commonly report in surveys and interviews that they receive less credibility for their arguments than male counterparts, they are the targets of more sexist jokes, and they are more commonly addressed by first names (Christensen, Szmer, & Stritch, 2012; MacCorquodale & Jensen, 1993). In short, females do not appear to hold a status equivalent to males in the legal field, both in sheer numbers and in how they are treated and valued.

Notably, though, research concludes that male and female judges *are* equivalent in the quality or credibility of their decisions (Collins & Moyer, 2008; Davis, 1993; Segal, 2000; see also Songer, Davis, & Haire, 1994), but that does not mean they reach their decisions in identical ways. Male and female judges often arrive at the same verdict, but legal theorists find measurable differences between men and women in their approach to moral reasoning, as well as their responses to conflict (Elliot, 2001). For example, Coontz (2000) found that female judges tended to resolve moral problems by emphasizing connection and community, whereas male

judges resolved moral problems more typically by emphasizing individual rights and abstract rules (see also Bowman, 1998; Kay & Gorman, 2008; Martin, 1990; Martin, Reynolds, & Keith, 2002; Miller & Maier, 2008; Westergren, 2004). These differing routes to decision making, may be connected to different ways of communicating by female and male judges.

The divergent experiences of men and women may carry through in judges' communication with juries. From a strictly behavioral sense, men and women tend to exhibit some different habits when conversing, although there are more similarities than differences overall. For instance, men in general are found to interrupt more often than women (Banwart & McKinney, 2005; Hutter, 2010, McQuiston & Morris, 2009). Men also tend to speak more than women when in positions of power (Banwart & McKinney, 2005; McQuiston & Morris, 2009). As a judge, this could mean that males may be more likely to take and hold the discursive floor in the courtroom or interrupt attorneys to assert a direct statement to the jury or other members of the counsel more often than females. At the same time, McQuiston and Morris (2009) state that women tend to ask questions more and speak more politely and indirectly than men. For judges, this could indicate that males will speak *to* the jury more often than females, and females might speak *about* the jury more often than males. With these pieces in mind, I offer my first set of research questions:

RQ1: Are male judges more likely than female judges to speak *to* the jury?

RQ2: Are female judges more likely than male judges to speak *about* the jury?

Furthermore, research suggests that women communicate in ways that might be seen as more respectful of the jury, such as speaking politely to them, more highly of them, and advocating for them. Bystrom (2006) for example, found that women treat audiences more like peers than men do, because women tend to be more social and oriented to community-building

than men. Scholars have found that women in the legal field are more collaborative, cooperative, and empathic in their litigation practices than are men (Kay & Gorman, 2008). Specifically in a legal context, Kay and Gorman note that females' jurisprudence has a greater emphasis on protecting the interests of communities than that of men.

In this sense, a female judge may be more likely to promote an open and respectful communicative environment for jurors. This may be done by speaking to the jury in explanatory terms when language gets difficult to follow, or by speaking about them in reminding counsel to define or explain certain words or phrases. Additionally, female judges may be more likely to set a respectful tone in the courtroom, reserve a space for jurors to provide feedback (i.e., asking them if they are comfortable, and if they understand everything), and reminding the jury that all voices should be heard for a more equal deliberation. Along that line, men tend to be more task and rule-based in their communication than are women (see Banwart & McKinney, 2005). In communication with jurors, a male judge may not mention fair deliberations and expect jurors to assert and defend themselves, rather than advocating for them. Given this reasoning, my next research question was:

RQ3: Are female judges more likely than male judges to speak to or about the jury in ways that explain, praise, or advocate for them?

In a related manner, I am also interested in two distinct behaviors that speak to judicial treatment of jurors. The first is whether the courtroom is asked to stand when jurors enter or leave. This request is enacted traditionally for judges only. It is not necessary for people to rise for the jury, but, out of respect for the jurors and the importance of their job, some judges request this ritual be repeated for their jurors as well (Richard, 2010). It is possible that the norms of politeness or respect that women more commonly exhibit (Bystrom, 2006; Kay & Gorman,

2008) might prompt female judges to be more likely to require such behavior. With this in mind, my next research question was:

RQ4: Are female judges more likely than male judges to have the courtroom stand for the jury when entering or exiting?

The second behavior I decided to analyze is allowing jurors to ask questions during the trial. Historically and traditionally, jurors have not been permitted to speak at all during the courtroom proceedings, but this is beginning to change. Juror questions are still prohibited in criminal trials, but certain states allow judges in civil trials to admit juror questions of witnesses, so long as the questions are approved by the judge and counsel. There is an ongoing debate about whether increased participation is good for jury comprehension (see Diamond, Rose, Murphy, & Smith, 2006). Some jurisdictions allow jurors to submit questions on the basis that it can improve jurors' comprehension and encourage deeper involvement in the trial (Heuer & Penrod, 1994; West, 2002; see also Berkowitz, 1991; Wolff, 1990). This view maps onto a more community-based approach to judging, which research shows is more likely to come from a female (Bystrom, 2006; see also Martin, 1990; Martin, Reynolds, & Keith, 2002; Miller & Maier, 2008); however, whether this is related to judge sex is unclear. The opposition to juror questions maps onto a more rule-based, autonomous approach, which scholarship shows is indicative of male communicative tendencies in the courtroom (Davis, 1993; Martin, Reynolds, & Keith, 2002). In King County it is at the discretion of the judge whether to allow jurors to ask questions. With this in mind, my last research question in this section was:

RQ5: Are female judges more likely than male judges to allow jurors to submit questions during the trial?

Race of Judge

Since 2000, racial and ethnic minorities²—defined here as people self-identifying as Black, Hispanic, Native American, Asian, Native Hawaiian/Pacific Islander, and multi-racial—have constituted slightly more than 20% of law school graduates (National Association for Law Placement, 2012). Currently, however, racial minorities make up only about 13% of all lawyers in the country and about 6% of law firm partners (NALP, 2012). Some scholars have suggested that minority-based experiences can shape how judges behave; for example, Hettinger, Lindquist, and Martinek (2003) declare that “race and gender . . . shape a judge’s policy goals and objectives” (p. 223). Scholars have found that racial minority judges generally exhibit a more humanitarian position on civil rights issues and social issues such as gun control, military drafts, and capital punishment than do White judges (Beiner, 2002; Chew & Kelley, 2008; Farhang & Wawro, 2004; see the 2013 Supreme Court deliberations on the Voting Rights Act as an example, Milbank, 2013). Walker and Barrow (1985) have suggested that the differences in decision-making may be because the route to the bench for minorities tends to be less conventional than that of White men. Many minorities come from underprivileged situations in society and had to work additionally hard and had to be their own advocates. Furthermore, they often come from an underrepresented position and may be more likely to defend others who seem oppressed, devalued, or otherwise victims of a lack of representation and power imbalances (for more see Beiner, 2002; Chew & Kelley, 2008; Edwards, 2002). I would like to see if such empathic or advocating communication behavior is found more commonly among judges who are racial minorities. For example, minority judges might be more likely to remind the counsel

² Much consideration went into selecting the terminology of “racial minority/ies.” Other terms considered included “non-White,” “people of color,” and “non-dominant group.” I chose to use “racial minority” because this language appears in scholarship and seems to best express both the statistical realities as well as the cultural experiences potentially shared by such individuals in a society with a White male majority. All terms are imperfect and may have other implications, but this one was selected as the most appropriate.

about how to treat the jury, or to make other comments to promote the value of the jury. I therefore offer the following research question:

RQ6: Are racial minority judges more likely than White judges to speak to or about the jury in ways that explain, praise, or advocate for them?

