

Effects of Sex of Defense Attorney, Sex of Juror, and Age and Attractiveness of the Victim on Mock Juror Decision Making in a Rape Case

Nora K. Villemur and Janet Shibley Hyde¹

Bowling Green State University

In an experimental study, mock jurors heard a 50-minute audiotape of a rape trial and saw pictures of the victim and defendant. The factors in the design were sex of the defense attorney, age of the victim (early 20s or 60s), attractiveness of the victim, and sex of the juror. The most striking finding was a higher acquittal rate under the female defense attorney condition (71%) than under the male defense attorney condition (49%). This may be an instance of the recently described "talking platypus" phenomenon. Main effects for juror's sex, age of the victim, and attractiveness of the victim were not significant, but these factors showed complex interactions. Internal-external scores did not predict decisions. The most frequent reasons given for acquittals were reasonable doubt and the victim's not resisting.

With psychologists' increasing attention to the topic of rape, juror decision making in rape cases is an important topic for social-psychological research on sex roles. It has been suggested that factors other than the evidence enter into the decision-making process. The purpose of this experiment was to investigate the effects of the following extralegal factors in a rape case: the sex of the defense attorney, the victim's attractiveness, and the victim's age. The effects of sex of the juror were also examined.

Kerr (Note 1) investigated the effects of victim attractiveness and responsibility on verdicts in an automobile theft case. The defendant was more likely to be convicted when the victim was both beautiful and blameless than

¹Correspondence should be sent to Janet Shibley Hyde, Psychology Department, Denison University, Granville, Ohio 43023.

in any other condition. In a rape case, the same results might occur; that is, more guilty verdicts might occur when the victim is beautiful. However, because of the sexual aspects of rape cases, the beautiful victim might be regarded as seductive, with the result that the defendant would be less likely to be convicted. The present study determined which of these outcomes would occur.

In regard to the effects of age of the victim, Weis and Borges (1973), reviewing the rape literature, concluded that "the greater the equality between victim and offender, the greater the victim's responsibility for the outcome. The raped 70-year-old woman is held less responsible than more able-bodied victims" (p. 77). Thus, one would expect more guilty verdicts, greater attribution of fault to the defendant, and less attribution of fault to the victim when the victim is old. However, this hypothesis has not previously been subjected to direct experimental test.

Based on Lerner's (1965) notion of a "just world," Jones and Aronson (1973) investigated the perceived culpability of a rape victim as a function of her social status (respectability). They found that a victim of rape was faulted more if she were married or a virgin (more respectable) than if she were a divorcee (less respectable); at the same time, the defendant who attacked the more respectable woman was sentenced more severely. These results were interpreted as being consistent with the just world theory. Applied to the present study, older victims are likely to be seen as more respectable, so that parallel results might be expected for the age manipulation as for the social status manipulation in the Jones and Aronson study. However, this would lead to predictions contrary to those made by Weis and Borges (1973).

A number of studies have found effects for juror's sex on decisions in rape cases. Hoiberg and Stires (1973) found evidence that female jurors derogate the victim more than male jurors do. Retrospectively, the authors concluded that this could have been a result of female subjects' desire to believe in a just world: Female subjects apparently thought "things like that only happen to a bad girl like her, but not to a person like me; i.e., the world is a just place after all." On the other hand, Davis, Kerr, Atkin, Holt, and Meek (1975) found that females judged the defendant guilty more often than did males. Smith, Keating, Hester, and Mitchell (1976) found that male jurors, compared with female jurors, rated victims as being more careless and more likely to have provoked the rape. Female jurors prescribed more severe sentences. Feild (1978), in a study of attitudes toward rape, also found significant gender differences. Men indicated to a significantly greater extent that it is the woman's responsibility to prevent rape, punishment for rape should be harsh, and victims precipitate rape through their appearance or behavior.

