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**THE EFFECT OF EMOTIONAL Demeanor OF ADULT SEXUAL
ASSAULT VICTIM TESTIMONIES ON MOCK JURORS' VERDICTS**

Callie Ahearn

A THESIS

**Submitted in partial fulfillment of the requirements
for the degree of Master of Arts
in
The Department of Psychology
to
The Graduate School
of
The University of Alabama in Huntsville
May 2024**

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Abstract

THE EFFECT OF EMOTIONAL Demeanor OF ADULT SEXUAL ASSAULT VICTIM TESTIMONIES ON MOCK JURORS' VERDICTS

Callie Ahearn

**A thesis submitted in partial fulfillment of the requirements
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Experiencing a sexual assault and testifying in trial are both highly emotional events that can influence a witness to display strong negative emotions. The display of emotion is referred to as the emotional demeanor and the present study examined the impact of a victim's emotional demeanor on jury decision-making. Results revealed a main effect of crying during the direct examination with more guilty verdicts and higher pro-victim ratings (believability, credibility, and trustworthiness). Female participants provided higher pro-victim judgments on believability than male participants. Verdict reasoning demonstrated that participants had an idea of what they expected a rape victim to look like and thought it was normal for them to be shown as crying. These results support the emotional victim effect and the expectancy violation theory when the victim cries during the direct examination.

Keywords: Emotion, Demeanor, Credibility, Victim, Verdicts, Sexual Assault

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Chapter 1. Introduction

In 1979, Gary Dotson was convicted of raping 16-year-old, Cathleen Crowell, and sentenced to 25-50 years in prison (Michigan State, 2012). Crowell had identified Dotson from a mug book where Dotson's picture perfectly matched the description she provided. Eight years later, in 1985, Crowell recanted her statement by saying she had staged the incident because she was afraid that she was pregnant by her boyfriend (New York Times, 1985). Her recantation was denied by Judge Samuels who reasoned that her initial demeanor from the night she reported it was consistent with a sincere person making a charge of rape – hysteria, crying, scared, bruised, battered, torn clothing, signs of trauma, scratches on the abdomen (New York Times, 1985). Judge Samuels defended his decision with the understanding that demeanor is one of the factors that determines credibility and in 1979, at the original trial, Crowell was forthright and very candid (New York Times, 1985). After 8 years in prison, Dotson was exonerated by DNA evidence in 2003 (Michigan State, 2012). This became an influential DNA exonerated case, but it is not the only case where people were wrongfully convicted because the victim was believable in their demeanor.

Jennifer Thomson-Cannino was a victim of a forced break-in and sexual assault while in college. She was labeled as the perfect victim because she was so composed (O'Neill, 2001). Jennifer Thompson-Cannino describes her experience testifying in court as a victim of sexual assault in her book "Picking Cotton" (Thompson-Cannino *et al.*, 2010). Her biggest concern on the day of the trial was convincing the jury to believe her and she knew that came from her ability to convey the proper emotion to the jury.

‘I knew that on some level, I had to perform. I didn’t think about it consciously, but I knew. If I went up there and told my story and never flinched, it would be perceived as one thing, and if I went up there and just cried and couldn’t get a sentence out, it would be another thing. The jury would think I was so highly emotional, how could I possibly have gotten a good look at my assailant? Ronald Cotton might be the one on trial, but I would be judged, too’ (Thompson-Cannino *et al.*, 2010).

The sad cases of Gary Dotson and Ronald Cotton illustrate the complexity of the emotional demeanor of a victim and how it may influence jury decision-making. Given that these decisions can have profound effects on the defendant’s life, it is important to understand how the emotional demeanor of a victim influences jury decision-making. The purpose of the present study is to investigate how an adult female rape victim’s emotional demeanor during the direct and cross-examination while testifying about a rape influence mock jurors’ verdict.

1.1 Sexual Assault Background

The crime of rape, typically defined as engaging in sexual intercourse by forcible compulsion (*e.g.*, Kentucky Revised Statutes, 2023), has long been a problem for women in the US. Among victims of rape, women experience rape more frequently than men. In the US, approximately 21.3% of women have experienced attempted or completed rape in their lifetime compared to 2.6% of men (Smith *et al.*, 2018). Despite the prevalence of rape, it is one of the least reported crimes (US Department of Justice, 2002). Between 60% and 90% of rapes go unreported. There is a high percentage of unreported rapes because victims feel the police would not be able to help, victims are afraid of retaliation, and/or victims do not want to endure additional trauma from reliving the incident (Belknap, 2010; US Department of Justice, 2020).

Moreover, reporting the occurrence of rape is not a guarantee that the perpetrator will be convicted. The Rape, Abuse, & Incest National Network (RAINN; 2023a) estimates that fewer than 3% of reported rapes end in conviction, with even fewer (2.5%) ending in incarceration.

Most rape cases involve the victim and the perpetrator knowing one another (*i.e.*, acquaintance rape). According to RAINN (2017), this is true for 8 out of 10 rapes. In such scenarios, the issue of sexual intercourse occurring is not in question, nor is the identification of the perpetrator. Instead, an acquaintance rape typically involves conflicting views of consent regarding the sexual behavior. While legal definitions of consent are defined on a state-by-state basis, consent typically involves three components. First, one's overt words or actions express agreement for sex. Second, the consent was given freely without force or coercion. Third, the person had legal ability and capacity to consent (RAINN, 2023b). Another concern regarding rape cases is the presence of ambiguous evidence, primarily inconclusive medical evidence or lack of a third-party witness results in a "he-said-she-said" argument that must be settled by a jury. Jurors then have to rely on other factors that appear during trial, one factor is the emotional demeanor of witnesses, and how witnesses are evaluated.