I also investigated whether judges who are racial minorities would be more likely to ask the courtroom to stand for the jury to exit and enter as well as to permit jurors to submit questions of witnesses after testimony. Although juries have been used in some form or another for over 700 years, they continue to receive scrutiny regarding whether they are adept at making legally binding decisions in our judicial system. There are widely held criticisms, encouraged by media pundits, and echoed by legal critics, that jurors are not qualified to make complex decisions regarding the law, that they render judgments based on sympathy or prejudice, that they do not understand judicial instructions, and that they simply cannot comprehend much of what goes on in a trial (for more on the debate, see Dwyer, 2002; Gastil, 2008; Hans & Vidmar, 1986; Kalven & Zeisel, 1966; Litan, 1993; Sanders, 1997). Because minority judges might plausibly be more likely to understand and relate to the detriment of a lack of fair representation, I wondered if they would be more likely to be greater advocates of the jury as an active, able-bodied entity. The concept of a jury creates a more equalized distribution of power because 12 peers are deciding a case rather than one single judge, allowing for a greater diversity of opinions to be heard. For this reason, minority judges might be more likely to allow for jurors to take an active role in asking important questions during the trial. Additionally, they might also treat jurors with the same respect that the judges themselves receive, as impartial decision-makers, by asking the courtroom to stand for them when entering or exiting. Thus, I offer my final two research questions:

RQ7: Are racial minority judges more likely than White judges to have the courtroom stand for the jury when entering or exiting?

RQ8: Are racial minority judges more likely than White judges to allow jurors to submit questions during the trial?

Chapter 3

Method

To examine how and how often judges speak to and about the jury, I conducted a content analysis of communication by judges in courtroom trials. Content analysis is a method most commonly employed to assess the frequency and types of certain occurrences within a mode of communication in order to examine trends (Neuendorf, 2002). This type of analysis can be done with selected news stories, sound bites, videos, speeches, and other types of communication. It allows for both quantitative and qualitative analysis of communicative trends, and it enables close, specific review of data so that researchers can gain insight into complex interactions. Unlike most content analysis research, I examined *live* communicative content: I coded real-time, in-person communication by judges during trials at the King County Superior Courthouse.³ I did so for several reasons, with one over-riding rationale: I had much greater confidence determining whether a judge was speaking *to* or *about* the jury when I was in the presence of the communication.

Another reason for this method is logistical: Transcripts are very costly to obtain, and it is illegal to video or sound record trials. Transcripts were available in the event that I was unable to hear some judge communication; but fortunately, I was able to hear and see the trial very clearly from the audience bench so it was unnecessary to reference the transcripts during my observation. Additionally, it is illegal to video or sound record trials aside from special and approved circumstances (for which I was unable to receive permission). In the environment of a

³ The King County Superior Courthouse is the general jurisdiction trial court for King County, Washington. The term "Superior" refers to the fact that it does not have limited jurisdiction; that is, it is not restricted to civil cases involving monetary amounts with a specific limit, or criminal cases involving offenses of a less serious nature. The Superior Court may also take appeals from lower courts (e.g., municipal courts, traffic courts). It is theoretically possible of course that the level of the court may impact judicial communication. But assessing across differing levels of courts is beyond the scope of this study.

trial, one person is generally allowed to speak at once (particularly for transcription purposes) so it was not difficult to follow live. Thus, given the laws of privacy that surround jury trials, I had to work within the structural limitations of courtroom research, which served well for the purpose of this study. This method, therefore, allowed me to identify general patterns and themes in judge communication during a trial and, then subsequently, to analyze the frequency and nature of the messages.

Selection of Trials

Selection of trials to observe occurred in a multi-step process. By law, all trials are open to the public, and the King County Courthouse releases a docket each morning listing the trials occurring in every courtroom that day, as well as whether it is a jury trial. Over the course of 12 weeks in spring and summer 2013, I used the docket to identify cases with a jury and observed as many trials as possible over 29 trial days, which amounted to 31 trials. Every observation day I assigned each trial with a jury a sequential number correlating with the alphabetical order of the judge's last name and then used random.org to generate a random number. This number determined which cases I attended. If that trial turned out to be in a pre-trial period (without a jury yet) or ended while I was present, I replicated the selection process to randomly select the next trial. In using this approach, I hoped to gain a good sense of the communication styles of a range of judges while making sure that I did not unintentionally bias my selection of judges or trials.

Codebook

The codebook began with some basic identifying data. First I identified the apparent sex and race of the judge, based on my perceptions. This information is not categorically available in the public record, and I did not ask the judges directly. I recognize that my perceptions may not

align with the judges' self-identified race or sex, so it is most accurate to call this coding the *perceived* sex and race of a judge. In recording this code, I identified what seemed to be the sex and race as perceived by the people who interact with them on a professional basis. For sex, there often were communication references in the courtroom—such as salutations and pronouns of Sir, Madam, Mr. and Ms., she and he, him and her—that also aided my perceptions. The sex and race perceptions were tested with one other researcher while establishing inter-coder reliability, and were matched in 100% of the inter-coder cases.

Next in my codebook, I noted the type of case, because it is plausible that judicial communication styles are related to the content of the trial. The coding for this variable identified (a) whether the trial was civil or criminal and (b) the subtype of case (e.g., personal injury, tort motor vehicle, murder, assault, rape). These categorizations were derived from the docket information. Additionally, I noted the day number of the trial because in my analysis I observed portions of trials; as a result, observations occurred at different points in a trial (e.g., Day 1, Day 7). It was neither feasible nor conceptually desired to examine the entirety of a trial. Specifically, trials can last hours or weeks, even months, and following one trial in its entirety would have greatly diminished my ability to observe a range of judges. Furthermore, observing trials at differing moments ensured that the data were not determined by a specific kind of communication that occurs systematically at certain moments in all trials. So, I began my coding with this set of basic information about the judge and the trial.

I then coded the communication behaviors of each judge. An initial filter variable captured the type of communication. A judge was coded as “speaking to the jury” when the judge turned his or her head toward the jury or otherwise made it clear that s/he was directing a message to them—either as a whole or to individual jurors—and issued a verbal communication.