The manipulation of the sex of the defense attorney is an interesting one. Extrapolations from prior research, however, led to contradictory predictions of

the outcome. Some experiments (e.g., Goldberg, 1968) have documented devaluation of the work of women, even when it is identical to the work of men (for a recent review, see Ward, 1981). These results lead to the prediction that the work of the female defense attorney would be devalued, so that she would get a lower acquittal rate than the male defense attorney. However, the opposite result, the "talking platypus" phenomenon, has been documented by Abramson, Goldberg, Greenberg, and Abramson (1977). In an analog study, they found that a female attorney was actually rated as more competent than a male attorney with an otherwise identical description. Apparently, it is so amazing that a woman can be an attorney that her ratings are inflated, much as one would be amazed at a talking platypus – what the platypus says is not important, the wonder is that it can say anything. If the latter effect occurs, then one would expect female defense attorneys to obtain more acquittals in the present study.

In addition to the studies mentioned above, other experimental studies have investigated juror decision making in rape cases. Kerr et al. (1976) investigated the effects of a reasonable doubt definition and assigned decision rule. Kerr and Turner-Kurtz (1977) performed a replication and extension of the Jones and Aronson (1973) study to examine the just world interpretation of the results. As predicted, the defendant was given longer sentences when the victim suffered more; however, in general the predictions of the theory were not confirmed. Davis et al. (1975) used the same case as in the present study to address the questions of jury size and assigned decision rule. Davis, Strasser, Spitzer, and Holt (1976) again used the same case to investigate the changing personal decisions of mock jurors. Davis, Kerr, Strasser, Meek, and Holt (1977) used a case designed to produce more guilty verdicts to examine the effects of victim consequences and sentence severity. Davis, Spitzer, Nagao, and Strasser (1979) investigated the effects of pretrial opinions (proprosecution, moderate, or prodefense). Scroggs (1976), in one experiment, examined the effects of the victim being provocatively or nonprovocatively dressed, and either pregnant or not pregnant as a result of the rape; in a second experiment victims were presented as either raped or robbed and as resisting or not resisting the attack. Male subjects gave more lenient penalties to the rapist when his victim did not resist, but female subjects were more lenient when the victim resisted.

In sum, although the effect of sex of the juror has been examined in previous research on rape, the effects of the sex of the defense attorney and the age and attractiveness of the victim have not been studied. The latter two factors are of interest insofar as jurors may tend to invoke sex-role stereotypes in their decisions, and possibly view the victim as seductive, or to take the respectability of the victim into account. The effect of the sex of the defense attorney is an important applied question. All of these effects are important to investigate in order to begin to understand factors that affect juror decisions in rape trials.

METHOD

Subjects

The subjects were 80 female and 80 male undergraduates, who participated in the experiment to fulfill the requirements for an introductory psychology course.

Procedure

The design was a $2 \times 2 \times 2 \times 2$ factorial with the following factors: sex of the defense attorney, attractiveness of the victim (attractive vs. unattractive), age of the victim (young vs. old) and juror's sex.

Subjects participated in the study in mixed-sex groups of 4 to 10, although individual decision making was studied. The experiment was described as a study of decision making in trials. Each group was assigned randomly to one of the eight experimental conditions. Each group heard one of two audiotapes (male defense attorney voice vs. female defense attorney voice) and saw one of four slides of the victim (showing her as attractive or unattractive and young (early 20s) or old (60s)). All groups saw the same slide of the defendant, a young White man. The 50-minute audiotape contained testimony and attorneys' summaries; this material has been used in several previous studies (Davis et al., 1975, 1976, 1979; Kerr et al., 1976), although these studies used videotapes. The case was chosen because it has produced strong disagreement among jurors, probably because the case is highly ambiguous. Thus it should provide a sensitive test for experimental manipulations.

Following the presentation of the case, each subject responded to a questionnaire that included items about the subject's verdict (guilty or not guilty); recommended length of sentence; and the following items (all rated on a 1-to-7 scale) – liking of the victim, degree to which the crime was the victim's fault, respectability of the victim, four statements on attitudes about rape, the extent to which the crime was the defendant's fault, and the justifiability of the defendant's behavior. Finally, an open-ended question asked for the reason for the verdict of guilty or not guilty; and subjects completed Rotter's (1966) Internal-External (I-E) Scale.