1.2 Emotional Witness Theories

Mock jurors have been found to evaluate victims differently when they express various emotions during their testimony (Bederian & Goldfarb, 2014). This has been explained by the Expectancy Violation Theory (EVT, Burgoon, 1993) which states that individuals have expectations of normal behaviors and when behaviors meet these expectations, the individuals are viewed as credible (Dahl *et al.*, 2006). These expectancies shape how people interact with each other and influence how information is processed through two types of expectancies, *i.e.*, general and particularized (Burgoon, 1993). According to Burgoon, general expectancies apply

to all members of a community and are grounded in societal norms for what is typical and appropriate behavior (*i.e.*, crying at a funeral, distress after a traumatic event) whereas particularized expectancies incorporate knowledge of an individual's unique interaction style and may differ from societal norms (*i.e.*, feeling sad but not physically crying at a funeral). Individuals who express emotions contrary to what is the norm commit violations of their expected emotional expressions.

When applying EVT to a rape case, victims are expected to be distraught and hysterical when talking about the trauma they experienced (Klippenstine, 2011), but when the victim testifies in a trial as a witness, they are expected to be focused and calm (Fersch, 2023). Ask and Landstrom (2010) evaluated the effect of a rape victim's emotional demeanor (crying and displaying negative emotions vs. neutral condition: avoid emotions and remain steady and calm) and the cognitive load on the believability of the victim. The participants were all police trainees who read background information on a case and watched the victim's interview. Ask and Landstrom manipulated cognitive load by asking half the participants to complete a memory task while watching the interview. All the participants then answered questions about the interview. Results demonstrated emotional victims were viewed as more believable and truthful as opposed to the victims who were recorded in a neutral, calm state. When emotions matched the expected victim's emotions, the victim received higher pro-victim ratings, and when the expected emotion was not displayed then the victim was seen as less credible. Similar effects of emotional victims were found during either a rape trial by Hackett *et al.* (2008) and Landstrom *et al.* (2015), or in victim impact statements by Lens *et al.* (2014), and Bosma *et al.* (2018).

A victim's emotional expression in court has been labeled the Emotional Victim Effect (EVE). In a review of the literature, Van Doorn and Koster (2019) examined the impact of the

victim's emotionality, credibility, gender, and age of the victim on mock jurors' credibility judgments. The analyses of the articles examined the characteristics of the observer, the emotional expressiveness of the victim, or the context (*i.e.*, how the jury received instructions, jury decision-making, and crime severity). The analysis revealed when the victim is a young child, he or she is expected to express emotions with more crying behaviors than adults; therefore, jury ratings on credibility for an emotional child victim are not strongly impacted by hysterical emotions. Adult victims were seen as more credible when they expressed consistent emotions over time (the day following the incident and during the trial). Male mock jurors were more likely to favor the victim's testimony when their emotional demeanor was emotional and congruent (the victim showed despair and told her story with sobs) rather than numb and incongruent (the victim told the story in a calm manner with little emotion or showing positive emotion).

An alternative explanation to the emotional victim effect could be the heuristic-systematic model (Nitschke *et al.*, 2022). The heuristic-systematic model explains how people make decisions. Heuristics describe the process of decision-making relying on personal experiences and cognitive shortcuts, possibly resulting in a stereotype bias. In terms of rape cases, if a juror relies on heuristic decision-making, then a victim who has bruises may be seen as more credible by a juror who believes that all rape victims have physical marks. Systematic decision-makers rely on concrete evidence to process all information before making a decision. When jurors are presented with ambiguous evidence, they focus on evidence that is consistent with any heuristic cue to which they were exposed (Chaiken & Maheswaran, 1994). This model explains how the more a victim matches victim stereotypes of expected victim behaviors, the more the victim is seen as credible. Juror decision making has been influenced by heuristics such

as the representative heuristic. This is when the trial description matches the expectations jurors have surrounding rape trials, and jurors' make decisions based on how the evidence represents their expectations of a rape trial. (Curley *et al.*, 2022). The affect heuristic can influence juror decision making when jurors decide their verdict based on first impressions or their personal emotions during the trial (Feigenson, 2016).

1.3 Pro-Victim Ratings

The jury evaluates witnesses, including the victim, in terms of believability, trustworthiness, and credibility when deciding their final verdict. Believability of a victim is the extent their testimony or emotional demeanor matches what is believed to constitute a "real rape" victim (Parratt & Pina, 2017). Trustworthiness is the extent that the jurors evaluation of the victim matches their expectations of a rape victim based on initial demeanor (Porter & ten Brinke, 2009). Credibility is the extent the jury believes the witness provided an honest and accurate testimony (Nurcombe, 1986). Child witness credibility varies with age. The effect of victim age on credibility and verdict in a child sexual assault case was examined in a study conducted by Tabak and Klette (2014). The authors manipulated the age of the female victim (6, 11, and 15 years old) and her relationship to the defendant (the child's father or her neighbor). Participants read a scenario including the statement from the child about the alleged sexual assault, and an exculpatory statement from the defendant. Results showed mock jurors were more likely to vote guilty when the victim was younger (*i.e.*, 6 years old) and not guilty when the victim was older (*i.e.*, 11 and 15 years old). Participants voted guilty more often in the 6-year-old condition, but they stated they did not think the child's age was a factor in their verdict; this demonstrates an unconscious age bias among participants. Participants perceived the older children as more competent but less trustworthy than younger children, who from their sexual

naivete, were perceived as less likely to be able to formulate lies regarding sexual experiences (Tabak & Klettke, 2014). Results indicated age, evidence, and perception of behaviors (*i.e.*, victim blaming) all influenced the credibility of the child witness. Participant gender was not analyzed in this study.