A judge was coded as “speaking about the jury” when he or she spoke to another trial actor (e.g., attorney, bailiff, witness, plaintiff, defendant) or to the courtroom as a whole and referred to the jury in third person. An example was, “Please speak up so the jurors can hear you.” For the “to the jury” and “about the jury” communication, the judges’ words were recorded as best as possible to help the coding. Finally, a third category of “neither” captured if the judge spoke neither to nor about the jury. In this category, the judge spoke to another trial actor about something with no manifest relation to the jury.

In coding communication to the jury, I identified the communication as *instructional* when the judge offered the jury some form of direction regarding specific trial content, such as “Jurors, please keep an open mind during all testimony from both sides in this case.” Communication was coded as *explanational* when the judge provided the jury with some information previously not given about a fact, explained something said by a lawyer or witness, clarified something, or put things into lay terms. An example included, “This next witness is an expert witness. He did not observe the events occurring and can only offer expertise on matters regarding forensic evidence.” Communication was coded as *informal* when the judge offered a pleasantry (e.g., “It’s raining yet again”), made a statement about other non-trial related housekeeping matters, or made a joke, laughed with, or offered some otherwise casual, mood-lightening gesture toward the jury. Finally, communication to the jury was coded as *praise* if the judge directly complimented the jury, such as “Great job listening today, members of the jury.” All of these codes captured communication to the jury.

When coding for communication about the jury, I coded for instructional comments, positive or negative characterizations, advocacy, informal communication, and ceremonial communication. Communication about the jury was coded as *instructional* if the judge made a

comment that invoked the jury but was targeted toward other actors and directed them as to how to act regarding the jury. An example of instructional communication about the jury was “I will allow you to ask about that evidence, but it will not be going back to the jury room.” Positive or negative *characterizations* were coded if the judge offered praise about the jury or criticism about the jury—without directing such communication to jurors. For example, a praise characterization by a judge included, “Please conclude your statements, Mr. XX, and we will hand this case over to the good people of the jury,” while a critical characterization included the example, “The jury needs your help defining those terms.” I coded for *advocation* if the judge asked other actors in the court to act in the best interest of the jury, such as “Please speak up so the jury can hear you.” I coded communication about the jury as *informal* if the judge made a pleasantry regarding the jury or a joke about the jury, such as “Let’s go to a side bar, although the jury probably thinks we are having cocktails there!” Finally, I coded for the two ceremonial acts of whether a judge had the courtroom *stand* for the jury’s entrance or exit, and whether the judge allowed jurors to *ask questions*.

I also included a “comments” component in the coding. This section provided a space for an additional grounded approach by which I could capture any other interesting dynamics that I did not expect in advance (Rosenbaum, 1995). Nothing particularly notable emerged.

Data Collection Process

After the codebook was created, I engaged in several pilot tests to fine-tune the coding definitions. This took several sessions, and the final codebook is included in the Appendix. With this codebook, I then trained a second coder over the course of five separate visits to the courthouse lasting a minimum of four hours each time. Over two days, I had the second coder work through the coding definitions and get familiar with coding in real time. We then devoted

three days on inter-coder reliability testing. During these three sessions, the second coder and I randomly selected jury trials, and we sat on opposite ends of audience benches to conduct our coding. We entered and left the courtroom together so as to code the trial at the same time. At the end of each day, we compared our codes and I compiled inter-coder assessments employing Scott's *pi* (Merrigan & Huston, 2009), which corrects for agreement by chance. The standard social science expectation of a minimum of 80% agreement after correcting for chance agreements was the standard I required.

Reliability between coders was strong. For the variable regarding type of communication (*to the jury*, *about the jury*, or *neither*), the two coders achieved an inter-coder Scott's *pi* reliability of .90. For the rest of the *to the jury* variables, reliability ranged from .86 (explanational and informal variables) to 1.0 (for instructional and praise). For the *about the jury* variables, reliability was 1.0 for all categories (instructional, positive or negative characterizations, advocacy, and informal). After collecting the data, I entered all of it into SPSS statistical program to facilitate analysis.

Chapter 4

Results

In my content analysis, I identified 1,335 statements made by 17 judges during the course of 31 trials over 29 days. Nine of the judges I observed were female and eight were male. Typically men outnumber women by a fair degree on the bench, but in King County, based on my observation the ratio is more equitable with 18 males and 15 females. Therefore the ratio in my data included slightly more females than the ratio of sitting judges in the county. In terms of race, of the 17 judges I observed three were apparently Asian American, one African American, and 13 White. There are no aggregate data available to see how this sample corresponded to the full pool. Regarding the type of trial in my sample, the 31 trials were split relatively evenly between civil (14) and criminal (17), which means slightly less than half of the juries in my data were in a position to be potentially allowed by judges to ask questions. The subtypes varied among 18 different types of cases, including murder, burglary, malpractice, kidnapping, personal injury, etc. The majority of my observations—26 of the 36—took place in the first few days of trial: days 1, 2, and 3. The rest of this chapter is devoted to two bodies of analysis: results for the findings of my eight research questions and an examination of additional results.

The data indicate that sex of the judges was unrelated to how often they spoke *to* or *about* the jury. Specifically, to answer whether male judges were more likely than female judges to speak to the jury (*RQ1*), I conducted a cross-tabulation test that produced non-significant results. In all the statements each judge made, male judges spoke to the jury 13.0% of the time, compared to female judges who did so 12.7% of the time. A Chi-square test indicated that references to the jury did not significantly differ by the judge's sex, $X^2(1, N = 1335) = .022, n.s.$ The second research question examined whether female judges were more likely than male

judges to speak *about* the jury (RQ2). Again, I conducted a cross tabulation test, and found that male judges spoke about the jury in 4.1% of their communication whereas female judges did so in 4.0% of their communication. A Chi-square test indicated that reference about the jury did not significantly differ by the judge's sex, $X^2(1, N = 1335) = .012, n.s.$ The results of these two research questions show that male and female judges did not speak *to* or *about* the jury at different rates on the aggregate level.

The next phase of analysis, however, showed an interesting difference in some of the *types* of statements *to* and *about* the jury offered by the judges. For this analysis, I focused only on judge communication *to* or *about* the jury. To answer whether female judges were more likely than male judges to speak *to* or *about* the jury in ways that explained, praised, or advocated for them (RQ3), I conducted analysis in multiple parts. For explanatory communication to the jury, male judges engaged in this 31.7% of the time, whereas female judges engaged in it 32.4% of the time, $X^2(1, N = 1335) = .008, n.s.$ These data are not significant and are shown in the first row of Table 1. For praise communication in their *to the jury* statements, males praised the jury in 4.8% of their statements and females did it in 4.6% of their communication, $X^2(1, N = 1335) = .002, n.s.$ These data are in the second row of Table 1. Surprisingly, no judge in my study made praising statements *about the jury*; these data are in the third row of Table 1. As a third part to answering RQ3, I looked at statements advocating on the jury's behalf and found a significant difference between male and female judges. For advocating statements made about the jury, I ran a cross-tabulation and Chi-square test, and found that female judges (73.5%) were more than two times as likely as male judges (30.0%) to advocate for the jury, $X^2(1, N = 54) = 9.758, p < .01.$ These results are in the fourth row of Table 1. A finding of female judges being significantly

more likely to advocate for the jury than male judges means that female judges might better equip their jurors to understand and perceive all the information given in a trial.

