FLEXIBLE CORRECTIONS OF JUROR JUDGMENTS
Implications for Jury Instructions

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The Flexible Correction Model (FCM, D. T. Wegener & R. E. Petty, 1997; D. T. Wegener, R. E. Petty, & M. Dunn, 1998) conceptualizes efforts at bias correction (i.e., attempts to remove influences that are perceived as illegitimate or unwanted) as guided by people's naive theories (perceptions) of the influences at work in that judgment setting. In this article, the authors present this model, discuss the general support for this model outside of courtroom judgment, and discuss a variety of implications of this model for courtroom judgment in general and for the impact of judges' instructions to juries in particular.

In the United States, the judicial system includes a number of crucial assumptions about how juries operate in providing a fair trial for defendants. Among these assumptions is that jurors are able and willing to use or avoid information (e.g., evidence, pretrial publicity, opening and closing arguments) in ways that reflect the requirements and constraints of the law. One of the primary means of achieving such conformity to the law is the set of instructions the trial judge provides to jurors (typically after all evidence has been presented but prior to deliberation). Actually, such instructions serve a number of functions (cf. Horowitz, Willging, & Bordens, 1997): to familiarize the jury with their decision task (e.g., the default/presumed verdict, the burden and standard of proof, verdict options, elements that must be proven to justify various verdicts), to explain what discretion they have to judge the facts of the case (e.g., to evaluate witness credibility, to evaluate the relative plausibility of alternative explanations of the facts), to loosely direct the deliberation process (e.g., to note the obligation to consider all jurors' arguments, to avoid compliance with others' opinions merely to avoid conflict), and to help jurors avoid any number of biases in their decisions. It is this last objective of jury instructions that is the focus of the present article.

The notion of bias implies some departure from an ideal, normatively correct standard of judgment. In the case of jury instructions, that normative standard is set by the law (e.g., the rules of evidence, judges' rulings on admissibility of evidence). Juridic biases can take several forms (cf. Hastie & Rasinski, 1988; Kerr, MacCoun, & Kramer, 1996): Jurors can fail to use prescribed information

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(e.g., ignore uncontested evidence or a well reasoned argument from another juror), can choose to rely on proscribed information (e.g., pretrial publicity [e.g., Kramer, Kerr, & Carroll, 1990], the defendant’s race [e.g., Johnson, Whitestone, Jackson, & Gatto, 1995], or testimony ruled inadmissible or irrelevant [e.g., Sue, Smith, & Caldwell, 1973]), or might misuse available information (e.g., use knowledge of a defendant’s past criminal record not to evaluate his or her credibility, but as direct evidence of culpability for the present offense, e.g., Hans & Doob, 1976). Avoiding or correcting any such biases requires that jurors can understand the legal normative standard and can and will correct their judgments to apply that standard. Considerable research (see Ellsworth & Mauro, 1998; Lieberman & Sales, 1997, for recent overviews) now documents that jury instructions are often both incomprehensible and partially or wholly ineffectual in eliminating or correcting juror bias.

In this article, we discuss implications of a general theoretical model of bias correction, the Flexible Correction Model (FCM, Wegener & Petty, 1997; Wegener, Petty, & Dunn, 1998), for jurors’ attempts at avoiding bias and for the role of judges’ instructions in facilitating this process. We begin by presenting the basic tenets of the FCM. In our narrative description of the model’s postulates, we briefly note some relations between the model and the setting encountered by jurors. We then discuss the social psychological context of the FCM and the existing research support for that perspective. Although many of the tests of this model have been conducted outside of the courtroom setting, the model has a number of rather direct implications for courtroom judgment (see Wegener & Petty, 1997). After presenting the social psychological data, we turn to the implications of the model for helping jurors to avoid bias, and we discuss these implications in some detail. Finally, we discuss implications of the model for how judges’ instructions might influence jurors’ use of evidence.

The FCM of Bias Correction

The FCM (Wegener & Petty, 1997; Wegener et al., 1998) focuses on the role of social perceivers’ naive theories of bias in bias correction. That is, social perceivers often have beliefs about how factors in their environment influence their perceptions of targets, and these naive beliefs (theories) are often used in attempts to avoid or remove the perceived influences. The FCM can be summarized by the following seven postulates:

1. Default or uncorrected influences can vary across judgment targets, perceivers, and situations.
2. There is variation across people and situations regarding motivation and ability to (a) identify and (b) correct for perceived biases.
3. Attempts to identify and correct for perceived biases are guided by individuals’ naive theories of the biasing factor(s) at hand.
4. Theory-guided corrections work in a direction opposite to the theory of bias and in a magnitude commensurate with the perceived magnitude of bias.
5. Use of a particular naive theory is enhanced (a) to the extent that the theory is viewed as applicable to the judgment, (b) to the extent that the
theory serves the perceiver’s judgment goals, and (c) to the extent that the theory is accessible.

6. Corrections generally require greater motivation and ability (i.e., more effort) than do lack of corrections (unless corrections become routinized). However, both corrected and uncorrected assessments of targets can vary in the effort put into that assessment.

7. Similar to uncorrected judgments, differences in effort put into corrected assessments create differences in the persistence of the assessments over time, the resistance of the assessments to attempts at change, and the ability of those assessments to direct future judgments and behavior.

We believe that the FCM postulates pertain quite well to the situation in which jurors are placed. Before discussing the social psychological work on bias correction in general and on the FCM in particular, we briefly describe the FCM postulates by relating the postulates in a general way to the jury setting. The FCM would begin by assuming that there could be considerable variation (across jurors and across trials) in the direction and magnitude of juror bias. For example, one juror might be inclined toward viewing the defendant as innocent, but another juror might view the defendant as guilty, perhaps even for the same reason (e.g., the ethnicity of the defendant). Because there is variation in motivation and ability to identify biases and to correct for them, the FCM would suggest that it is psychologically implausible to make the court’s usual assumptions that (a) all jurors comprehend and accept the law’s definitions of bias, (b) all jurors can accurately estimate the magnitude of such biases in their own judgments, and (c) all jurors are strongly motivated and able to correct such biases. According to the FCM, jurors might often possess different naive conceptions of what evidence should or should not be used in a trial and might have goals that sometimes differ from a strict adherence to the law (e.g., convicting guilty people, deterring crime, promoting social justice, etc.). When jurors are sufficiently motivated to avoid certain biasing information, the FCM would emphasize that such attempts will be guided by jurors’ subjective theories about what does and does not constitute bias. These theories might sometimes be similar to that assumed or advocated by the law, but they certainly need not be.

Although the legal conception of removal of bias would be that the biasing information simply fails to have any effect, well intentioned attempts at removing bias might often undershoot or overshoot that ideal. If jurors believe that a particular piece of evidence (e.g., a previous criminal record of the defendant) is making the defendant seem much too guilty, they might attempt to adjust their perceptions of guilt even if that piece of evidence would objectively have little influence on verdicts. The result could be that the defendant is actually more likely to be viewed as innocent than the legal standard would suggest (because of an overcorrection for evidence that is perceived as prejudicial toward the defendant).