RESULTS

A $2 \times 2 \times 2 \times 2 \times 2$ chi-square analysis (Everitt, 1977) was done for the dichotomous variable guilty/not guilty. All the remaining measures yielded continuous scores, and $2 \times 2 \times 2 \times 2$ analyses of variance were performed.

Sex of the Defense Attorney

Jurors gave significantly more not-guilty verdicts when the defense attorney was female than when he was male, $\chi^2 = 7.83$, $df = 1$, $p < .005$. Jurors rendered 71% acquittals when the attorney was female and 49% when the defense attorney was male. Length of sentence, however, did not show significant effects depending on the sex of the defense attorney.

In addition, main effects for defense attorney's sex were found for both attribution of fault to the victim, $F = 8.36$, $df = 1$, 144, $p < .01$ (male defense attorney $\bar{X} = 4.21$, female defense attorney $\bar{X} = 4.88$), and attribution of fault to the defendant, $F = 3.82$, $df = 1$, 144, $p < .01$ (male defense attorney $\bar{X} = 5.18$, female defense attorney $\bar{X} = 4.69$). Under the conditions of the female defense attorney, jurors attributed more fault to the victim and less fault to the defendant. None of the other variables showed main effects for the sex of the defense attorney.

Age and Attractiveness of the Victim

No significant main effects were found for either age of the victim or attractiveness of the victim, except that older victims were rated as significantly more respectable than younger victims, $F = 5.02$, $df = 1$, 144, $p < .05$ (young victim $\bar{X} = 3.99$, old victim $\bar{X} = 4.51$). However, both of these factors interacted in complex ways with the other factors, as will be discussed below.

Sex of the Juror

No significant sex differences were found for verdict, $\chi^2 = .90$, $df = 1$, or for attribution of fault to the victim, $F = .67$, $df = 1$, 144. Overall, females gave 44% guilty verdicts, and males gave 36%. The only variable that did show a main effect for sex of juror was the statement "Something like this might happen to bad people like her, but not to somebody like me." Males showed significantly greater agreement with this statement, $F = .10$, $df = 1$, 144, $p < .01$ (male $\bar{X} = 5.3$, female $\bar{X} = 6.08$). Juror's sex also interacted in complex ways with the other factors, as will be discussed below.

Interactions

There was a significant interaction of juror's sex with age of victim in attributing fault to the defendant. Post hoc analyses using the Scheffé procedure indicated that female jurors attributed more fault to the defendant when his victim was old (see Table I).

Table I. Mean Ratings of Defendant's Fault by Male and Female Jurors in the Young Victim and Old Victim Conditions

	Young victim	Old victim
Male jurors	4.93	4.55
Female jurors	4.73	5.53

Juror's sex and defense attorney's sex interacted significantly when attributing fault to the victim, $F = 7.14$, $df = 1, 144$, $p < .01$. Male jurors attributed more fault to the victim under the female defense attorney condition than with a male defense attorney. Female jurors did not significantly vary their attributions of fault under these two conditions (see Table II).

Significant three-way interactions of juror's sex \times attractiveness of victim \times age of victim were found for verdict, liking for the victim, attribution of fault to the victim, and attribution of fault to the defendant. Female jurors gave more guilty verdicts when the victim was unattractive, whether young or old; male jurors, however, gave more guilty verdicts when victims were old and unattractive or young and attractive.

Correlations

An attempt was made to predict subjects' responses on the other variables by their score on the I-E scale. However, with only one exception, I-E scores did not correlate significantly with any other variables. They did correlate ($r = -.17$) with responses to the following statement: "Assuming that the act was one of rape, is it possible that the defendant's intentions were well-meaning and this outcome only occurred because of the situation or other uncontrollable factors?"