Table 1
Sex of Judge by Subtypes of to and about Jury Communication

	Male	Female	X^2	p
Explanational to Jury	31.7%	32.4%	.008	.929
Praise to Jury	4.8%	4.6%	.002	.968
Praise about Jury	0.0%	0.0%	n/a	n/a
Advocate for Jury	30.0%	73.5%	9.758	.002
Room Stand for Jury	88.9%	92.1%	3.961	.047
Jury Ask Questions	70.8%	93.6%	53.085	<.001

The advocating statements made about the jury were directed at attorneys or witnesses and generally focused on issues of logistics during the trial to ensure that the jury could see and hear everything. Commonly, a judge would say, "Please move that exhibit so all of the jurors can see it," or "Speak up so that the jury can hear you." These statements were looking out for the jury to ensure that they could see and hear everything. I also observed statements where the judge would ask a witness to slow down their words or to wait until each juror had received a copy of the exhibit before proceeding. By making statements like this, a judge reminded the witness or the attorney that the jury was their focus, and that they should make them a priority. Additionally, these statements showed the judges' focus on making sure all the information in a trial could be heard, seen, understood, and perceived by the jury adequately for them to make the best decision possible. The data suggest that female judges were more proactive in communicating on this matter than male judges.

Next, to examine *RQ4* I ran cross-tabs to look at which judges had the room stand for the jury when entering or exiting, and found that males (88.9%) were modestly, but statistically significantly, less likely than females (92.1%) to engage in this behavior. These data are in the fifth row of Table 1. A Chi-square test established the significance $X^2(1, N = 1335) = 3.961, p < .05$. As a side note, most judges regardless of sex had their clerk ask for the room to stand for the jury rather than the judge asking the room themselves, but I still counted this behavior as reflective of the judge because they were the ones to direct their clerk to do it.⁴ There were a few judges who specifically asked the courtroom to “please rise”: Three of these judges were female, and one was male.

Finally, for *RQ5* I analyzed which judges allowed jurors to ask questions of witnesses after their testimony and before jury deliberation. Because the federal government prohibits jurors from asking questions during the courtroom proceedings in criminal trials, I focused only on the 14 civil trials in this analysis. I found that female judges were significantly more likely than male judges to allow this kind of communication. A cross-tabulation and Chi-square test indicated that female judges (93.6%) were significantly more likely than male judges (70.8%) to allow jurors to ask questions during civil trials, $X^2(2, N = 616) = 53.085, p < .001$. These data are in the final row of Table 1. When a judge allowed jurors to ask questions during the proceedings in a civil trial, it always came at the end of a witness’s testimony. The questions were submitted in writing and then the judge and the attorneys discussed in a side bar whether the questions were appropriate and allowable; the wording of questions was changed if necessary. The judge would say something like “I would like now to take a moment and allow

⁴ A cross-tabulation and Chi-square test showed that judges were significantly more likely to have the room stand in a *civil* trial (100.0%) than in a *criminal* trial (83.2%), $X^2(1, N = 1335) = 113.999, p < .001$. Judges had the room stand for the jury when entering/exiting in every civil case I observed. All of the trials in which the judge did not have the room stand were criminal trials; even the same judges who did not require the room to stand in those criminal trials had their jury stand in other civil trials in my data.

any jurors to finish writing down any questions they may have for the witness.” I also heard some judges ask, “By show of hand, does any juror have a question they would like to submit to this witness?” Once the questions were submitted and discussed by judge and attorneys, the judge returned to his or her seat on the bench and asked the question of the witness. Sometimes the judge told the witness to direct their answer toward the jury box because that is where the question originated.

I next turned to the analysis focusing on race of judges and their communication. I computed cross tabulation tests to see if judges of differing racial groups contrasted in the amount of communication to and about the jury. In my sample, 6.3% of judges were Black or African American, and 25.5% were Asian American; for analysis I combined these judges (31.8%) to provide a point of comparison with the 68.2% of my sample of judges who were White. My interest in this distinction was triggered by scholarship on cultural experiences of racial minorities relative to majority populations (Beiner, 2002; Edwards, 2002; Fairhurst & Snavely, 1983) so this approach was not ideal but seemed conceptually appropriate. When looking at how often these two groups of judges spoke *to the jury*, White judges did so 13.2% of the time and racial minorities did 12.0% of the time, which was insignificant according to the Chi-square test $X^2(1, N = 1335) = .560, n.s.$ For the comparison of how often these groups spoke *about the jury*, a cross tabulation test showed that White judges did so 3.8% of the time and racial minority judges did 4.5% of the time, an insignificant difference according to a Chi-square test $X^2(1, N = 1335) = .581, n.s.$ These were not specific research questions because there was not sufficient research to plausibly suggest a difference, but I wanted to gain insight into this matter regardless. I found no significant differences with how White and minority judges communicated to and about the jury on the aggregate level.

I then followed the same analysis for race of judge as I had utilized for sex of judge. Specifically, I looked within the types of communication *to* and *about* the jury. To address *RQ6*'s focus on whether racial minority judges were more likely than White judges to speak to or about the jury in ways that explain, praise, or advocate for them, I conducted analysis in multiple steps. Similar to the sex of the judge, I found that for explanatory and praise statements, there was no significant difference. Specifically, a cross-tabulation test showed that the White judges engaged in explanatory communication 29.2% of the time, whereas the minority judges engaged in it 39.2% of the time. A Chi-square test showed this difference not to be significant, $X^2(1, N = 171) = 1.656, p = .198, n.s.$ These results are in the top row of Table 2. For praise *statements to the jury* a cross-tabulation test, followed by a Chi-square test, showed no significant difference between White (5.0%) and racial minority (3.9%) judges, $X^2(1, N = 171) = .093, p = .760.$ These results are in the second row of Table 2. Again, no judge in my study made praising statements *about the jury*, as indicated in the third row of Table 2. So, for these kinds of messages, race of judge was unrelated to the judge's offering of them.

However, I found substantial differences for the three remaining variables. Specifically, I found that apparent race of the judge was related to advocacy for the jury. White judges made statements advocating for the jury 48.6% of the time, while minority judges made such statements 73.7% of the time, $X^2(1, N = 54) = 3.176, p < .10.$ These results are in the fourth row of Table 2. As before with sex of the judges, I counted statements as advocating for the jury when they looked out for the general wellbeing of the jury, and invoked their importance. These statements were made by the judge typically to ensure that the jury could see and hear testimony and exhibits. These statements were important to making sure that each juror had an opportunity

to hear and see the information circulated during trials, and the data indicate racial minority judges offered more of these messages than White judges.