The emotional demeanor of child sexual assault victims was further examined by Golding *et al.* (2003) by analyzing how undergraduate psychology students decided on a verdict in a child sexual assault case. This study manipulated crying behavior (calm, teary, and hysterical) and the age of the alleged rape victim (6 or 15 years old) and then measured verdicts between participant gender. Participants were randomly assigned to one crying condition (calm, teary, or hysterical) and the victim being 6 or 15 years old. A drawing of the victim was presented in the trial summary with the crying behavior mentioned once. Results showed that too much (hysterical) or too little (calm) crying led to fewer guilty verdicts than a moderate amount of tears (teary). There was a significant difference in guilty verdicts when comparing the teary condition to the calm and hysterical conditions. The effect of participant gender was also significant with females voting guilty more than males. The victim in the teary condition was more believable than in the calm or hysterical condition. The child's demeanor in the teary condition reduced the mock jurors' guilt threshold as well as their judgment of reasonable doubt.

One factor that has been shown to affect verdicts in both rape and child sexual assault cases is participant gender. The EVE is prevalent when female jurors give higher pro-victim ratings when the victim is crying as seen in Pals *et al.* (2023). Pals *et al.* manipulated victim gender and victim emotion in a rape case wherein female participants provided significantly more pro-victim ratings when the victim was crying during testimony. Female jurors have been found to judge child victims as more credible and trustworthy thereby resulting in more guilty

verdicts than male participants (Bottoms & Goodman, 1994). The effect of juror, victim, and defendant gender on verdicts was examined in child sexual assault cases (Quas *et al.*, 2002). Mock jurors (aged 18-42 years old) read a rape scenario of either a male or female defendant who was accused of molesting a 15-year-old boy or girl. Participants made verdict decisions and rated the believability and responsibility for the assault. Female ratings reflected a pro-victim bias whereas male judgments were more pro-defendant (Quas *et al.*, 2002). Results also demonstrated that female participants convict more often than males, specifically in cases of child sexual assault.

1.4 Cross-Examination

During cross-examination, the credibility and truthfulness of a witness continue to be evaluated. The National Legal Research Group (2016) created the Listening, Observing, Feedback, and Teaching (LOFT) Model to help prepare witnesses to effectively present themselves to the jury. The role of witnesses is to effectively communicate their story to the jury. Lawyers work to prepare their witnesses for trial and depositions by following the four components of the LOFT Model. The first part is listening to the witness, or how witnesses tell their story and the style of speech they use to describe their experience. The second part is Observing how witnesses communicate nonverbally, how they present themselves, and their emotional demeanor. Providing Feedback to the witness is the third component through offering reinforcement and suggestions to witnesses to help make them comfortable with the process of testifying. The final part is Teaching the witness by taking what the lawyer learned by listening, observing, and the feedback provided to rehearse and teach the full process of testifying. Each component benefits witnesses because how witnesses carry themselves during trial is the focus of this training model. The observing step of the model focuses on behavior and emotions

expressed during the testimony. Observing requires consistency of body language and emotions expressed during the testimony for both direct and cross-examinations (National Legal Research Group).

The cross-examination can become very emotional because lawyers are trained to appeal to the emotions of the courtroom (Davis & Smolar, 2018). Lawyers are taught to modify how they present facts and questions in order to focus on the emotional elements of the case to reveal who the witness really is to the jury. This can be very emotional for the witness. The public defamation trial of the Johnny Depp v. Amber Heard case (Fox 5, 2022) brought media attention to the emotional toll a trial takes on people. Although this trial was not a rape case, the emotional cross-examination of Heard with allegations against Depp of physical and sexual abuse, pointed to inconsistencies within the evidence she presented during the trial (Yahr, 2022). Although the case ultimately ruled in favor of Depp, the trial brought attention to the importance of cross-examinations and how emotions are considered as an extralegal factor in the description of the trial. Even with preparation by the lawyers, the cross-examination is designed to find discrepancies in witnesses' stories, and more research needs to examine the emotional effect of cross-examinations. The effect of emotional demeanor in cross-examination to my knowledge has not been examined. The current study focuses on the effect of the emotional demeanor of the cross-examination on verdicts and credibility ratings.

1.5 Present Study

Based on the results from Golding *et al.* (2003) who found young female children (6 years old) are viewed as more trustworthy and credible when crying, the current study aimed to understand if these results extend to mock jurors' view of an emotional 22-year-old female rape victim. The present study examined Participant Gender: Male vs Female by Trial Phase:

Direct vs Cross-examination by Emotional Demeanor: Calm or Crying. Participant gender was balanced by administrating each condition equally on Amazon Mechanical Turk Cloud Research to each gender. There was a gender qualification required for participants to fit before accessing the study. The design and materials extend Golding *et al.* in several ways. First, the trial summary included photographs of the victim expressing the emotional demeanor instead of drawings used by Golding *et al.* with the intent to increase the ecological validity of the real-life emotions of the study. Second, the victim was portrayed as an adult to examine whether the jury's view of an emotional female victim applies to an adult female victim. Third, the emotional demeanor of the victim was manipulated in both the direct and cross-examination. Lastly, only two crying levels (crying and calm) were manipulated.

