

“The preponderance of the WHAT?” Factors in the comprehension of jury instructions

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“A preponderance of the evidence is such evidence which, when considered and compared with any opposed to it...”¹”

Abstract Jurors are often confused by jury instructions, the complicated directions that a judge reads to them before they deliberate (Charrow & Charrow 1979; Diamond et al. 2012). This confusion can lead to both disengaged jurors and misinformed verdicts (Benson 1984; Marder 2006). In a previous study, we showed that listeners’ comprehension of jury instructions improve (a) when they can read as they listen (Randall & Graf 2014) and (b) when two linguistic factors are minimized: **passive verbs** (Ferreira 2003) and unfamiliar legal expressions, or “**legalese**” (Diana & Reder 2006). However, though comprehension in this study did improve overall ($p = .05$), improvements were significant in only two of the six instructions that we tested. We hypothesized that this was a function of using undergraduate subjects, who are more highly educated than the overall jury pool. To investigate this issue, our new study recruited a wider range of subjects via MTurk and found that improvements were both more robust ($p < .001$) and widespread (significant for five of the six instructions). These new results provide even stronger evidence that (a) reading while listening and (b) minimizing specific **linguistic factors** can improve jury instruction comprehension.

Study 1: Undergraduate student subjects

Hypotheses

1. Reading while listening improves comprehension of jury instructions over listening only.
2. Two linguistic factors, **passive verbs** & **legalese**, contribute to comprehension difficulty.

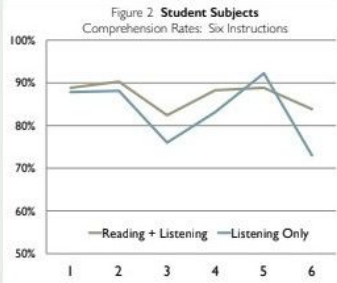
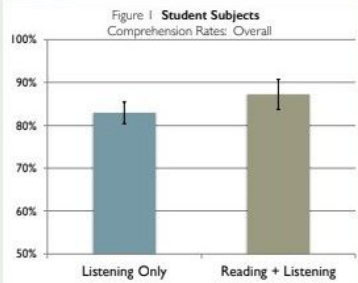
Subjects

$n = 79$ Northeastern University (NU) undergraduate students
36 Reading+Listening (R), 43 Listening-only (L)

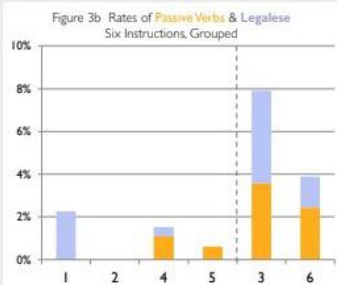
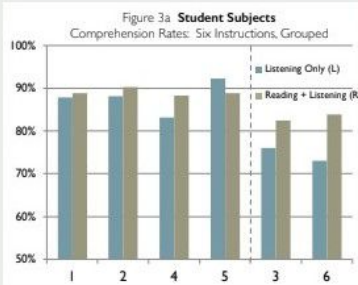
Materials, Design, & Procedure

For both the **Reading+Listening** & **Listening-only** conditions, subjects heard recordings of six Massachusetts civil jury instructions. In addition, for the **Reading+Listening** condition, subjects read the text of each instruction. All subjects answered true/false questions after each instruction in a printed test booklet.

Results



Overall, our results (Figs. 1 & 2) support Hypothesis 1: **Reading+Listening (R)** boosts comprehension over **Listening-only (L)** ($p = .05$) [87% R > 83% L].



Our results also support Hypothesis 2: Comprehension rates of the six instructions inversely correlate with their rates of **passive verbs** & **legalese**: Instructions 1, 2, 4 & 5 were easier to understand than Instructions 3 & 6 (Fig. 3a). This can be attributed to their lower rates of **passive verbs** & **legalese** (Fig. 3b).

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Consider this:

Nearly half of the Massachusetts jury pool (**40%+5%**) has not gone beyond high school (Fig. 4). In order to more closely mirror this population, Study 2 replicated Study 1 but used subjects drawn via MTurk, Amazon’s online crowd-sourcing platform.

Study 2: MTurk subjects

Hypotheses

1. As in Study 1, **reading while listening** will improve comprehension of jury instructions over **listening only**.
2. As in Study 1, two linguistic factors, **passive verbs** & **legalese**, will contribute to comprehension difficulty.
3. The comprehension boost for **Reading+Listening** over **Listening-only** will be greater for MTurk subjects than student subjects.

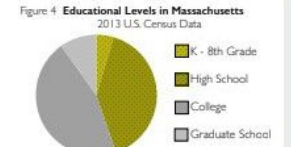
Subjects

$n = 360$ paid subjects, recruited via MTurk, Amazon’s online crowd-sourcing platform
All were U.S. citizens over 18, drawn from a mix of educational levels and geographic regions across Massachusetts.

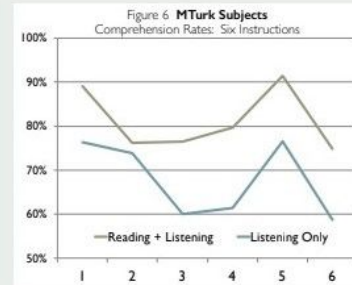
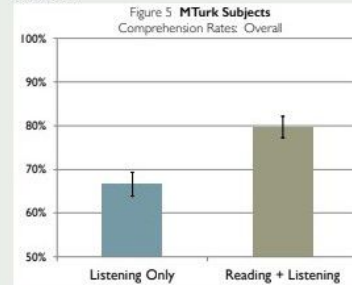
Materials, Design, & Procedure

This study used the same recordings and transcripts of the six current Massachusetts jury instructions as Study 1. Subjects signed on to the MTurk website and proceeded to either the **Reading+Listening** or the **Listening-only** survey. All subjects answered true/false questions after each instruction; MTurk recorded their responses.

The standard of proof in a civil case is that a plaintiff must prove his or her case by a preponderance of the evidence. This is a less stringent standard that is applied in a criminal case, where the prosecution must prove its case beyond a reasonable doubt. By contrast in a civil case such as this one...

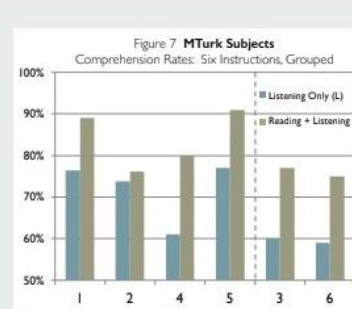


Results



These results (Figs. 5 & 6) support Hypothesis 1: **Reading+Listening (R)** boosts comprehension over **Listening-only (L)** ($p < .001$) [80% R > 67% L].

The results also support Hypothesis 3: The effect size for **Reading+Listening** over **Listening-only** is greater for MTurk subjects than for student subjects.



The results also support Hypothesis 2: comprehension rates of the six instructions inversely correlate with their rates of **passive verbs** & **legalese**. The relationship between Figs. 3a & 3b also holds between Figs. 7 & 3b.

Discussion & Conclusions

Compared with Study 1, Study 2 shows:

- a larger difference between **reading while listening** and **listening only**, and
- a stronger correlation between the instructions’ rates of **linguistic factors** and their comprehension.

Our MTurk subject pool showed larger improvements, benefiting more from **reading while listening** and fewer **linguistic factors** than our better-educated student subjects of Study 1. These results suggest – for MTurk subjects and jurors – that (a) **reading while listening** and (b) confronting fewer difficult **linguistic factors** will boost comprehension, allowing jurors to engage more fully and reach more informed verdicts.

Footnote & References

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