Part of the rationale for instructing jurors immediately prior to deliberation is, in the language of the FCM, to make a goal of following the law highly accessible. However, the FCM explicitly acknowledges that perceivers (e.g., jurors) might have judgment goals other than strict conformity to the requirements of the law (e.g., to reach a verdict as quickly as possible, to arrive at a subjectively just verdict, to minimize conflict during deliberations). Also, in some trials, the law’s
theory of bias might be viewed by jurors as inapplicable to the present case. Similarly, jurors could hold a particular theory of bias (e.g., that prior conviction information would make the defendant seem guilty) but might view that theory as inapplicable to a certain situation because the juror's reactions to the defendant do not correspond to the theory—the defendant already seems innocent.

Because the FCM presumes that bias correction is usually somewhat costly for jurors (in attention, time, cognitive resources), this is one of the specific ways in which the FCM questions the psychological plausibility of courts' idealized model of juror decision making—simple collection of information during the trial with minimal interpretation and synthesis prior to being instructed, clear comprehension of the instructions and unquestioning willingness to follow them, accurate perception of the magnitude of any proscribed bias, and immediate and precise correction of any biases with no limits of ability or motivation. After discussing the existing research support for the FCM, we discuss in more detail the specific relations between the FCM postulates and various courtroom processes.

Social Psychological Context for the FCM

In early discussions of correction, in areas such as attribution (e.g., Gilbert, Pelham, & Krull, 1988) or impression formation (e.g., Higgins, Rholes, & Jones, 1977; Martin, 1986; Schwarz & Bless, 1992), biases were conceived of as always being assimilative in nature. That is, biases were assumed to be consistent with the direction of the biasing information. For example, if a prior criminal record (biasing information) suggests a proclivity for criminal behavior, an assimilative effect of that information might be to bias jurors to view the defendant as more criminal (i.e., to see him or her as more guilty). In such early models, correction served to reduce this assimilation or even to create contrast (if overcorrection occurred), but the corrections were always presumed to go in a single direction. By contrast, the FCM explicitly allows for biasing information to move judgments in different directions (e.g., pro- or antidefendant) for different jurors, defendants, or trials and likewise for bias correction to push judgments in different directions, depending on people's differing perceptions of the bias at work (see Wegener & Petty, 1997, for additional discussion of previous correction theories). For example, if the prior criminal record is for a crime somewhat unrelated to the current charge, some jurors might view the defendant as more likely to be guilty of the current crime, but others might actually view the defendant as less likely to be guilty (because the different crimes seem to describe different types of people). If so, then corrections for that evidence could also proceed in different directions for these different jurors.

Research Evidence on the FCM

Opposite corrections. The first step in making a case for theory-based corrections (that could go in different directions, depending on the theories held by respondents) was to show that opposing corrections could occur. That is, a distinguishing characteristic of the FCM, when compared with the previous models, is that corrections can go in opposite directions whenever subjective theories of bias predict opposing effects. For example, jurors who belong to the same ethnic or religious group as a defendant can—contrary to the law—take
such similarity as either exonerating information (e.g., if the defendant epitomizes the group and elicits sympathy) or as damning information (e.g., if the defendant is viewed as a black sheep that dishonors the group; Kerr, Hymes, Anderson, & Weathers, 1995; cf. Marques, 1990). Three different types of studies have provided evidence of opposite corrections when such opposite theories of bias exist.

One type of study concerns situations in which the same biasing context is viewed by social perceivers as influencing different targets in different ways (similar to the ethnic- or religious-group example just provided). For example, Wegener and Petty (1995, Study 1) showed that most perceivers believe that first thinking about the qualities of particularly desirable vacation locations would subsequently make average locations seem less desirable, but most also believe that thinking about desirable vacation locations would make a job in one of those vacation spots seem more desirable. According to the FCM, these opposite beliefs should result in opposite corrections for the perceived influence of the context locations. Consistent with these notions, Wegener and Petty (1995, Studies 2 & 3) showed that instructing people not to be influenced by the previously considered desirable vacation locations led people to subsequently rate average locations as more desirable (relative to those not so instructed). In contrast, such instructions led people to rate a job in the vacation locations as less desirable (when compared with uncorrected ratings).

In another type of study, opposing theories of bias can operate when the same target is being influenced by different biasing factors. For example, Wegener et al. (1998, Study 2) asked respondents to rate the violence of George Foreman and Arnold Schwarzenegger after first considering either a set of very violent people (e.g., Adolf Hitler, Josef Stalin) or a set of very nonviolent people (e.g., The Pope, Gandhi). Pretests showed that people generally believed that George and Arnold would appear less violent than usual in the very violent context but would appear more violent than usual in the very nonviolent context. Similar to Wegener and Petty (1995, Studies 2 & 3), instructions were given in some conditions not to let the initially considered context influence subsequent ratings of George and Arnold. This instruction led to ratings that were more violent when the context had been very violent but also led to ratings that were less violent when the context had been nonviolent. It is important to note that the theories of bias in this study were in the direction of contrast (i.e., respondents thought that perceptions of George and Arnold would be pushed away from the implications of the previous context people). Therefore, each of the observed corrections was in a direction opposite to that prescribed by earlier theories of bias correction (for additional discussion, see Petty & Wegener, 1993; Wegener & Petty, 1997). Moreover, in some conditions of both the Wegener and Petty (1995) and Wegener et al. (1998) studies, when perceivers thought that the bias would take the form of a perceptual contrast, there was evidence of overcorrection. For example, George and Arnold were judged to be more violent after perceivers were exposed to the high-violence biasing context and were instructed not to be biased than if perceivers had never been exposed to the biasing information in the first place.

Finally, opposite corrections have also been found when the same context and target is perceived differently by different social perceivers. Wegener and Petty (1995, Study 4) found evidence of different corrections by perceivers who believed that vacation locations would make average locations seem more versus
less desirable. In addition, Wegener and Petty found evidence of correction magnitude being associated with the magnitude of the perceived bias. That is, respondents corrected to a greater extent when the perceived bias was large rather than small. One could easily imagine how different jurors might believe that the same potential bias could have different effects on perceptions of defendant guilt. For example, if two defendants are tried at the same time, some jurors (and lawyers) might be concerned that one of the defendants is suffering from guilt by association (i.e., assimilation to perceptions of the other defendant). For other jurors (or other lawyers), perhaps, the comparison of the two defendants might actually make the less sinister of the two defendants seem relatively innocent (at least compared with his or her villainous partner). If so, then any attempts to remove effects of the “partner in crime” might move in different directions for these different jurors.

**Identification of bias.** Many of the initial FCM studies bypassed the identification of bias through use of explicit instructions (similar to the admonitory instructions given by judges). However, recent evidence has also shown that the effectiveness of instructions to avoid bias depends on the explicitness of both the instruction and the biasing information itself. Stapel, Martin, and Schwarz (1998) used two different types of correction instructions that varied in the extent to which identification of bias was made salient for social perceivers. When blatant instructions (which both asserted that bias was likely and told perceivers to correct for the bias) were used, both blatant and more subtle biases were corrected in perceiver judgments. However, when instructions were more subtle (i.e., “Correct only if you think there might be biases present”; so that identification was totally up to perceivers), blatant biases (e.g., first rating extreme stimuli on the same dimension as the target stimuli) were more likely to be corrected than were subtle forms of the same bias (e.g., simply reading some text containing the extreme stimuli but making no explicit ratings of them). These results suggest that jurors might be less likely to correct for biasing information whenever it is harder for them to identify this information as biasing.