This study extended the existing research in 4 ways; (1) further explain how emotions influence jury verdict by focusing on comparing cross and direct examination to expand on Golding *et al.* (2003) who only studied direct examination; (2) provide support for the emotional victim effect and the expectancy violation theory (Van Doorn & Koster, 2019; Burgoon, 1993), (3) provide further findings on jury gender influence on verdicts (Bottoms & Goodman, 1994; Quas *et al.*, 2002), and (4) describe the reasoning behind jury verdict decisions and judgment ratings for victims when portraying emotions (National Research Group, 2016).

Based on previous results, the following four hypotheses were developed.

1.5.1 Hypothesis 1. Crying levels

A main effect of crying levels was predicted. When the victim was crying, it was expected that mock jurors vote guilty more often and have higher pro-victim ratings (*i.e.*, victim credibility, truthfulness, and believability) than the calm condition. This prediction was based on the result of Ask and Landstrom (2010) who found emotional victims were viewed as more

believable and truthful as opposed to the victims who were recorded in a neutral, calm state. Conversely, in the calm condition, mock jurors were expected to provide lower pro-victim judgments and fewer guilty verdicts.

1.5.2 Hypothesis 2. Trial Phases

Consistent with research on behavior and emotions of cross-examination testimony (Legal Research Group, 2016), it was predicted that when the victim was crying in both the cross and direct examination, the mock jurors would provide more guilty verdicts. Consistent emotions receive higher pro-victim ratings than inconsistent emotions conditions (National Research Group, 2016).

1.5.3 Hypothesis 3. Participant Gender

Consistent with prior legal decision-making research involving child sexual assault gender effects where Females gave higher pro-victim judgments and more guilty verdicts (Bottoms & Goodman, 1994; Quas *et al.*, 2002), a main effect of participant gender was predicted. Female participants were predicted to have more pro-victim judgments and guilty verdicts than male participants.

1.5.4 Hypothesis 4. Verdict Reasoning

Cognitive networks were generated using Pathfinder analyses. Guilty verdicts should explain the emotional affect and consistency of testimonies. These analyses apply a psychometrically established scaling technique (Schvaneveldt, 1990) to create a representation of the data based on the similarity between concepts in semantic memory. Such networks have been used effectively in other legal decision-making studies involving victimization (*e.g.*, Golding *et*

al., 2020; Levi *et al.*, 2022; Lynch *et al.*, 2019; Magyarics *et al.*, 2015). In the condition where the victim has the same emotion for both direct and cross-examination, it was predicted that reasoning for guilty ratings would indicate the consistent emotional demeanor as their verdict decision. This hypothesis was based on the LOFT Model stating witnesses need to be consistent in their emotional demeanor while testifying (National Legal Research Group, 2016). In the conditions where the victim has inconsistent emotions between direct and cross-examination, it is predicted the reasoning will focus on not trusting the emotions. This study provided a better understanding of how important emotional demeanor is for jury decision-making. Lawyers can use findings from this study to revise the LOFT model to ensure that all witnesses are properly prepared to testify on the witness stand and compose themselves effectively.

Chapter 2. Method

2.1 Pilot Study

Headshot images of the model were chosen to represent the victim during the trial. The model for the images gave consent for the use of her photos. These images were chosen over images found from trials online of real-world emotional victims. This decision was made because emotional victims shown in accessible videos and images were either covering their faces while displaying hysterical emotions or not displaying the range of emotions (from calm to hysterical). Other trial videos were too popular, and participants could have a bias from the media. The other emotional victims were either males or older females and did not portray the target victim for this study. The photos from the proposal increase the realism from the drawings used by Golding *et al.* (2003).

A pilot test was conducted to ensure that the emotional demeanor of the stimuli was normalized to represent the victim portrayed the accurate emotion. Participants ($N = 25$) were recruited through Amazon Mechanical Turk (MTurk) Cloud Research. All participants were jury-eligible U.S. citizens over the age of 18 years old. Participants from MTurk received \$0.50 USD as compensation for completing the study.

The pilot study was administered online via Qualtrics. Participants first read the online consent form and signed it. After consent was provided, participants viewed each image of the model and ranked the emotional level of the model on a Likert scale (1-10) with 1 labeled as “calm” (see Figure 2.1), 5 labeled as “teary” (see Figure 2.2), and 10 labeled as “hysterical” (see

Figure 2.3). There was no time limit for how long participants could view each photo. Participants completed a demographic questionnaire and were debriefed before getting notified that they completed the study and could close the window.

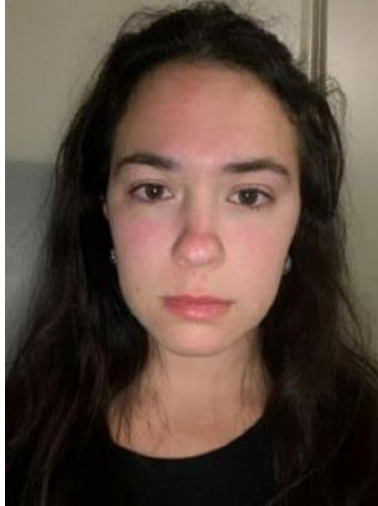


Figure 2.1 Victim with a Calm Emotional Demeanor. This image is of the victim displaying a calm expression shown in the pilot study and in the trial summary. Participants viewed this image in the direct and/or cross-examination.