Point biserial correlations indicated that verdict correlated with several of the other measures. Subjects who found the defendant guilty liked the victim significantly more ($r = .35$), considered the crime to be the victim's fault significantly less ($r = .53$), and considered the crime to be the defendant's fault significantly more ($r = .65$). Those who found the defendant guilty were also signifi-

Table II. Mean Ratings of Victim's Fault by Male and Female Jurors in the Male and Female Defense Attorney Conditions

	Male jurors	Female jurors
Male defense attorney	4.00	4.43
Female defense attorney	5.28	4.48

Table III. Frequency of Responses to the Open-Ended Question "Why Did You Find the Defendant Guilty or Not Guilty?"^a

Class of response	Male jurors	Female jurors
Guilty		
Prior aggravated assault	9	16
Defendant was drunk	5	10
Prefer victim's story	5	5
Did not believe defendant	8	14
Victim's characteristics	4	4
Defendant's characteristics	4	7
Not guilty		
Reasonable doubt	17	13
Victim did not resist	16	16
Victim did not ask for his I.D.	7	9
Victim asked for his I.D.	6	8
Victim not too upset	3	5
Prefer defendant's story	3	5
Did not believe victim	5	4
Can't rape if unwilling	3	1
Victim took no precautions	0	3

^aFrequencies do not add up to 160, since some subjects gave more than one answer.

cantly more likely to disagree with statements that "Something like this might happen to bad people like her, but not to somebody like me"; "She deserved what she got; even if she was telling the truth she should have asked for his police I.D."; "Any decent woman would have tried to get out of the car the first time he made advances, even if he was a policeman"; and to agree that "Obviously, she is naive and dumb for having believed his story, but in a strange situation like that, even good and innocent people might react the way she did and consequently get hurt."

Reasons for Verdict

Frequency of responses to the question "Why did you find the defendant guilty or not guilty?" are shown in Table III. The two most frequent reasons for the verdict of not guilty were that there was reasonable doubt and that the victim did not resist.

DISCUSSION

The most striking result of this study was that significantly more not-guilty verdicts were given when the defense attorney was female (71%) than

when the defense attorney was male (49%). Concomitantly, jurors attributed more fault to the victim and less fault to the defendant under the female defense attorney condition. The implications of the influence of this extralegal factor are serious.

There are at least three possible explanations for this finding: (1) It may be an instance of the talking platypus phenomenon (Abramson et al., 1977); jurors are so amazed that a woman can be a competent defense lawyer that her performance is overevaluated relative to the male defense lawyer. (2) Walster, Aronson, and Abrahams (1966) have provided evidence that the persuasiveness of low prestige communicators can be increased by having them argue for a position that is opposed to their own best interest. In this case, the low prestige communicator (female lawyer) may become more persuasive because it seems not to be in her best interest as a woman to defend an accused rapist. (3) There could be a shift in focus on characters depending on the sex of the defense attorney. When the defense attorney is male, the issue is the relative respectability of the victim and the defendant; when the defense attorney is female, the defendant drops into the background and the issue is the relative respectability of the female defense attorney and the female victim.

Further research is needed to sort out these possibilities. For example, if the talking platypus hypothesis is correct, the effect should be found in trials for other crimes, while both of the other hypotheses predict that the effect is specific to rape trials. Hypothesis 2 could be tested by manipulating the apparent best interest of the attorney (e.g., the defense attorney will earn a great deal of money by getting an acquittal, versus doing the work without fee). Hypothesis 3 could be tested by varying the respectability of female and male defense attorneys, as well as the respectability of the victim.

As expected, older victims were viewed as more respectable. However, the present results are different from those of Jones and Aronson (1973), who found that more respectable victims are faulted more, but their attackers are sentenced more severely. In the present study, there were no main effects for age. In interactions, female jurors attributed more fault to the defendant when the victim was old, consistent with the predictions of Weis and Borges (1973). Male jurors gave more guilty verdicts when the victim was young and attractive. Thus, these results differ from Jones and Aronson's interpretations of the just world theory applied to rape cases, and contribute to a growing body of evidence that just world rationalizing fails to explain jurors' decisions in such cases (e.g., Smith et al., 1976; Kerr et al., 1977).