Such results should not be taken as an indication that instructions are necessary for correction because similar effects have been found when no correction instructions are given. For example, Petty and Wegener (1993) found corrections similar to those reported by Wegener and Petty (1995; see earlier description) when the target ratings were simply set aside as a next set of ratings (to be distinguished from the context ratings that had just taken place). Because the context and target ratings were different sets, this presumably made influence of the context set inappropriate and instigated corrections. In other circumstances where no instructions or differentiating cues were given, corrections have nevertheless been found when particularly salient (blatant) biasing factors are present (e.g., Berkowitz & Troccoli, 1990; Fleming, Wegener, & Petty, 1999; Martin, Seta, & Crelia, 1990). Consistent with the FCM, however, it appears that relatively subtle biases are more likely to be identified and corrected when explicit instructions identify the biases for perceivers.

**Perceivers’ judgment goals.** Although less studied, the last few postulates of the FCM (listed earlier) are also beginning to receive empirical support. For example, consider the notion that use of theories in corrections depends on the perceivers’ goals in that judgment setting. Although most of the corrections that
have been studied could be serving the goal of accuracy, Postulate 5 of the FCM suggests that nonaccuracy goals could also influence the way people deal with incoming information. A demonstration of the pursuit of nonaccuracy goals by mock jurors was recently provided by Fleming et al. (1999). In this study, research participants served as mock jurors and received a written description of a case that included compelling and condemning evidence of the defendant's guilt. After the description, participants provided ratings of guilt of the defendant both as a juror and privately. These two ratings allowed Fleming et al. to investigate differences between private beliefs and judgments within the public juror role. Because of the compelling nature of the evidence, an accuracy motive would be best served by reliance on the evidence. However, in certain conditions of the study, participants learned that the key incriminating evidence had been obtained with either a mild or severe violation of due process. When the evidence was collected in mild violation of due process, participants' juror ratings were less influenced by the evidence when it was ruled inadmissible by the judge than when it was deemed admissible (similar to the results when correction instructions were used in the previous FCM research). Because the evidence was still strong and condemning (and private judgments portrayed the defendant as quite guilty), these judgments are consistent with the mock jurors pursuing the goal of legal accuracy rather than reaching what they personally saw as the correct verdict. However, juror ratings were relatively uninfluenced by condemning evidence collected in severe violation of due process, regardless of whether the evidence was deemed admissible or inadmissible by the judge. Because the evidence was still viewed privately as condemning, this pattern is consistent with these mock jurors trying to reach a verdict that they would personally view as procedurally just rather than trying to reach the verdict that the letter of the law (the instructions) required. Although a variety of nonaccuracy motives might influence correction, the two studied by Fleming et al. (1999)—the motive to follow the letter of the law and the motive to ensure that fair procedures have been followed—appear particularly relevant to our present focus on bias correction by jurors in response to jury instructions, and we return to a discussion of these motives later in the article.

**Effort in corrections.** Consistent with the notion that corrections often require higher levels of cognitive effort than do lack of corrections, corrections have been linked to high rather than low levels of cognitive motivation (e.g., DeSteno, Petty, Wegener, & Rucker, 2000; Martin et al., 1990). In addition, initial evidence suggests that effort given to the task in general may be independent of effort given to correction per se. In the first study designed to address this idea (Petty, Wegener, & White, 1998), one set of research participants received a persuasive message from a likable communicator, and another set received the same message from a dislikable communicator. Half of each of these groups received the message under conditions that typically encourage thorough (high-effort) processing of the information (i.e., high levels of personal relevance and low levels of cognitive load), and the other half received the message under conditions that typically encourage more cursory (low-effort) analysis of the information (i.e., low levels of personal relevance and high levels of cognitive load).

As many previous studies have shown (see Petty & Wegener, 1998), the biasing information of source likability had a larger impact when more cursory
(low-effort) analyses of the information took place. However, it is important that insensitivity to biasing information with high personal relevance and low cognitive load did not mean that participants had corrected for the biasing information. When another set of participants received a correction instruction before attitude measures (to not let nonmessage factors, like personal views of the speaker, bias them), all participants made the same correction for likability information, regardless of whether they initially processed the message effortfully or noneffortfully. The net result was that instructed participants who initially had processed the information very little (and who would have shown the bias if not instructed) were not influenced by source likability, but instructed people who initially had processed the information extensively (and who would not have shown the bias if not instructed) were actually more likely to agree with the message presented by a dislikable rather than likable source. Therefore, instructed corrections were able to eliminate the bias observed when initial processing of information was noneffortful, but the same instructions created the opposite bias when initial processing of information was effortful and no bias was likely to occur. This highlights the fact that corrections in the FCM are presumed to be guided by perceptions of bias, regardless of whether the biases actually have an effect.

The Petty et al. (1998) results, and the FCM approach in general, suggest that social perceivers can exert high levels of effort in attempting to seek correct or accurate assessments of a target without necessarily being concerned about avoiding bias. In other words, seeking correctness is not the same thing as avoiding wrongness (see also Higgins, 1997). 1

The FCM and Courtroom Judgment

How might the FCM relate to judgment processes in jury settings? In this section, we discuss the relation between some of the postulates of the FCM and judgments of guilt in the courtroom. Although a variety of possibilities are discussed, the section is certainly best thought of as illustrative rather than exhaustive.

Postulate 1: Uncorrected Biases Can Be Highly Variable

The FCM assumes that uncorrected effects can vary in both direction and magnitude across targets, perceivers, and situations. There are a variety of ways in which this assumption relates directly to the courtroom setting. For example, a number of potentially biasing factors have been shown to have opposite effects in different circumstances. Take, for instance, physical attractiveness of the defendant. Although attractive defendants are often dealt with more leniently than are unattractive defendants (see Dane & Wrightsman, 1982, for a brief review),

1See Wegener and Petty (in press) for a discussion of how one might use the elaboration likelihood model (ELM; Petty & Cacioppo, 1986) to organize uncorrected effects (like those observed when no instruction was given by Petty et al., 1998) and the FCM (Wegener & Petty, 1997) to organize corrected effects (like those observed when the postmessage instruction was given). The ELM was designed to analyze situations in which people are seeking correctness, whereas the FCM deals more directly with situations in which people are avoiding wrongness (i.e., seeking to avoid bias).
attractiveness is a disadvantage to defendants who are perceived as having used that attractiveness to perpetrate the crime (Sigall & Ostrove, 1975). Similarly, mock jurors punish African American defendants more severely than Caucasian defendants for violent crimes (Sweeney & Haney, 1992) but punish Caucasian defendants more severely for crimes such as embezzlement or fraud (Mazzella & Feingold, 1994). To the extent that jurors are aware of these opposing effects (or become alerted to them), corrections might therefore proceed in opposite directions, according to the FCM. Of course, as noted earlier, the FCM argues that corrections are made with respect to perceived biases, regardless of whether those biases actually occur (see Wegener & Petty, 1995, 1997, for evidence and discussion). Therefore, opposing corrections would depend more directly on jurors’ perceptions of bias than on actual opposing uncorrected effects of the biasing factor of interest.