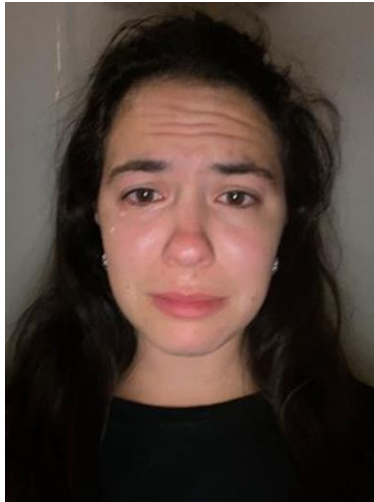


Figure 2.2 Victim with a Teary Emotional Demeanor. This image is of the victim displaying a teary expression. This image was only used in the pilot study and not shown in the trial summary.



Figure 2.3 Victim with a Crying Emotional Demeanor. This image was shown in the pilot study as the hysterical crying level. In the trial summary and throughout the study it was referred to as the crying emotional demeanor.

The results demonstrated that the images reliably reflected the intended emotion from the participant ratings, for calm ($M = 2.76$, $SD = 1.59$), teary ($M = 5.04$, $SD = 1.21$), and hysterical ($M = 6.84$, $SD = 1.34$). For this study only two photos are needed, one with a calm expression, and another with a crying emotional expression. The difference between the hysterical and calm photos was significant, ($t(24) = -12.84$, $p < .001$), and therefore were chosen to represent the two emotional demeanors examined in the study.

I based the script off of Golding *et al.*'s study in 2003, but originally changed the victim to be an adult who experienced a rape as a child and delayed her disclosure of the assault for 16 years. However, when this study was first administered to participants, the reasoning data for the verdict reflected not believing the victim because of the extended time since the incident, and the guilty verdicts reasoned that they always believed the victim, neither mentioned emotional demeanor. The purpose of this study was to examine the effect of emotional demeanor; therefore,

it was approved by the thesis committee to remove the delayed disclosure and have the victim report the assault immediately.

2.2 Participants

A total of 172 male ($n = 86$) and female ($n = 86$) U.S. jury-eligible participants who were all over the age of 18 years old were recruited from Amazon Mechanical Turk Cloud Research. To indicate gender, participants could select that they were male, female, transgender male, transgender female, or other. No participants selected the transgender or other options. Participant ages ranged from 21 to 76 ($M = 42.5$). Most participants identified as Caucasian (70.3%), with the remaining participants identifying as Asian/Pacific Islander (5.8%), Black/African American (7.6%), Hispanic/Latino (8.1%), or other (.6%). 16.3% of the sample identified as more than one race. Participants from MTurk received \$1.00 USD as compensation for completing the study. All procedures are approved by the University of Alabama in Huntsville Institutional Review Board, approval number EE2023100 (Appendix A).

2.3 Design

This study utilized a 2 x 2 x 2 (Participant Gender: Male vs Female by Trial Phase: Direct vs Cross-examination by Emotional Demeanor: Calm or Crying) mixed factorial design that was presented online via Qualtrics. The dependent variables were jury verdict (guilty or not guilty). Additional dependent variables included Victim believability ratings, and Victim Credibility ratings, all rated on a 10-point Likert scale of 1(*Not at all*) – 10 (*Completely*). Participant reasoning for the verdict and ratings were also recorded.

2.4 Materials

Trial summary. I modified the trial transcript presented in Big Girls Don't Cry (Golding *et al.*, 2003). Participants read through a brief trial summary of a sexual assault trial. The defendant, Michael Turner, was charged with First-Degree Rape of his neighbor's 22-year-old daughter, Kimberly Fleming. At the time of the trial, Kimberly was 22 years old. The Prosecution's case had two witnesses (Detective John Perry and the victim, Kimberly Fleming). The Defendant's case also presented two witnesses (Paul Franklin, the Defendant's friend, and Michael Turner). The trial summary included the direct examination and the cross-examination of each witness (see Appendix C). Participants were randomly assigned to one of four conditions. The first condition showed the victim crying during both her direct and cross-examination. In the second condition, the victim was crying during her direct examination and calm during her cross-examination. In the third condition, the victim was calm during her direct examination and crying during her cross-examination. The fourth condition the victim was calm during both her direct and cross-examination. Participants were asked to answer comprehensive check questions and manipulation questions while reading the trial summary to ensure they were fully reading and understanding the trial itself (see Appendix C). Participants were provided with jury instructions describing the criteria to find the defendant guilty of first-degree rape beyond a reasonable doubt.

Post-summary questionnaire. Participants completed a post-summary questionnaire after reading through the trial summary. The post-summary questionnaire included verdict questions, questions about the defendant, questions about the victim, and basic demographic information.

Verdict questions. Verdict questions included providing a verdict ("Guilty" or "Not Guilty"), indicating the guilt of the defendant and confidence in the verdict decision on a scale of

1 (*Not at all*) to 10 (*Completely*), and open-ended questions asking participants what led to their verdict (see Appendix E).

Victim questions. Victim questions included rating believability, trustworthiness, and credibility of the victim on a 10-point Likert scale of 1 (*Not at all*) to 10 (*Completely*). Participants were also asked to rate how much the photos of the victim influenced their verdict decision on a Likert scale of 1 (*Not at all*) – 10 (*Completely*) and provide a written response with their reasoning (see Appendix F).

Defendant questions. Defendant questions included rating the defendant’s credibility, believability, honesty, and responsibility for the crime on a 10-point Likert scale of 1 (*Not at all*) – 10 (*Completely*). The participant was also asked to rate how sympathetic or angry they were towards the defendant and how vulnerable the defendant perceived the victim to be on a 10-point Likert scale of 1(*Not at all*) – 10 (*Completely*) (see Appendix G).