Table 2
Race of Judge by Subtypes of to and about Jury Communication

	White	Minority	X^2	p
Explanational to Jury	29.2%	39.2%	1.656	.198
Praise to Jury	5.0%	3.9%	.093	.760
Praise about Jury	0.0%	0.0%	n/a	n/a
Advocate for Jury	48.6%	73.7%	3.176	.075
Room Stand for Jury	88.6%	96.0%	19.257	<.001
Jury Ask Questions	77.3%	99.4%	44.250	<.001

For *RQ7* on whether racial minority judges were more likely than White judges to have the courtroom stand for the jury when entering or exiting, I found that racial minority judges (96.0%) were significantly more likely than White judges (88.6%) to have the room stand for the jury when they entered or exited, $X^2(1, N = 1335) = 19.257, p < .001$. These results are in the fifth row of Table 2. Obviously, most judges had the courtroom stand when the jury entered or exited, but overall, this behavior, which might be a symbol of respect by the judge toward the jury, was significantly more common among racial minority judges than White judges. Lastly, for *RQ8*, I analyzed whether racial minority judges were more likely than White judges to allow jurors to submit questions during the trial. I found this to be so: racial minority judges nearly always allowed jurors to ask questions (99.4%), significantly more than Whites (who allowed it 77.3% of the time), $X^2(1, N = 593) = 44.250, p < .001$. These results are in the final row of Table 2.

It appeared that on the aggregate level, male and female or White and racial minority judges did not communicate to and about the jury at different rates. However, they did so in distinct ways when we looked at some of the types of communication. Specifically, female and racial minority judges used communication that advocated for the jury more; they reminded other trial actors to do and say things so that the jury could hear, see, and understand things better. Also, female and racial minority judges had the room stand for the jury when entering and exiting; this was a sign of respect for the jury that judges do not need to do, but some did. And finally, female and racial minority judges were more likely to allow jurors to ask questions after witness testimony during civil trials. This is not legally required, and takes additional time in the proceedings; female and racial minority judges were more likely to allow time for jurors to ask witnesses questions if they wanted more information. Thus, although personal differences between judges are not meant to protrude into trial proceedings, these results show they might be related in patterned ways that could potentially impact the courtroom.

Additional Analysis

In my analysis of research questions, I found that the apparent sex and race of judges were related in some meaningful ways to how the judges communicated to and about a jury. However, in addition to examining individual judges on a single characteristic, such as sex or race alone, this research argues that the nexus of individual characteristics may provide an alternative approach for thinking about judge communication. With this in mind, I combined the sex and race variables to see whether these characteristics were compounded when joined, or were related to primarily either sex or race differences. To do this, I created 4 judge groups in the data: White males, White females, minority males, and minority females. Table 3 shows the cell

sizes for this typology. My cell of minority males was the smallest at only 3.0% of the total data, while White females were the largest, at 35.0% of the total sample.

Table 3
Typology of Judges by Race and Sex in My Data

	White	Minority
Male	33.3%	3.0%
Female	35.0%	28.7%

I found that the interaction between race and gender yielded suggestive results. A cross tabulation and Chi-square test showed racial minority females advocated for the jury the most, at 73.7% of *about the jury* communication. White females were a close second at 73.3%, with White males offering such jury advocacy the least, at a far lower 30.0% of about the jury communication, $X^2(2, N=1335) = 9.759, p < .01$. The first line in Table 4 displays these findings. These results show sex to be the strongest indicator of advocacy for the jury.

Next, a cross tabulation and Chi-square test revealed that minority males had the room stand for the jury 100% of the time, followed by minority females at 95.6% of the time. Following was White females at 89.3%, and then White males at 87.8%, $X^2(3, N = 1335) = 20.728, p < .001$. These results are shown in the second row of Table 3. Here minority race status appeared to be the strongest indicator of having the room stand.

I earlier found that female and minority judges were more likely to allow jurors to ask questions of a witness after testimony in civil cases; I now wanted to see how minority status and sex looked together. I found that racial minority females were the most likely to allow jurors to ask questions of a witness after testimony; they did this 100% of the time. Minority males were the second most likely to allow juror questions at 97.6%. White females allowed juror questions

87.3% of the time, and again White males were the least likely, doing so only 72.6% of the time. These results are displayed in the bottom row of Table 3. A Chi-square test revealed these differences to be significant, $X^2(3, N = 1335) = 58.867, p < .001$. We see here that race of the judge was the strongest indicator of allowing juror questions during trial.

Table 4
Communication Behavior by Judge Related to Race and Sex

	White Male	Minority Male	White Female	Minority Female
Advocate for Jury	30.0%	0.0%	73.3%	73.7%
Room Stand for Jury	87.8%	100%	89.3%	95.6%
Jury Ask Questions	72.6%	97.6%	87.3%	100%

In two of these instances, race of the judge was a stronger indicator, and in one sex of the judge was. But most notable is that White males were the least likely to engage in these communicative behaviors in every instance. These results further suggest that characteristics such as race and sex are related to how these judges interacted with a jury. In this study, judges who were a racial minority or a woman were more likely to engage in both (a) communicative behavior that facilitated the dissemination of information to the jury via seeing, hearing, and understanding, and (b) communicative behavior that is commonly seen as an act of respect for the jury: having the room stand when they enter and exit. This study illustrated that not holding a minority status in either of the two ways measured here, was tied to a judge being less likely to privilege the jury in one or more of these customs.

The judiciary is an indispensable component in the United States government. A trial by jury will always be principal to the fairness and impartiality of a court system that is essential to a national democracy. It is the case, therefore, that a deep understanding of the communication in such environments is crucial. To revisit the words of Searcy, Duck, and Blanck (2005), the courtroom is a unique and “strongly defined context” (p. 42) in which great scrutiny is placed on individuals and their words. Jurors struggle to assign meaning to the communication in a trial and may look to actors in positions of power to make sense of messages and interactions. Judges in particular are important because jurors understand them to be highly educated in the law and impartial (Blanck, et al., 1985; Halverson, Hallahan, Hart, & Rosenthal, 1997; Levan, 1984). Although the law requires them to keep their biases out of the trial proceedings, and to let the jury decide on its own, studies have shown that judicial communication during a trial can have consequences (Halverson et al., 1997). In a nutshell, in an attempt to make sense of an unfamiliar situation, jurors might place great meaning on communicative behaviors of judges, with or without the judges' awareness. Because the judge plays such a pivotal role in any courtroom context, how he or she communicates to and about the jury can be critical to the trial process and to jury understanding of the case.

Research on judges shows that they act in ways that are distinct rather than identical. For example, judges do not always decide the same cases in the same way (for more see Peresie, 2005; Steffensmeier & Britt, 2001; Steffensmeier & Demuth, 2001; Welch, Combs, & Gruhl, 1988), and they engage in differing nonverbal communication styles (Blanck, Rosenthal, & Cordell, 1985; Blanck, Rosenthal, Hart, & Bernieri, 1989; Ekman & Rosenberg, 1997; Halverson, Hallahan, Hart, & Rosenthal, 1997). A gap exists in the scholarship, though, when considering how judges verbally communicate during a trial, specifically *to* and *about* a jury.