Postulate 2: Motivation and Ability to Correct May Vary Considerably

There are many factors that might influence motivation and ability to identify and correct for biases in courtroom settings. Of course, before a juror can correct for a bias, he or she would have to be persuaded that his or her judgments (e.g., of witness credibility, of defendant guilt) had (or at least might have) been inappropriately biased. Jurors rarely, if ever, have the most relevant data (i.e., their judgments both with and without access to the biasing information) for unambiguously detecting such bias. Although no general conclusion seems warranted by the extant evidence, there are also a number of indications that jurors often do not realize (or are not willing to acknowledge) when their judgments have been biased (cf. Nisbett & Wilson, 1977). For example, one does not eliminate the bias created through exposure to prejudicial pretrial publicity simply by removing all those jurors who acknowledge that their evaluations of the defendant may well have been biased through such exposure (Kerr, Kramer, Carroll, & Alfini, 1991, Footnote 101; Sue, Smith, & Gilbert, 1974); that is, the judgments of those who deny any such bias are demonstrably biased. It seems probable that some jurors may have greater insight into the potential for bias in their judgments, but it is even more certain that many lack the ability to recognize many of their biases. In addition, because most jury instructions simply note the possibility and undesirability of biases and do not (indeed, cannot) demonstrate bias by any particular juror, it is unlikely that jurors who detect no bias in their preinstruction judgments would see appeals to correct bias as applicable to themselves.

Even if jurors can—spontaneously or with the assistance of cautionary judicial admonitions—recognize the possibility of bias in their judgments, any number of factors might undermine their motivation to correct such biases. Consider a juror who is highly confident about his or her initial judgment of the likely guilt of the defendant. Such a juror may be relatively unwilling to search for potentially biasing factors that may have led to that initial judgment. After all, if biasing factors are discovered, the juror must admit violating some defensible normative standard of judgment, the evidence in the case will have to be reconsidered, and given the possibility of incomplete correction, the accuracy of the jury decision might be considerably less clear. Especially for a juror that has been taken away
from pressing everyday duties (e.g., family or career), this need for closure (see Kruglanski, Webster, & Klem, 1993) could make a juror quite satisfied with his or her initial judgment even if the quality of that judgment is far from ideal. Although jury deliberations are not time limited, external and self-imposed deadlines (e.g., “Let’s try to finish by the end of the day”; the desire to complete jury duty and return to one’s normal routine) could also serve to restrict discussion of the evidence and could make consideration of potential biases less likely. Of course, there might also be individual differences related to motivation to identify and correct for potential biases. For example, individuals high in fear of invalidity (Thompson, Naccarato, & Parker, 1989) might be especially likely to search for potential biasing factors (see Wegener & Petty, 1997, for additional discussion). Also, when potential biases are salient or easily identified, individual differences in motivation to engage in effortful cognitive activities (e.g., need for cognition, Cacioppo & Petty, 1982) might often help determine who will put in the effort necessary to engage in correction (DeSteno et al., 2000; Martin et al., 1990).

It may well be that motivation, or lack thereof, lies at the heart of many demonstrations wherein evidence ruled as inadmissible by the judge is nonetheless used by jurors (e.g., Sue et al., 1973). For example, if jurors view a particular piece of legally biasing, inadmissible evidence as relevant to the actual guilt or innocence of the defendant (i.e., the evidence is seen as serving the goal of convicting the right person), then there might be little motivation to avoid its effects, despite realization that such evidence is, in terms of the law, inappropriately biasing verdicts. One instance of this lack of motivation might be seen in research on the biasing effects of a defendant’s prior convictions (e.g., Doob & Kirshenbaum, 1972; Wissler & Saks, 1985). In a recent study, Petty, Wegener, and Fleming (1996) manipulated the relevance of a prior conviction to the current charge. That is, in a case for which the defendant was accused of rape, the defendant was described as either having been previously convicted of rape or of burglary (or, in control conditions, no previous conviction was mentioned). Similar to the Fleming et al. (1999) study discussed earlier, research participants were asked to provide their private beliefs about defendant guilt as well as their juror ratings of guilt. Although prior convictions for either rape or burglary increased perceptions of guilt to equal degrees on the private belief measure, only a prior conviction for rape increased ratings of guilt on the juror measure (see also Wissler & Saks, 1985). Mock jurors seemed to view an unrelated prior conviction for burglary as inappropriate to consider when judging the defendant’s guilt for the present rape charge, but they were unmotivated to correct for the bias caused by the related prior conviction for rape.

There are also certain aspects of juror judgments that might influence both motivation and ability to engage in corrections. For instance, if the preponderance of evidence fits a particular story of the events in the case (Pennington & Hastie, 1988), a juror might be relatively unmotivated to discount (i.e., remove) a piece of possibly biasing evidence, especially if that evidence is a crucial link in a story that makes sense to the juror. Likewise, it may be rather difficult for a juror to effectively correct for effects of a piece of evidence when that evidence might have aided in construction of one story in lieu of another (cf. Schul & Burnstein, 1985). This situation might especially be the case if the biasing features of the evidence are not recognized until long after any initial impact of the evidence (e.g., if a potential bias is noted by another
jury member during deliberations rather than the bias being considered at the time the evidence is presented; see later discussions comparing group discussion with corrections by individuals without group discussion).

**Postulate 3: Correction Efforts Are Guided by One’s Naive, Subjective Theory of Bias**

Are jury corrections guided by jurors’ subjective, naive theories of bias? Although a variety of data support the use of naive theories in general corrections (for reviews, see Wegener & Petty, 1997; Wegener et al., 1998), evidence for theory-based corrections in jury settings is only beginning to accrue. Wegener and Petty (1996) provided research participants with a brief description of a case in which the defendant was charged with rape. During the case, it was learned that the defendant had previously been convicted of either assault or tax evasion. Each of these prior convictions tended to equally elevate mock jurors’ perceptions of the defendant’s guilt (cf. Petty et al., 1996), but mock jurors corrected only for the assault prior conviction when the prior conviction information was identified as false later in the case description. This result was consistent with the theories of bias reported by the same research participants weeks before the study—the assault prior conviction was (inaccurately) viewed as more likely to increase the perceived guilt of the defendant for the rape charge.

Similarly, Wegener, Albertson, Petty, and Fleming (1999) recently asked mock jurors to make judgments of guilt on the basis of brief descriptions of evidence coupled with information about a prior conviction of the defendant. During the same initial session, theories of bias were assessed. A week later, respondents encountered the same brief descriptions but were informed that the prior conviction information had been ruled inadmissible for determining guilt. Results showed that differences between uncorrected and corrected judgments of guilt could be predicted by jurors’ idiosyncratic beliefs concerning the direction and magnitude of prior-conviction biases. Other studies suggest that corrections are based on perceptions of bias (rather than people simply setting aside biasing evidence). These studies have shown that the usual effects of a defendant characteristic may actually be reversed (rather than eliminated) when people are instructed to ignore that defendant characteristic (e.g., defendant attractiveness; Friend & Vinson, 1974).