Demographic questions included whether participants were citizens of the United States as well as participants’ gender, age, race, political beliefs, if they have ever been convicted of a felony, and prior jury experience along with the verdict of the crime charged if applicable (see Appendix H).

2.5 Procedure

Participants completed the study individually online via Qualtrics. Participants first read the online consent form and clicked either “I agree” or “I decline” to provide consent. After consent was provided, participants were informed that they would read a trial summary for a criminal case and that they would be able to leave the study at any time. Participants were then randomly assigned to the emotional demeanor conditions for both the prosecution testimony and the cross-examination (calm or teary). Throughout the trial summary, participants were asked to

complete two manipulation check questions about the emotional demeanor of the victim during the direct examination and the cross-examination, as well as eight comprehension check questions to ensure attention and understanding of the details described in the trial summary. If any of the questions were answered incorrectly, participants were informed that their previous answer was incorrect and advised to read carefully. Upon reaching the end of the study, participants were debriefed on the purpose of the study. Once acknowledging understanding of the content in the debrief, subjects were given the opportunity to withdraw their consent if needed, notified that they completed participation, and instructed to close the window of the survey.

Chapter 3. Results

No missing data were present for the variables. Prior to analysis, participants who incorrectly answered the manipulation check questions were removed ($n = 23$). Participants were removed if they selected the wrong emotion displayed by the victim for the direct and/or cross-examination testimony. Data were then analyzed using binary logistic regression for verdict, and linear regression to analyze the rating variables. For all analyses, step 1 included participant gender, step 2 included trial phase emotional demeanor conditions, step 3 included all two-way interactions and step 4 included the three-way interaction. All the means and standard deviations for all dependent measures were recorded (see Table 3.1). Composite scales for victim and defendant credibility were created by averaging ratings of the credibility, trustworthiness (victim), honesty (defendant), and believability of the victim (Cronbach's $\alpha = .96$) and defendant (Cronbach's $\alpha = .91$). A composite scale for defendant responsibility was created by averaging ratings of responsibility and blame for the incident (Cronbach's $\alpha = .95$).

Table 3.1 Means, Standard Deviations, and Intercorrelations for Variables. The means, standard deviations, and intercorrelations are recorded for each condition by gender for guilty verdicts percentages, victim ratings on a 10-point Likert scale, and defendant ratings on a 10-point Likert scale.

Variable	Male				Female				Total
	Calm Direct and Cross	Crying Direct and Cross	Crying Direct and Cross	Calm Direct and Crying Cross	Calm Direct and Cross	Crying Direct and Cross	Crying Direct and Cross	Calm Direct and Crying Cross	
Guilty Verdict	6.3%	11.4%	25%	10 %	16.7%	25%	15%	2.5%	27.9%
Confidence	7.33 (2.06)	6.91 (1.72)	7.05 (1.93)	6.15 (2.39)	7.08 (2.70)	7.27 (2.16)	6.60 (2.11)	6.40 (2.30)	6.85 (2.17)
Victim Credibility	4.21 (2.21)	5.27 (1.86)	5.75 (2.29)	5.80 (1.88)	5.58 (2.86)	6.45 (2.09)	6.25 (2.36)	4.90 (1.92)	5.53 (2.18)
Victim Believability	4.63 (2.32)	5.73 (2.14)	5.60 (2.21)	5.85 (2.08)	6.33 (2.88)	7.09 (1.74)	6.40 (2.21)	5.30 (2.16)	5.87 (2.22)
Victim Trustworthiness	4.38 (2.28)	5.23 (1.80)	5.70 (2.34)	5.70 (1.98)	5.71 (2.73)	6.41 (1.89)	6.10 (2.55)	4.45 (1.82)	5.54 (2.17)
Victim Blame	4.46 (2.99)	2.95 (2.40)	3.20 (3.16)	1.65 (2.26)	1.54 (2.93)	1.86 (2.55)	2.25 (3.13)	2.75 (3.01)	2.58 (2.80)
Victim Sympathy	5.17 (2.30)	6.77 (2.00)	6.85 (2.03)	6.00 (3.04)	6.50 (3.31)	7.73 (2.12)	6.70 (2.87)	5.85 (2.32)	6.45 (2.50)
Defendant Credibility	6.58 (1.86)	5.91 (2.02)	5.90 (2.00)	6.25 (1.94)	6.21 (2.15)	4.77 (2.29)	5.95 (2.24)	6.30 (2.06)	5.98 (2.07)
Defendant Believability	6.50 (1.96)	5.77 (2.07)	5.10 (1.97)	6.25 (2.00)	6.25 (2.47)	4.23 (2.07)	5.70 (2.49)	6.15 (2.21)	5.74 (2.16)
Defendant Honesty	6.58 (1.84)	5.73 (2.16)	5.20 (1.99)	6.05 (2.11)	6.04 (2.60)	4.32 (1.67)	5.15 (2.52)	6.15 (2.18)	5.65 (2.13)
Defendant Responsibility	4.46 (2.69)	4.00 (2.90)	5.95 (3.05)	5.60 (3.17)	5.54 (3.61)	6.64 (2.59)	5.20 (3.21)	5.00 (2.90)	5.30 (3.02)
Defendant Blame	4.13 (2.79)	4.59 (3.47)	6.35 (2.96)	5.20 (3.11)	5.54 (3.61)	6.64 (2.94)	4.90 (3.61)	5.30 (2.90)	5.33 (3.17)
Defendant Sympathy	6.21 (2.21)	5.50 (2.35)	4.45 (2.78)	3.55 (2.31)	4.67 (3.14)	2.91 (1.97)	4.95 (2.74)	4.45 (2.19)	4.59 (2.46)
Defendant Anger	3.50 (2.64)	4.23 (3.15)	5.20 (2.69)	4.25 (2.77)	4.58 (3.05)	5.85 (3.29)	4.30 (3.28)	3.55 (2.37)	4.43 (2.91)
Defendant Perception of Victim Vulnerability	5.50 (2.09)	5.64 (2.50)	6.55 (2.48)	6.90 (2.27)	6.08 (3.13)	6.05 (2.30)	5.55 (3.23)	5.50 (2.19)	5.97 (2.52)