Some work shows divergent levels of interactivity of judges with juries (Ungs & Baas, 1972), suggesting that there are no clear rules as to how a judge should communicate or relate to the jury. Some judges may choose to be active in clarifying things to the jury and providing instructions or explanations, while other judges may decide that their responsibility is to let the evidence speak for itself and to play a more passive role, speaking only when necessary; the approach is up to the discretion and choice of the judge. The more that we learn about how characteristics of judges can drive the communication in these interactions, the better we can understand what variations exist to improve the fairness and equality of trials.

My research questions began with a focus on any trends in how and how often judges—at least those at the King County Superior Court—communicate *to* and *about* the jury, with particular interest in whether the apparent sex or race of judges were related to such communication. I did not find any distinguishing patterns in how often judges communicated to or about the jury: Regardless of race or sex, all judges communicated *to* and *about* the jury in relatively similar amounts. Next, I wondered if female or racial minority judges would explain things to the jury more often. I found that they did not; again, males and females, and judges of all races made explanatory statements to the jury relatively in the same amounts. My research questions next looked at communication that praised the jury, either *to* or *about*, and I found no significant differences between male and female judges or judges of different races. However, as my research questions investigated a step further into *how* judges communicate *to* and *about* the jury, some significant results emerged. What judges did do differently in relationship to observed race and sex was advocate for the jury, have the room stand for the jury when entering and exiting, and allow jurors to ask questions of witnesses after testimony in civil cases. The judges did not differ much in whether they spoke *to* or *about* the jury, but they differed in a few of the

ways in which they did so. With that in mind, I now turn to a discussion of the significant findings in this study that relate to the research questions.

Discussion of Significant Findings

The data indicate that a judge's sex and race may be related to how he or she communicates to and about the jury, in particular ways. Specifically, females and racial minority judges in this study advocated for the jury more, had the room stand more often when the jury entered and exited, and were more likely to allow jurors to ask questions after a witness' testimony. Further, these relationships were present even when looking at race and sex together. That is: White males consistently engaged in these types of communicative behavior the *least*, across the board. Being a member of one or more groups often in the minority in the judiciary, whether it be due to one's race or sex, was correlated with a greater tendency to engage in behavior that illustrated respect for the jury, as well as to advocate for the needs of the jury, including making sure they could see or hear testimony as well as have their questions answered.

One interpretation of these results might be that being a woman and/or racial minority prompts judges to exhibit a stronger sense of responsibility for the jury. Although they ultimately decide a case, in terms of a courtroom, the jury could be considered a minority entity, in that they are the group with the least amount of influence or control. A juror may seem like the bottom of the power ladder: For example, they are referred to as "lay" people, a term that some could read as demeaning, and usually in civil trials and always in criminal trials they are not allowed to speak or influence the ongoing trial in any way. In fact, the judge must take on the responsibility to allow the jury certain privileges (such as asking questions, or having the room stand for the jury), or to ensure the people of the jury can see and hear everything; the jury does not and may not assert these opportunities themselves. According to this research a judge is more likely to

speak to or about the jury in ways that advocate for the needs of the jury, and engage in traditions that indicate respect for the jury, if they are a woman or a member of a racial minority themselves.

These communicative differences tied to sex and race of the judges could have meaningful implications for the U.S. legal system. For example, increased advocacy for the jury could result in particular juries hearing, seeing, and understanding more in a trial, because the judge is prioritizing and ensuring those ends. This could mean that juries would be better informed when a female and/or racial minority judge is presiding. Research shows that juries decide cases based on the combination of information of each of the voters (Austen-Smith & Banks, 1996; Duggan & Martinelli, 2001; Feddersen & Pesendorfer, 1997; Kim & Ahn, 1999). Specifically, the Condorcet Jury Theory states greater information accessible to jurors will contribute to a higher quality decision outcome (as cited in Duggan & Martinelli, 2001). Because judges play a significant role in information dissemination to jurors, the communicative practices of judges that contribute to jurors hearing, seeing, and understanding more information plausibly might impact the outcome of a trial. Communication matters, and when judges from different backgrounds do it differently during trials, it can have effects on those trials. The next step in this line of research would be to examine the outcomes and potential effects of these communicative differences. Specifically, future work could expand upon this research and examine the results of differing judge communication on jurors' perceptions of the trial and deliberative process.

Furthermore, females and racial minorities have been found to offer a leadership style that is distinct from males and Whites. Specifically, women and racial minorities lead and communicate in ways that are more collaborative, cooperative, and democratic (Arnold & Nesbitt, 2006; Harriman, 1996; Koenig, Eagly, Mitchell, & Ristikari, 2011; Powell, 1993). These

tendencies are tied to other “warm” characteristics, such as being empathic, kind, accepting, and respectful, as well as maintaining a positive regard for others. Indeed, some leadership scholarship says that our social experiences can shape how much we engage in an “interactive form of leadership, whose characteristics include encouraging participation, sharing information and power, and enhancing others’ self-worth” (Eagly & Karau, 2002, p. 591; see also Meeks, 2013). This conception maps onto the finding that female and racial minority judges advocated for the jury more, allowed them to ask questions of witnesses after testimony, and had the courtroom practice the respectful tradition of standing for the jury when it entered or exited.

A judge who is generally more empathic, respectful, and accommodating to the jury may create a more positive atmosphere for the trial that is more conducive to the sharing of minority opinions and may value the voices of all members more equally. These communicative differences may not result in completely different verdict outcomes (though differences *can* occur, see Halverson et al., 1997), but it is very likely to change the dynamic and the tone for the trial, which could impact deliberations. Some judge communication styles can foster a shared deliberation that is more open to discussing minority opinions equally. In short, a jury can imitate the communication styles that are reinforced by a judge, so if judges differ in these approaches, it is not unlikely that the jury will as well.

Limitations

There are some important limitations to my research design that merit discussion. First, the coding of data live at the King County Courthouse without transcripts or recordings for reference leaves room for criticism because of the inability to re-watch, or re-read the data. I used this method because there was a great deal to be gained by being present in the context of the trial and to witness the nuances within each of the interactions. It is the case that because this

method was conducted in real time it may have been especially vulnerable to inaccuracies. If the coder or coders did not hear or misheard something, then it could not be coded. It should be noted, though, that inter-coder reliability was high in this study. Weeks of training and practice coding for the main coder took place before the official coding began. The researcher called upon the experience of sitting through five weeks of trial before the codebook creation process, followed by about a three week long iterative process testing the codebook and reworking the edits. Finally, a solid week of testing the codebook without any problems preceded the researcher collecting data. Therefore the approach to this style of coding was rigorous, and created a strong foundation for the analysis.