**Postulate 5a: Use of Naive Theories Increases With Their Perceived Applicability**

As noted recently by Wegener, Dunn, and Tokusato (2001), theories of bias might often appear most applicable to a judgment when current reactions to the target are generally consistent with those expected under the theory of bias. For example, in the Petty et al. (1998) study described earlier, larger corrections were found with a dislikable rather than likable source. Because the message was counterattitudinal, reactions to the message were not generally favorable. Most people’s naive theories would suggest an assimilative bias—reactions to the message should be negatively biased by a dislikable source and positively biased by a likable source. Given the generally negative reactions to the message, it may be easy to attribute one’s current negative reaction to negative bias toward a dislikable source. However, a negative
reaction seems inconsistent with a (strong) positive bias toward a likable source (see Petty et al., 1998, for additional discussion).

In a similar way, jurors might be most likely to entertain the possibility of relevant biases that are directionally consistent with their overall reactions toward the defendant. For example, if a juror thinks that a defendant might really be guilty, that juror might be especially likely to consider the possibility that his or her reactions toward the defendant have been negatively biased by some feature such as the defendant’s unattractive appearance or previous criminal record. This situation might especially be the case if the juror was not so sure about guilt before the trial (because there is a perceived increase in guilt reactions at the time the biases could be at work). If the juror remembers thinking that the person was guilty before the trial ever began, then biases associated with the trial become less plausible explanations of the current negative reactions.2

It may also be that different jurors would be likely to spontaneously notice or focus on different potential biases, depending on the extent to which each bias is salient or accessible to that individual. So, for example, it might be expected that jurors in a closely watched trial with clear racial or ethnic overtones (e.g., the O. J. Simpson trials or the recent trial in which a New York City police officer was charged with severe assaults of a Haitian victim) would be more sensitive to the possibility of racial or ethnic bias than to other sources of bias.

Postulate 5b: Use of Naive Theories Depends on the Perceiver’s Judgment Goals

As discussed earlier, different goals on the part of perceivers might also drastically influence the types of corrections that occur. As illustrated by the Fleming et al. (1999) study described earlier, a variety of motives can be brought to bear on judgments in a given setting. In many jury settings, jurors’ primary goal may be to convict the correct person for the crime. This overriding motivation might be one major reason for ignoring instructions to disregard legally inadmissible but otherwise useful evidence if that evidence appears relevant to the goal of convicting the correct person. A good example of such evidence might be incriminating physical evidence, found in the defendant’s home, that was ruled inadmissible because of some technical flaw in a search warrant.

In other circumstances, or perhaps for other jurors, obedience to the law itself might be valued enough to obey instructions to disregard inadmissible evidence, even when using that evidence would result in the correct verdict (i.e., in the actual perpetrator being convicted; see Fleming et al., 1999). It is interesting that Fleming et al. (1999) also demonstrated that the goal of fairness (instigated by particularly severe and wide-reaching violations of due process) can create a type of nullification in which jurors refuse to use evidence that is ruled admissible because of some technical flaw in a search warrant.

2Although people might often use their own current reactions to screen for potential sources of bias, at least some theories of bias might be considerably more broad than applying only to settings where current reactions match the theory. For example, negative biases might be perceived not only as creating negative reactions but also as generally making reactions less positive than they might otherwise have been. When people possess this extended sense of the situations to which a given bias might apply, they should be more likely to use that theory of bias across a variety of settings (for additional discussion, see Wegener & Petty, 1997; Wegener et al., in press).
Fleming et al.'s initial demonstration of this used a rather unique situation, such an effect seems quite possible in a variety of real-life situations. For example, consider a situation in which a judge rules that previous statements or behavior by an arresting officer are admissible in defense attempts to undermine the officer's credibility. Some jurors might refuse to use such information (despite its admissibility) if they believe the information is somehow illegitimate (e.g., because the officer's previous behavior is being presented in a slanted way or because the juror believes—or wants to believe—the evidence presented by the officer).

**Postulate 7: The Effort Expended to Correct Bias Will Affect the Persistence and Impact of the Corrected Judgments**

Little research has addressed the possibility of effort in corrections influencing later impact on juror decisions. It certainly seems possible, however, that differences in effort given to correction per se could lead to differences in effects of those corrections on ultimate juror verdicts because the final verdict is often made long after presentation of the evidence. Therefore, factors that enhance persistence of perceptions over time or resistance of those perceptions to change should enhance the impact of those perceptions on later verdicts. Such an effect might be related to the finding that deliberating groups are sometimes found to be less influenced by inadmissible or irrelevant information (e.g., Carretta & Moreland, 1983; Kaplan & Miller, 1978).

3Specifically, the incriminating evidence was obtained (a) when the police illegally searched every home within a 2-mile radius of a rape and (b) from blood donated by the defendant to a local blood bank but illegally seized by the police for DNA analysis. In this scenario, many others besides the defendant would or could be injured if such extreme violations of due process were allowed to occur without sanction. It is possible for such cases that mock jurors take on the role of intuitive prosecutors (Visser & Tetlock, 1999) that focus on issues of macro rather than micro procedural justice (Tyler & Smith, 1998).

4It should be noted, though, that the extent to which deliberating juries are less biased than individual jurors is not entirely clear. For example, there are both empirical and theoretical reasons to doubt that juries are generally less biased than individual jurors (see Kerr et al., 1996). In a recent study, for example, Kerr, Niedermeier, and Kaplan (1999) confirmed a hypothesis derived from Davis' (1973) social decision scheme theory. They showed that juries were less biased than jurors when the overall conviction rate was extreme but were more biased when the overall conviction rate was moderate. A crucial question becomes the extent to which differences in bias (for deliberating juries or for individual jurors) come about because of corrections as opposed to alternative processes. Consider the fact that Kaplan and Miller (1978) found extralegal sources of annoyance having less influence on verdicts postdeliberation compared with predeliberation or that, similarly, Izzett and Leginski (1974) found that unattractive defendants were given harsher sentences than attractive defendants predeliberation but not postdeliberation. Each of these effects could, in part, come about by jury members reminding others of the legal irrelevance (or biasing impact) of these extralegal sources of information (i.e., by jury discussion increasing correction). Alternatively, if group discussion simply increases the level of thought given to the evidence itself, this increase could decrease reliance on the alternative sources of (biased) information separate from any correction processes per se (as in the high-thought/no-instruction conditions of the Petty et al., 1998, study described earlier). Of course, when the bias is actually inadmissible evidence, focusing people on the evidence at hand might increase rather than decrease the bias (e.g., if the evidence seems crucial for convicting the right person). See Wegener and Petty (1997) for additional discussion of correction-based lack of bias when compared with lack of bias accomplished through thought processes focused on unbiased information.
It is possible that jury discussions sometimes make it more likely that individuals identify and attempt to correct for potential biases, particularly when the inappropriateness of the bias is evident and salient (see earlier discussions relevant to Postulates 2 and 5). That is, other jurors could act to alert or remind each individual of the potential biases at work. Another interesting possibility is that individuals who were most likely to initially put effort into corrections prior to deliberations might also be the people most likely to be influential in deliberating groups. For example, Shestowsky, Wegener, and Fabrigar (1998) recently showed that consensus decisions are better predicted by the prediscussion views of people high in need for cognition rather than by those of people low in need for cognition (Cacioppo & Petty, 1982). As noted earlier, high levels of need for cognition have also been shown to relate positively to the likelihood of correction (DeSteno et al., 2000; Martin et al., 1990), assuming that the bias is relatively salient. If individuals high in need for cognition were more likely to engage in corrections during the trial (regardless of whether the judge’s instructions instigated the corrections), then evidence of relatively little bias in the deliberating group might be because the least biased of the individual jurors (prediscussion) end up having the greatest amount of impact on the group verdict.