In contrast to prior research, the effect of sex of juror was not significant in this study, although the direction of the difference was the same as in most prior research, with females giving more guilty verdicts. In the research of Davis et al. (1975), using the same case as in the present study, males gave 18% guilty

verdicts and females gave 31%, in contrast to 36% for males and 44% for females in the present study. It seems possible that with recent publicity given to the plight of rape victims, people are generally more willing to convict accused rapists, and a former juror sex difference has diminished or disappeared.

The fact that juror's sex interacts with a number of other factors is also important. For example, in attributing fault to the victim, male jurors seem more susceptible to the effects of a female defense attorney than female jurors. In an applied sense, this lends further support to the contention of Davis et al. (1975) that jury composition should be heterogeneous, particularly with regard to characteristics such as juror's sex. In a theoretical sense, it will be important to find out why these interactions occur with juror's sex. They may in turn be a function of some other variable, such as attitudes toward women or attitudes toward rape.

Intuitively, it would seem likely that scores on Rotter's I-E scale would predict jurors' decisions in a rape case, insofar as people hold attitudes that rape is due either to situational factors or to some personal characteristics of either the victim or the defendant. Such a hypothesis was not supported by the data. However, this hypothesis leads to ambiguous predictions, depending on whom the juror focuses on or identifies with in the case. That is, if a juror focuses on the victim and tends to make internal attributions, this would suggest that the victim precipitated the crime, and the defendant should be judged not guilty. A juror focusing on the victim and making an external attribution might be more likely to see the defendant as responsible for the crime. Jurors focusing on the defendant would be predicted to make the opposite judgments. Furthermore, it seems likely that female jurors would be more identified with the victim, male jurors with the defendant. Therefore, one might expect very different correlations of the I-E scale with verdicts for males and females. In fact, the point-biserial correlation of verdict with I-E score was .13 for males and .05 for females (both nonsignificant).

Some methodological limitations of the present study should be noted. First, subjects made their decisions individually, rather than in groups, as would occur in actual jury decisions. This was done for practical considerations: to keep the number of subjects manageable and to avoid introducing the complexities of group decision making in interaction with the factors that were manipulated. Nonetheless, the results might have been different had decisions been made in groups. Second, limitations result from the simulated nature of the study. A 50-minute audiotape cannot present all of the complex cues that would be present in an actual trial. However, the richness of detail in this study more closely approximates that of an actual case than has some other research using brief newspaper accounts of a rape case (e.g., Jones & Aronson, 1973). Because the study is a simulation, subjects must also realize that their decisions will not

have the consequences that they would in an actual trial; for example, subjects might be less willing to give a guilty verdict if they knew it would actually mean imprisonment for the defendant.

The case used in the present study has proved to be excellent for the investigation of factors influencing juror decisions, since it produced a near 50-50 split of decisions. Further research may profitably investigate the effects on decisions in rape cases of other extralegal factors such as race of the victim and race of the defendant. It is also important to find out why the effects in the present study occurred. In particular, why does a female defense attorney elicit so many more acquittals? The hypotheses presented earlier need to be investigated. It is also important to determine the extent to which characteristics such as attitudes toward rape (Feild, 1978) and attitudes toward women (Spence & Helmreich, 1972) are predictive of juror decisions in rape cases.

REFERENCE NOTE

1. Kerr, N. L. *Beautiful and blameless: Effects of victim attractiveness and responsibility on mock jurors' verdicts*. Unpublished manuscript, University of California, San Diego, 1977.