Aside from the data collection method, this study comes with other notable limitations. For one, the coding scheme I adopted did not allow for judges to be coded as being more than one race. I did not encounter any cases in which I was unsure of my impression of whether the judge was White or a racial minority, or male or female for that matter, but these issues could arise as the sample size grows in future studies. A sample size of only 17 judges would only increase with additional research—which would be valuable because it would provide greater differences across key variables. This study was limited in scope to only one Superior Court courthouse; it was the largest Superior courthouse for the most densely populated community in the state, but in the future this study should extend to additional Courthouses in various regions of the country. Lastly, this study is limited in that the findings of significant differences in communicative behavior were only correlational with judge characteristics, and could not be discussed as causal. Moreover, this correlation did not speak to the respective outcomes that such differences may lead to. All of these are limitations, but this research is an early step that sheds light on an area of research that merits much further work.

Future Research

There are considerable ways in which research could build upon the findings in this study. For example, additional characteristics of judges and how judges communicate could be analyzed, such as levels of appointment (e.g., municipal court, or federal court), or their amount of years on the bench. The social economic status of the judge while growing up could be considered; researchers could compare the prestige of the law school they attended or even look at their grades in law school to see if those experiences and factors change how judges communicate. To switch the focus of the research, the characteristics of the counsel members could be analyzed for communicative differences since they are also important actors in the judicial process and jurors may also look to them for certain cues.

Building on the race and sex characteristics considered in this study, or the same characteristics described above for additional research about judges, future research could look at how newer attorneys communicate to the jury (or the judge) relative to more experienced attorneys. Research could look at how often attorneys make lighthearted comments, or how often they make insulting or negative comments about the opposing counsel to compare with verdict outcomes. To take things a step further, additional studies could analyze the exchanges between the two aforementioned positions in the courtroom: attorneys and judges. For example, future research could measure how and how often attorneys make objections during a trial and how often the judge overrules or sustains their objections. All of the exchanges that occur within a trial may impact the jury, and are important to learn about in the interest of our legal system.

Because this study is not an effects study, future research should interview or survey jurors to see if they perceive judges, attorneys, or other trial actors—such as plaintiffs, defendants, witnesses—differently based on their communication during a trial. Jurors could be

asked how friendly, informative, respectful, or competent the players seem to be so that scholars can make inferences on what communication might lead jurors to perceive those qualities. Aside from characteristics of the trial actors and how they interact with each other, the characteristics of the jury and how they interact with each other could be examined with future research. The way that jurors interact with each other during break time could impact the trial because those interactions could set precedence for the deliberations and drive the communication. In short, there are a number of potential future avenues to explore.

Despite the fact that judge-jury interactions in the courtroom can have great implications to our justice system, little research has been done (especially in the recent decade) to corroborate what we know about those interactions with the trial outcomes or perceptions of the jury overall. This is the first study of which I am aware that looks at how often, and how, judges communicate *to* and *about* the jury. Taking into account the findings discussed here, scholars have a remarkable opportunity to delve deeply into practices that ensure a just, fair, and impartial trial. The more we know about communication in the courtroom, the more we can identify ways to selectively remove biases to the fullest extent possible, ultimately leading to a more fair and balanced justice system. The interactions during a trial can be crucial to our judicial system, and the relationship between the judge and the jury is an important one that merits much further investigation.

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Appendix

Appendix A: Codebook

Unit of analysis coding notes:

- The unit of analysis will be a reference made by a judge, and will include the entire speaking turn as one unit, or row in the code sheet. I will not count short clarifications in conversation as interrupting one unit of speaking for example if someone says “alright” or “okay” as the judge is talking, it will still be counted as one speaking unit. If the judge asks a question of a person and that person responds “yes,” it will be coded as a new speaking unit when the judge continues because that answer alters the judge’s response.
- If someone says “what?” or asks the judge to repeat something, that will count as a new and separate unit of analysis.
- A speaking unit will be divided if the judge changes whom he or she is directing that speech toward. For example “thank you [witness] you may step down. Members of the jury we will now recess” will be counted as 2 units of analysis. This change in direction of speech must be clear for the coder to begin a new unit of analysis. If it is unclear, default to one unit of analysis.
- If a jury says something that is to the entire courtroom in general, that will be coded as TO the jury, because they are included. It does not need to be to the jury exclusively.
- If the judge is speaking exclusively to the jury and then begins to speak to the courtroom as a whole, it will be coded as a new separate code.
- Each reference type will not be mutually exclusive.
- References can have multiple variables present in the “reference TO” and “reference ABOUT” sections, so some may be double coded. For example: a judge may be making an informational statement in an informal way.

Reference#:

The identifying reference number given to each individual reference unit. This will be different for each row in the data sheet. The first number will denote the trial viewing number (increasing from 01-99 each time I view a new trial or a new day) followed by 2 zeros as place-holders (allowing me to code up to 999 references per viewing), and then numerically ordering the reference starting with 1 until a new trial or a new day. For example, reference 02010 will denote the 10th invocation recorded the second time I viewed a trial (that could be a new trial on the same day, or new trial on a new day).

Trial:

The identifying number given to each trial observed. They will be ordered starting with 1. A key will also be kept that tracks the court assigned case number given to the trial being observed. If the researcher sees the same trial on two different days, it will be referred to by same trial ID number (refer to key to check legal case number).

Civil/Criminal:

Is this trial civil or criminal?

1. Civil
2. Criminal

TrialType:

What type of trial is it? (e.g., personal injury, murder, etc.) I will go back and retroactively code for types that come up a lot.

JName: Judge's Name:

The reference number referring to the name of the Judge presiding over the trial.

1. Andrus, Beth
2. Benton, Monica
3. Bradshaw, Timothy
4. Canova, Greg
5. Cayce, James
6. Craighead, Susan
7. Downing, William
8. Doyle, Theresa
9. DuBuque, Joan
10. Eadie, Richard
11. Erlick, John
12. Hayden, Michael
13. Heller, Bruce
14. Inveen, Laura
15. Kessler, Ron
16. Linde, Barbara
17. Lum, Dean
18. McDermott, Richard
19. Middaugh, Laura Gene
20. North, Douglass
21. O'Donnell, Sean
22. Prochnau, Kimberley
23. Ramsdell, Jeffrey
24. Ramseyer, Judith
25. Rietschel, Jean
26. Robinson, Palmer
27. Rogers, Jim
28. Schubert, Ken
29. Shaffer, Catherine
30. Spearman, Mariane
31. Spector, Julie
32. Trickey, Michael
33. Yu, Mary

JSex: Judge's Sex:

The sex of the Judge presiding over the trial.

1. Male
2. Female

JEthnicity: Judge's Ethnicity:

The ethnicity of the Judge presiding over the trial. This will be verified using public record.

1. American Indian or Alaska Native
2. Asian
3. Black or African American
4. Native Hawaiian or other pacific islander
5. White

JAge: Judge's Birth year:

The birth year of the Judge presiding over the trial. This will be verified using public record.