The present discussions should not be taken to imply that people high in need for cognition are inherently unbiased. If the bias is relatively subtle and there are no factors in the setting that make people concerned about bias, people high in need for cognition can actually show increases in the effects of biasing factors (e.g., Wegener, Petty, & Klein, 1994). Even if biases occur to the same extent for people high in need for cognition and for those low in need for cognition (e.g., Petty, Schumann, Richman, & Strathman, 1993), the more thoughtful nature of the bias for people high in need for cognition could lead to increased impact of the bias over time (see Petty, Haugtvedt, & Smith, 1995). Thus, whether high levels of need for cognition lead to increased or decreased bias depends crucially on the salience of bias to those social perceivers. If biases go unnoticed, the thoughtful nature of people high in need for cognition can exacerbate certain kinds of bias, but if biases are identified, people high in need for cognition are more likely to possess the motivation necessary to engage in corrections. The present comments regarding relative lack of bias by jurors high in need for cognition assume that these people are correcting for biases made salient during the trial.

It could certainly be that individual-difference factors beyond need for cognition might relate to both influence during group discussion (cf. Kirchner & Davis, 1986) and to likelihood of individual bias correction. Beyond such individual differences, however, it seems like a fruitful research question to address whether and when group discussions increase the salience of potential biases for all jurors.

Corrections and Jury Instructions

In discussing the relation between the FCM and judges’ instructions, it is important to first recall which judges’ instructions fit most clearly within the model. Although aspects of the FCM might be applied to many types of judges’ instructions, the primary relevance of the model seems to be for admonitory and limiting instructions of various types such as rulings of inadmissibility of evi-
dence (Sue et al., 1973), rulings against impact of pretrial publicity (Kramer et al., 1990), or information about prior convictions (Wissler & Saks, 1985) or acquittals (Greene & Dodge, 1995). These instructions are typically designed to eliminate the unwanted impact of evidence or information deemed prejudicial by the law in general or by the judge in particular (i.e., to eliminate bias relative to an idealized legal standard).

**Identification of Bias**

From the perspective of the FCM, judges’ instructions could serve a number of functions and could be influenced by a number of factors. Perhaps most obviously, judges’ instructions might virtually bypass the identification aspect of bias correction. That is, judges’ instructions are designed to make apparent the nature of potential biases (often by pointing out the biasing nature of the information immediately after that information is presented; e.g., in response to an objection by the opposing attorney). Of course, jurors might often be capable of identifying potential biases on their own (and acting on those perceptions, regardless of whether judges provide any additional instructions). In most cases, however, judges’ rulings of inadmissibility are meant to ensure that all jurors focus on the piece of information that the judge perceives as biasing according to a rule of law. It is also potentially interesting to note that judges’ perceptions of bias might play a substantial role in when and how limiting instructions are used. Given that people’s perceptions of bias are often somewhat inaccurate, either in magnitude or in direction (see Wegener & Petty, 1997; Wilson & Brekke, 1994), it seems likely that judges’ perceptions of which evidence is or is not prejudicial might also sometimes be in error. It could well be that how and when judges use admonitory and limiting instructions help to determine judges’ influences on jury verdicts (cf. Hart, 1995).

**Motivation and Ability for Corrections**

The procedures accompanying judges’ instructions would also ideally increase ability to engage in the correction. This engagement would require that jurors have the necessary time and attentional capacity to focus on such potentially biasing information. Note that jurors are usually expected to execute corrections without such opportunities (e.g., a break in the trial), which might make it difficult for them not only to identify potential biases (if the biases are not...
pointed out very clearly) but also to put effort into corrections (while additional evidence is presented or additional activities take place). One potentially fruitful way to study this idea might be to systematically vary the extent of the break in the trial that accompanies judges’ instructions. It could well be that corrections are enhanced when a substantial break devoted to implementing the instructions immediately follows the instruction.

Consistent with the notion that persuasion processes are also directly relevant to bias correction (see Footnote 5), one might also entertain effects of message order in this context. For example, if the inadmissible evidence itself is viewed as one message, and the admonition to ignore the evidence is viewed as an opposing message, a number of effects of these messages could take place. Primacy would be said to occur if the first of the messages has the greatest impact on juror verdicts. This type of effect has sometimes occurred in settings similar to that presently considered. For example, with a description of a mock trial (treating prosecution and defense statements as the opposing messages), Miller and Campbell (1959) found a primacy effect when judgments were not given by mock jurors until 1 week after the two messages were presented. With the same prosecution and defense messages, however, Miller and Campbell (1959) found no order effects when the judgments were rendered close in time following presentation of the messages. When messages have explicitly been on topics of high personal relevance or interest, primacy effects have been particularly likely (see Haugtvedt & Wegener, 1994; Lana, 1963), especially when the opposing messages were divided into discrete segments (Petty, Tormala, Hawkins, & Wegener, 2001). In the present setting, a primacy effect would work against the desired correction for bias (i.e., against impact of the second message—the admonition to disregard). Recency effects (i.e., greater impact of a second message) might be encouraged in different ways. Miller and Campbell (1959) found recency effects when the second (opposing) message was not presented until 1 week after the first message, and the verdict was taken shortly after the second message. Recency effects have also been found when people receive two distinct messages on a topic about which they care relatively little (Haugtvedt & Wegener, 1994; see also Petty et al., 2001). One potentially important difference between the courtroom setting and that used in the message-order studies is that the judge has a privileged status within the courtroom. Whereas sources of the messages in message-order studies have always been equated for credibility, trustworthiness, and so forth, judges should be in a position to demand greater attention, respect, trust, and so forth when compared with the prosecution or defense lawyers who introduce inadmissible evidence. In our next major section, regarding possible changes to instruction procedures, we discuss efforts aimed at increasing the thoughtful consideration of judges’ instructions. These procedures would potentially be the most effective when paired with a break in the trial for thought about the judge’s recommendations. It is our belief that such procedures could overcome any general tendencies for overall primacy effects to enhance the impact of the inadmissible evidence.

Introduction of any breaks in the trial procedure would be somewhat at odds with the legal view of jurors as simply including or excluding pieces of evidence from the set of information to be considered at the end of the trial, withholding judgment until after deliberation instructions are presented by the judge. As noted
earlier, however, the FCM (as well as many other jury decision-making models; see Ellsworth & Mauro, 1998; Pennington & Hastie, 1981) suggests that such assumptions are psychologically untenable.

Unfortunately, at least some instructions by judges probably are not effective in enhancing identification of the evidence as biasing. Certainly, in any discussion of ability or motivation to identify and correct for perceived biases, it is important to note the clarity and persuasiveness of any instructions that instigate the correction. For some time, it has been noted that judges' instructions are often quite poorly understood by jurors (e.g., Elwork, Sales, & Alfini, 1977, 1982; see Lieberman & Sales, 1997). In at least some cases, these ambiguous or difficult-to-understand instructions are likely to undermine ability and motivation for both correction and identification of a factor as biasing.