3.1 Hypothesis 1. Crying Levels

A logistic regression was conducted to determine the main effects of emotional demeanor on verdict for each trial phase (direct or cross-examination). As the variable of the trial phase was within subjects, I was not able to use a logistic regression to determine any effects of crying

levels across conditions. Likewise, a linear regression was conducted to determine the effect of crying level on pro-victim ratings (*i.e.*, believability, trustworthiness, and credibility), but not across conditions. Hypothesis 1 was partially supported because the logistic regression showed there was a main effect for crying level within the direct examination testimony, ($B = -1.02$, Wald's $\chi^2(1) = 8.20$, 95% CI [.18, .73], OR = .36, $p = .004$). Participants voted guilty more often when the participant was crying in the direct examination (see Figure 3.1). Crying levels in the cross-examination did not have a significant effect on guilty verdicts, ($B = .38$, Wald's $\chi^2 = 1.12$, 95% CI [.73, 2.91], OR = 1.54, $p = .29$). Participants did not vote guilty significantly more often when the victim was crying during the cross-examination (see Figure 3.2). The linear regression was significant for crying levels in the direct examination for the pro-victim ratings of believability, ($B = .69$, $t(2) = 2.00$, 95% CI [.01, 1.37], $p = .05$) (see Figure 3.3), victim trustworthiness, ($B = .80$, $t(2) = 2.35$, 95% CI [.13, 1.47], $p = .02$) (see Figure 3.4), and for victim credibility, ($B = .83$, $t(2) = 2.42$, 95% CI [.15, 1.50], $p = .02$) (see Figure 3.5). When the victim was shown crying in the direct examination, participants gave higher pro-victim ratings. The linear regression showed there was a not significant effect of crying levels in the cross-examination on pro-victim ratings of believability, ($B = .25$, $t(2) = .72$, 95% CI [-.44, .93], $p = .47$) (see Figure 3.6), victim trustworthiness, ($B = -.02$, $t(2) = -.07$, 95% CI [-.70, .65], $p = .95$) (see Figure 3.7), or for victim credibility, ($B = .17$, $t(2) = .48$, 95% CI [-.51, .84], $p = .63$) (see Figure 3.8). There was not a significant difference in pro-victim ratings when the victim was crying in the cross-examination.

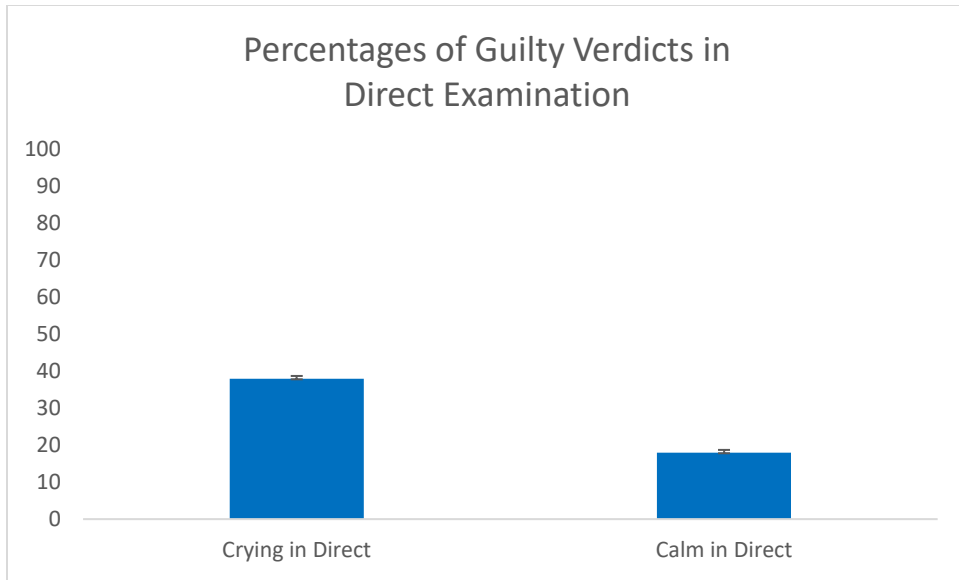


Figure 3.1 Guilty Verdicts for Direct-Examination. Percentages of guilty verdicts between emotional demeanor (crying vs. calm) conditions in direct-examination. Error bars represent the 95% confidence intervals.