REFERENCES

- Abramson, R. P., Goldberg, P. A., Greenberg, J. H., & Abramson, L. M. The talking platypus phenomenon: Competency ratings as a function of sex and professional status. *Psychology of Women Quarterly*, 1977, 2, 114-124.
- Amir, M. *Patterns of forcible rape*. Chicago: University of Chicago Press, 1971.
- Brownmiller, S. *Against our will: Men, women, and rape*. New York: Simon & Schuster, 1975.
- Davis, J. H., Kerr, N. L., Atkin, R. S., Holt, R. W., & Meek, D. The decision processes of 6- and 12-person juries assigned unanimous and two-thirds majority rules. *Journal of Personality and Social Psychology*, 1975, 32, 1-14.
- Davis, J. H., Kerr, N. L., Strasser, G., Meek, D., & Holt, R. W. Victim consequences, sentence severity, and decision processes in mock juries. *Organizational Behavior and Human Performance*, 1977, 18, 346-365.
- Davis, J. H., Spitzer, C. E., Nagao, D., & Strasser, D. The nature of biases in social decisions by individuals and groups: An example from mock juries. In H. Grandstatter, J. H. Davis, & H. Schuler (Eds.), *Social decision processes*. Beverly Hills, Calif.: Sage, 1979.
- Davis, J. H., Strasser, G., Spitzer, C. E., & Holt, R. W. Changes in group members' decision preferences during discussion: An illustration with mock juries. *Journal of Personality and Social Psychology*, 1976, 34, 1177-1187.
- Everitt, B. S. *The analysis of contingency tables*. London: Chapman & Hall, 1977.
- Feild, H. S. Attitudes toward rape: A comparative analysis of police, rapists, crisis counselors, and citizens. *Journal of Personality and Social Psychology*, 1978, 36, 156-179.
- Goldberg, P. A. Are women prejudiced against women? *Transaction*, 1968, 5, 28-30.
- Hadden, S. C. Social dimensions of jury decision-making. *International Journal of Criminology and Penology*, 1973, 1, 269-277.

- Hoiberg, B. C., & Stires, L. K. The effect of several types of pretrial publicity on the guilt attributions of simulated jurors. *Journal of Applied Social Psychology*, 1973, 3, 267-275.
- Jones, C., & Aronson, E. Attribution of fault to a rape victim as a function of the respectability of the victim. *Journal of Personality and Social Psychology*, 1973, 26, 415-419.
- Kerr, N. L., Atkin, R. S., Strasser, D., Meek, D., Holt, R. W., & Davis, J. H. Guilt beyond a reasonable doubt: Effects of concept definition and assigned decision rule on the judgments of mock jurors. *Journal of Personality and Social Psychology*, 1976, 34, 282-294.
- Kerr, N. L., & Turner-Kurtz, A. Effect of a victim's suffering and respectability on mock juror judgments: Further evidence on the just world theory. *Representative Research in Social Psychology*, 1977, 8, 42-56.
- Landy, D., & Aronson, E. The influence of the character of the criminal and his victim on the decision of simulated jurors. *Journal of Experimental Social Psychology*, 1969, 5, 141-152.
- Lerner, M. Evaluation of performance as a function of performer's reward and attractiveness. *Journal of Personality and Social Psychology*, 1965, 1, 355-360.
- Lerner, M., & Simmons, C. Observer's reaction to the "innocent victim": Compassion or rejection? *Journal of Personality and Social Psychology*, 1966, 4, 203-210.
- Phares, E. J. *Locus of control in personality*. Morristown, N.J.: General Learning Press, 1976.
- Rotter, J. B. Generalized expectancies for internal versus external control of reinforcement. *Psychological Monographs*, 1966, 80(1, Whole No. 609).
- Scroggs, J. R. Penalties for rape as a function of victim provocativeness, damage, and resistance. *Journal of Applied Social Psychology*, 1976, 4, 360-368.
- Shaver, K. G. *An introduction to attribution processes*. Cambridge, Mass.: Winthrop, 1975.
- Smith, R. E., Keating, J. P., Hester, R. K., & Mitchell, H. E. Role and justice considerations in the attribution of responsibility to a rape victim. *Journal of Research in Personality*, 1976, 10, 246-257.
- Spence, J. T., & Helmreich, R. The Attitudes toward Women Scale. *JSAS Catalog of Selected Documents in Psychology*, 1972, 2, 66.
- Walster, E., Aronson, E., & Abrahams, D. On increasing the persuasiveness of a low prestige communicator. *Journal of Experimental Social Psychology*, 1966, 2, 325-342.
- Ward, C. Prejudice against women: Who, when, and why? *Sex Roles*, 1981, 7, 163-171.
- Weis, K., & Borges, S. S. Victimology and rape: The case of the legitimate victim. *Issues in Criminology*, 1973, 8, 71-115.