Consider limiting instructions in which jurors are told to use prior conviction information for assessing the credibility of the defendant as a witness but not for assessments of guilt (e.g., Doob & Kirshenbaum, 1972; Wissler & Saks, 1985). In such cases, it might be that jurors are often unable to make fine-grained distinctions between determination of guilt and credibility as a witness (a witness who happens to be testifying about his or her own guilt). Therefore, it could be that jurors hear the instructions saying that prior conviction information can be used for determining witness credibility but mistakenly take that to mean that they are allowed to use the information to determine guilt. A slightly different ability-based explanation might also have merit. That is, the distinction between guilt and witness credibility might be noted by jurors, but the implications of viewing the witness as noncredible cannot be easily separated from related determination of guilt (e.g., if the juror does not believe the witness claiming innocence, the witness simply seems guilty). Even if jurors are motivated to remove bias, they might not be able to identify what is and what is not biased when instructions ask them to use a piece of information for some purposes but to ignore it for other (related) purposes. Some findings would seem to potentially implicate such ability-based explanations of the ineffectiveness of limited-use instructions. For example, prior conviction information has sometimes had little impact on mock-juror judgments when a straightforward (clear) instruction is given (i.e., not to be influenced by the information in determining guilt; see Fleming, Petty, & Weigener, 1997).

The ineffectiveness of limiting instructions might also be more purely motivational. Although jurors' attention to the biasing factor (e.g., prior conviction) is likely enhanced by the instruction, as jurors think about the instruction, they might actually become more convinced that they should use the information in judgments of guilt (after all, why should a prior conviction, especially for a similar crime, be less relevant to judgments of guilt than to judgments of general credibility as a witness?). Therefore, although attention to the factor might be increased, identification of that factor as biasing might even become less likely if, as jurors consider the legal reasoning for how the information is to be used, they find that reasoning unpersuasive. In fact, it seems quite likely that jurors who have a goal of convicting the right person would be unpersuaded by any legal rationale saying that relevant information should not be used in determining guilt. When this occurs, it would not only undermine identification of the evidence as biasing, but it would also certainly undermine any motivation to remove the effects of the
information. Moreover, as discussed in the next section, the legal rationale for limited use is typically implied rather than stated. Jurors are told how they should or should not use the information, but the reasons for this are left to be intuited by the jurors. In such a context, it is perhaps little wonder that jurors often use information as they see fit rather than grasping the legal reasons for limited use and following those legal guidelines.

From the FCM perspective, motivation to implement judges' instructions should play a key role in any attempt to debias judgments of jurors. Judges' instructions to juries usually state that jurors are obligated to follow the law (as explained and interpreted by the judge) and have little or no discretion to interpret or evade the intent of the law. What is usually missing, though, is any explanation of the reasons behind the law's constraints. Take, for example, the exclusionary rule: If evidence is collected illegally (e.g., without a proper search warrant), it may not be used in court. The rule exists to deter overzealous actions by police or prosecutors. But jurors who are exposed to evidence falling under the discretionary rule may simply be instructed to ignore it, even if the evidence is highly probative. The common presumption is that it is sufficient to tell jurors what they should do under the law and, as good citizens, they will do their best to comply. But as has already been pointed out, jurors are unlikely to be pursuing a single goal, namely, strictly adhering to the judge's instructions. They are likely to pursue a number of goals, including completing their service as quickly as possible, managing social relations with their fellow jurors, expressing personally salient values (Katz, 1960), and most importantly, reaching a just verdict. Although the law is designed to provide a framework within which justice is served, in particular instances (e.g., highly relevant evidence excluded for what may be perceived as legal technicalities), the requirements of the law may seem to the jurors as irrelevant or even inimical to a just verdict.

The law even recognizes and, in a rather oblique way, endorses jurors' power to interpret and even ignore the law in the service of justice. This power is embedded in the curious doctrine of jury nullification. Because juries can return whatever verdict they like, without explanation or risk of sanction, they functionally have the power to ignore the law if they wish. In fact, to a certain degree, it was this feature that underlaid the historical popularity of trial by jury in the United States (juries have been viewed as a safeguard against unjust laws or law enforcement; e.g., Rakove, 1996). However, appellate courts (e.g., U.S. v. Dougherty, 1972), although recognizing and even applauding the (occasional) benefits of jury nullification, have consistently held that jurors do not have the right to nullify the law and should not be told of their power to do so (lest they abuse that power). Interestingly, recent research (Niedermeier, Horowitz, & Kerr, 1999) indicates that mock jurors informed through instructions of their nullification powers are not more prone to weigh extralegal biasing information (e.g., a defendant's ethnicity, status, or gender) but rather are more likely to use that power narrowly (to avoid verdicts that, although legally correct, are seen as unjust).

Possible Changes in Judges' Instructions

Some scholars (e.g., Hersey, Blanchard, & Johnson, 1996; Maier, 1958), in discussing effective management and performance appraisal, have suggested that
it is insufficient for managers simply to "tell them" (i.e., tell subordinates what is expected or why they have received a particular appraisal), one must also "sell them" (i.e., convince them to support and implement the manager's decisions). In that same vein, we suggest that it is not enough to simply tell jurors what the law requires; the judge's instructions must sell them on the goal of adhering to the constraints of the law (see Footnote 5)—in FCM terms, the instructions must increase their motivation to examine and correct legally defined biases. How might this be done? We have a few ideas (which largely remain untested):

- It could be useful for judges to stress at the beginning of the trial the multiple motivations that should guide jurors in their task. That is, in addition to a general motivation to convict the correct person (which might be held by most jurors), it might be necessary to stress the additional motives of upholding the legal system and of ensuring equal and fair procedures for all defendants. During the trial, instructions might then be tailored to the motivations that best serve the rules of law concerning a given piece of evidence. For example, if a piece of evidence should be disregarded on procedural grounds, this rationale might be emphasized in the instructions to disregard. 6

- Supplement instructions on what the law requires, with explanations of why the law makes such requirements. For example, a judge might explain why the exclusionary rule exists and note the mischief that could be done (not only to this defendant but also to others, including themselves) if police had no deterrent to observing due-process requirements. Kassin and Sommers (1997) have provided evidence that could be viewed as consistent with the thrust of this recommendation. They showed that jurors did disregard evidence ruled as inadmissible when a persuasive reason was given for its inadmissibility (viz., that the conditions of obtaining wiretap evidence made it impossible to identify the voices on the tape) but not when an unpersuasive reason was given (viz., the wiretap was obtained without a proper warrant). We suspect that the bald or implicit reason (i.e., because it's the law) may often be unpersuasive for jurors, particularly when the requirements of the law conflict with jurors' other salient goals. We further suspect that simply outlining the law's rationale may not be effective, particularly when that rationale is at odds with other salient juror goals (Pickel, 1995). Rather, the judge must effectively sell the law and persuade the jurors that the legal rationale is valid and important.

- Consistent with the overall goal of selling the law, a variety of persuasion principles could be explicitly incorporated into judges' instructions (see Petty & Wegener, 1998). One unique possibility makes use of a recent model of juror decision making—the story model (Pennington & Hastie, 1993). Research on this model suggests that jurors naturally construct and contrast alternative narratives (i.e., stories) when reaching a verdict. We suspect that narratives could be effectively incorporated into selling judges' instructions. For example, rather than simply stating the abstract risks of police misconduct, the judge might tell a story about how failure to follow proper investigatory procedure actually resulted in a miscarriage of justice. (Besides helping to sell the instruction [by offering a simple and memorable argument for doing so], we

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6Although there might be some cases in which different motives conflict with one another (e.g., when evidence is ruled as admissible but its use somehow seems unfair; Fleming et al., 1999), it is probably more often the case that multiple motives can be used to justify a given ruling by the judge (e.g., when inadmissible evidence should be disregarded for both legal and procedural reasons).
suspect that such narratives would also further the aim of comprehension of instructions.)