DayInTrial:

The day of the trial in which this observation took place. For example, it is the first day of trial, or the 15th day of trial. This is reflective of how long (in days) the jury has been sitting in the box.

StartTime:

The time of the day in which the particular observation began, as calculated when the first juror enters the room.

StopTime:

The time of the day in which the particular observation stopped, as calculated when the last juror leaves the room.

TimeObs: Total Observation Time:

The total amount of time given to each trial observation: beginning when the first juror enters the courtroom and ending when the last juror leaves. There may be multiple observational time units for one particular trial viewed in one day.

Type: Reference type:

Is the statement by the judge TO the jury, ABOUT the jury, or neither?

1. To
2. About
3. Neither
4. Inaudible

Collective: Was the reference made to or about the jury as a collective?

This includes any reference that speaks to the jury as a group, in a plural form, as opposed to singling out an individual juror.

0. no
1. yes

Reference TO the Jury

Conceptual Definition: The judge responds to, or initiates some level of interaction with the jury for a purpose. The judge must say something *to the jury*, meaning s/he turns his/her head toward them when s/he speaks or else makes it clear that s/he is speaking to them, as a whole, or one juror individually, and refers to them as one of the following terms. For example: "Citizen's of the jury, please give your full attention to attorney John Smith's opening statement." If the statement is not prefaced with addressing the jury explicitly, the researchers will analyze the communicative interaction, and if it is clear that the statement is directed toward the jury, it will be coded as TO the jury. If the reference includes the jury, but is not exclusively to the jury, it will still be coded as TO. The nature of this reference falls into at least one of the following categories: Instructional, Informational, Informal, or Praise. For example, the statement above would fall under 2: *Instructional*. For each, mark 1 for present, 0 for absent.

The following 4 categories relate to the Nature of the Reference TO the jury:

TInstructional: Instructions given TO the jury:

The judge injects his or her own instruction regarding trial for the jury to follow. For example: "Jurors, please keep an open mind during all testimony from both sides in this case," "Let's take a 15 minute recess, be back in the jury room at 10:30." Consequently, asking the jury questions counts as instructional, because those questions are another way of saying "if anyone has questions, now would be the time to ask them." Mark present (1) or absent (0).

TExplanational: Explanational statements made TO the jury:

The judge gives the jury some added information that is not previously given about the trial, or a fact/detail; explains something said by a lawyer or witness, clarifies, puts things into lay terms. For example: "This next witness is an expert witness, he or she did not observe the events occurring, they can only offer their expertise on matters regarding forensic evidence." Mark present (1) or absent (0).

TInformal: References made TO the jury, in an informal manner

The judge makes a statement about something unrelated to the trial, for example: "it is a nice afternoon we are having." The judge may also make light of the mood, act sociable or congenial with the jury. For example: "Just one more hour here and then we can all head to the cocktail lounge!" (This past example would be coded as both instructional—because of the time keeping matters, as well as informal—for the cocktail lounge joke). Mark present (1) or absent (0).

TPraise: Positive, respectful characterization and praise for the capabilities of the jury:

The judge makes a comment to the jury invoking respect for them and showing a positive regard for the ability of the jury that characterizes them in a positive light. The judge may flatter or compliment the jury. For example: "Thank you so much for your excellent job serving on this jury" or "Great job members of the jury, you have done an excellent job." Mark present (1) or absent (0).

Reference ABOUT the jury:

Conceptual Definition: The judge speaks to another trial actor (attorney, bailiff, witness, plaintiff, defendant), or to the courtroom as a whole and refers to the jury in the third person. For example: "Please speak up so the jurors can hear you." If the statement is not prefaced with referring to the jury explicitly, the researchers will analyze the communicative interaction, and if it is clear that the statement is regarding the jury, it will be coded as ABOUT the jury. The purpose of the statement about the jury falls into at least one of the following categories: Respect, Disrespect, Advocating, or Informal. For example, the example above would fall under 5: *Advocating*. For each, mark 1 for present, 0 for absent.

**The following 5 categories relate to the Nature of the Reference
ABOUT the jury:**

AIInstruction: Instructions given to a trial actor ABOUT the jury:

The judge makes a mention of the jury, but it is neither positive nor negative, it simply mentions them usually in a directive statement toward an attorney. For example, a judge says "I will not talk about this in front of the jury," or "do you have a follow-up to the juror's questions?" or "you may mention this exhibit, but it will not go back to the jury for deliberation." Similarly, the judge may inject his or her own instruction regarding the jury for the attorney to follow. Consequently, asking the attorneys questions such as "do you have any follow-up to the jurors' question?" will count as instructional, because those questions are another way of saying "if you would like to follow-up, now would be the time to do so."

DIDisrespect: Negative characterization and disrespect for the capabilities of the jury:

The judge makes a comment about the ability of the jury that invokes disrespect, though it will likely not be overt. In this invocation, the judge characterizes the jury in an implicitly negative or inadequate way. These comments will not likely be explicit due to norms of politeness. For example: "You need to explain that definition, Mr. Smith, the jurors probably don't know what you are talking about." Mark present (1) or absent (0).

AIPraise: Positive, respectful characterization and praise for the capabilities of the jury:

The judge makes a comment about the jury invoking respect for them and showing a positive regard for the ability of the jury that characterizes them in a positive light. The judge may flatter or compliment the jury. For example: "Please conclude your statements, Mr. Smith, and we will hand this case over to the good people of the jury," or "Great job everyone, especially the jury, they have done an excellent job." Saying "thank you" as a simple cordiality will not be coded as praise, but if it is elaborated further involving praise, then it will, for example "thank you for your patience today." Mark present (1) or absent (0).

AIAdvocating: Protecting, representing, or being the voice of, the jury:

The judge makes a comment in defense of, or safeguarding the interest of the jury to one or multiple key players in the trial. For example: "The jury has been listening to testimony for over 3 weeks Mr. Smith, I will not allow another recess that could cause them to be here longer than they need to be." An advocating statement may advocate for the present jury in the present trial, or be more general of the jury as an entity. For example "A jury needs to have all the information as clearly and as readily available to them to make the best decision possible" Mark present (1) or absent (0).

AInformal: Reference made ABOUT the jury, in an informal manner:

The judge makes an informal statement, not related to the trial. It might make light of the mood, or is sociable or congenial with the other actors in the courtroom while making a statement regarding the jury. This code will likely be present with one or more other codes. For example: "Let's recess for the day and let some of the jurors watch the big game." Mark present (1) or absent (0).

General Judicial Behavior**JurorQs: Juror Questions:**

Did the judge allow the jurors to submit questions during the trial?

1. no
2. yes

RoomStand: Courtroom stand:

Did the judge ask the courtroom to stand for the jury while entering and exiting?

1. no
2. yes

Additional Coding Data:**Other/Comments:**

Here is a space for additional comments regarding the observation.