- Experimenters learn, when debriefing experimental participants, the importance of presenting information in a way that does not make the participant look or feel foolish (e.g., for being taken in by some experimental deception). So, for example, an experimenter might explain that a deception was very carefully designed to be convincing, that most participants believed it as intended, and that there were important scientific reasons for using the deception (cf. Aronson, Wilson, & Brewer, 1998). In the same spirit, we suspect that jurors are more likely to honestly consider the possibility that their judgments may be biased if the instructions are worded so that a juror who entertains this possibility and strives to correct them does not look or feel foolish. For example, instructions could stress that “none of us is completely free of bias, it’s a very common difficulty,” that “such biases can result from overreliance on valid and familiar rules of thumb (e.g., don’t trust strangers),” or that “this Court doesn’t expect you to be completely free of bias, but it does expect you to do your best to recognize and correct biases when they have occurred.”

- There are some indications that instructions to jurors to ignore certain information actually enhance its impact (e.g., Edwards & Bryan, 1997). Jury instruction content and procedure needs to avoid triggering such backfires. For example, it appears that instructions that arouse the reactance motive (Brehm, 1966)—the desire to maintain one’s freedom of action—can have such an effect (Wolf & Montgomery, 1977). Thus, all other things being equal, there is a better chance that jurors will be motivated to correct biases if their instructions do not threaten decisional freedom, that is, avoid language like “it is your duty to follow all my instructions exactly” or “you have no choice but to follow these instructions.”

We realize that judges may be reluctant to introduce such instructional innovations; for one thing, they invite reversal by appeals courts. Nevertheless, the effectiveness of these and other (e.g., Heuer & Penrod, 1989; Dattu, 1998) means of motivating jurors to follow instructions and correct legal biases should be studied more systematically, if not by judges, then by forensic scientists and by policy makers charged with improving the justice system (e.g., legislators, panels drafting pattern instructions).

Timing of judges’ instructions might also make a difference for both motivation and ability reasons. For example, Kassin and Wrightsman (1979) showed that corrections can sometimes be more pronounced when judges’ instructions are placed before rather than after the presentation of evidence. Perhaps a preemptive instruction would keep jurors from using the biasing information to form a story (Pennington & Hastie, 1988) regarding the events surrounding the case. Once the story is formulated, or a strong view of the defendant is formed for other reasons, however, the impact of instructions to disregard might be lessened. The extensive integration of biasing information with related knowledge could certainly make corrections more difficult (Schul & Burnstein, 1985; Wegener & Petty, 1997). Therefore, alerting people to the possibility of bias before the information is encountered might make it easier for people to successfully complete those corrections. Such an instruction might be possible when a judge knows in advance that a particular piece of controversial evidence will be presented (e.g., when a controversial piece of evidence has been ruled admissible for at least certain purposes during pretrial proceedings). As noted earlier, there are a number of
reasons why a juror’s motivation for correction might be relatively low (e.g., when jurors are quite satisfied with their current understanding of the facts, or of the defendant himself or herself). Therefore, it may well be that postevidence instructions are often too late for jurors to adequately identify or eradicate perceived effects of biasing evidence.\(^7\)

Although perhaps somewhat difficult to implement in practice, an emphasis on naive theories in bias correction suggests that the accuracy of juror judgments could also be enhanced by appropriately calibrating jurors’ perceptions of the bias at work. Thus, in a circumstance where research clearly shows that corrections are typically insufficient, a judge’s instruction might provide information about the typical undercorrection that occurs. If research clearly demonstrates that, for a particular bias or crime, corrections consistently overshoot the desired response, this typical overreaction could also form part of the judge’s instruction. In effect, from an FCM perspective, interventions aimed at improving accuracy of judgment become interventions aimed at changing people’s perceptions of the biases in that setting. If corrections were shown to be moving in an inappropriate direction, the desired change in belief would be one of direction rather than, or in addition to, magnitude (see Wegener & Petty, 1997, for additional discussion). Of course, such a policy would require extensive and accurate knowledge about how a particular bias operates. There are relatively few juridic biases for which such knowledge is currently available. One interesting exception might be overreliance on eyewitness testimony, where cautionary instructions could draw on a wealth of data (e.g., Lindsay, Wells, & Rumpel, 1981; Loftus, 1979). For such procedures to become possible, education of lawyers and judges would need to include the relevant social science research addressing common judicial biases and bias removal. Inclusion of such information in early stages of lawyer education could drastically change the legal view of the juror and could pave the way for implementation of more psychologically reasonable methods of communicating with the lay people who serve as jurors.

To the extent that effortful corrections stand a better chance of impacting ultimate juror verdicts than corrections toward which little effort is given, judges instructions should also be tailored to maximize the effort given by jurors. As noted earlier, one way to do this might be to incorporate an interval for assessing the applicability of the instructional admonitions immediately following the judges’ instruction. By introducing this period for jurors to consider the instruction, jurors might be more likely to think carefully about the implications of the instruction. If the trial simply continues immediately after the judges instruction, then jurors have very little opportunity to think carefully about the correction or the need for correction.

Although the suggestions discussed in this section have been specifically aimed at jury instructions, many of the implications of the FCM might also equally apply to attorney arguments and opening and closing statements (which sometimes also include information for jurors about the nature of potential biases,\(^7\))

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\(^7\)On the other hand, Wegner’s work on thought suppression (see Wegner, 1994) has shown that preinstructions to disregard or suppress certain information can sometimes ironically intensify its impact. Importantly, for such rebound effects to occur, the correction processes described by the FCM cannot be operating at this later point in time (e.g., because the bias is no longer identified as such or motivations that were initially present are no longer salient).
motivations for correction, etc.). For example, many of the attorney statements in the O. J. Simpson criminal trial explicitly raised the specter of racial biases beyond evidence introduced in the trial. Relatively little research has investigated the impact of attorney statements related to bias and bias correction, but use of the FCM to analyze such settings seems quite reasonable.

Summary

The FCM (Wegener & Petty, 1997; Wegener et al., 1998) uses a relatively small set of postulates to analyze bias correction across a variety of settings. In this article, we have applied the FCM framework to corrections in courtroom settings in general and to the formulation and placement of judges’ instructions in particular. A number of concrete suggestions for enhancing the effectiveness of instructions were derived—both directly and indirectly—from the FCM. Although much of the empirical work supporting the FCM has been conducted outside the jury context, much existing evidence in the jury domain appears consistent with the FCM framework. Moreover, initial mock jury data collected with the FCM in mind has provided encouraging results. Like much else in the law, the development of jury instructions has proceeded with too little attention to the psychology of the juror—to his or her linguistic, attentional, intellectual, social, and motivational limitations. The FCM reminds us of many of these important limitations and provides a theoretical framework within which the legal system can begin to better overcome them.

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