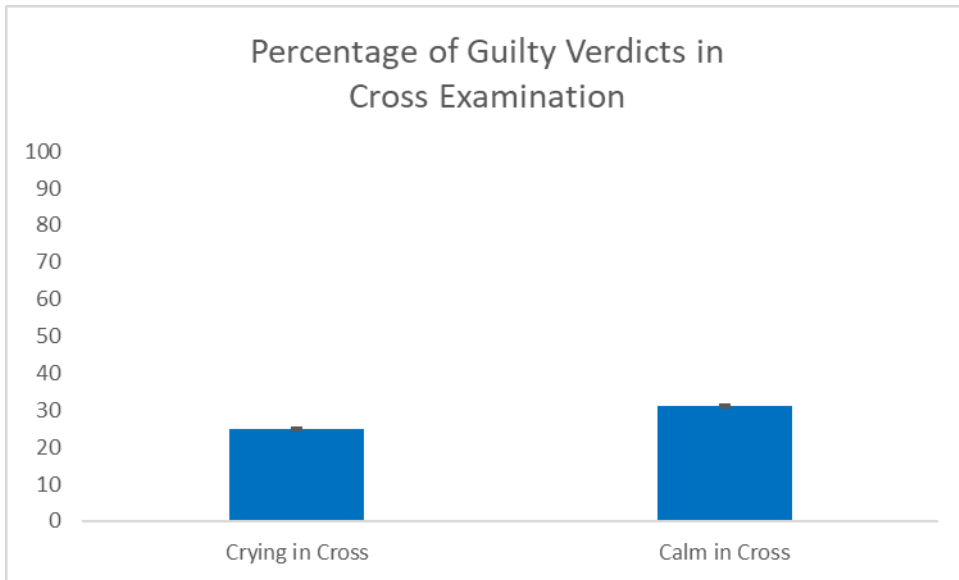


Figure 3.2 Guilty Verdicts for Cross-Examination. Percentages of guilty verdicts between emotional demeanor (crying vs. calm) conditions in cross-examination. Error bars represent the 95% confidence intervals.

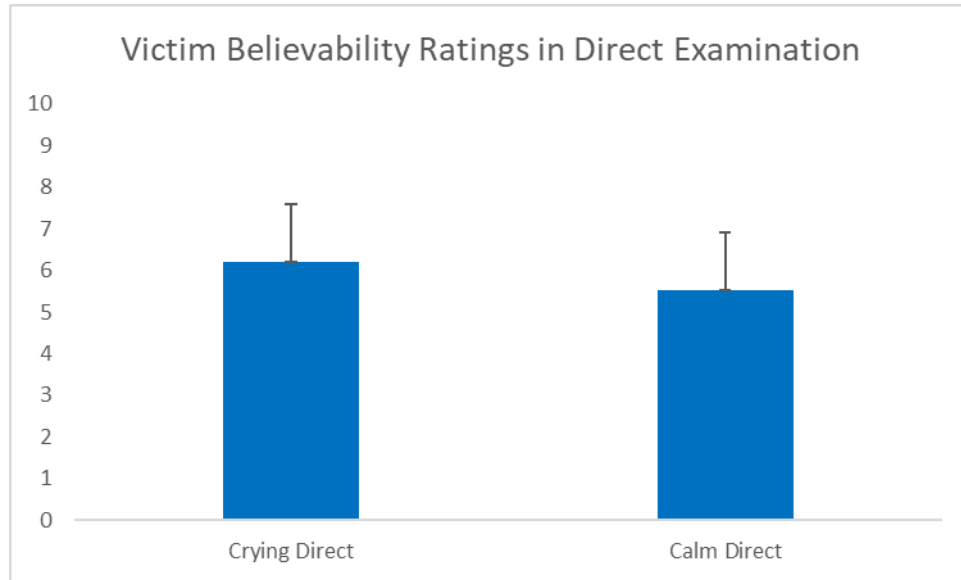


Figure 3.3 Victim Believability in Direct-Examination. Mean believability ratings given by participants between emotional demeanor conditions (crying vs. calm) in the direct-examination on a 10-pt Likert scale. Error bars represent the 95% confidence interval.

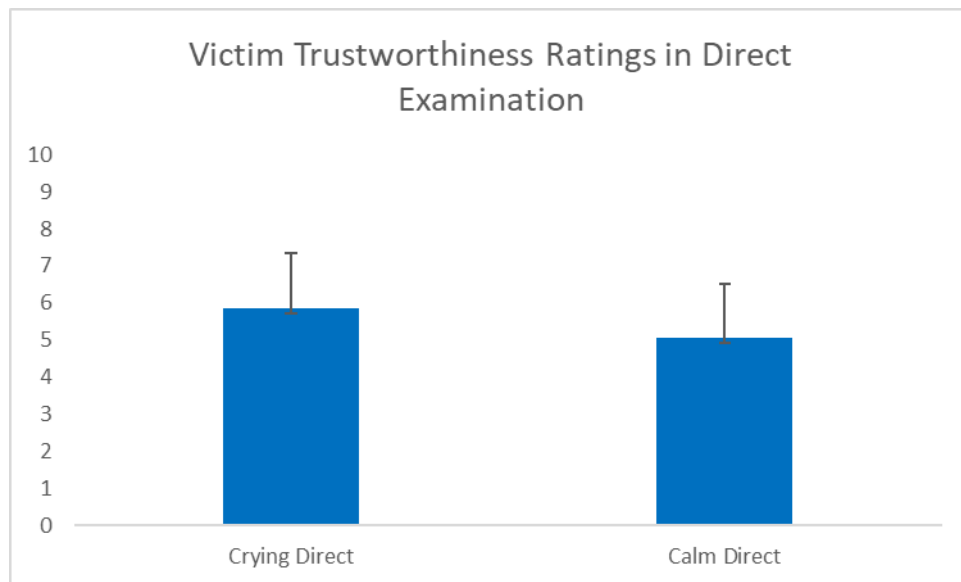


Figure 3.4 Victim Trustworthiness in Direct-Examination. Mean trustworthiness ratings given by participants between emotional demeanor conditions (crying vs. calm) in the direct-examination on a 10-pt Likert scale. Error bars represent the 95% confidence interval.

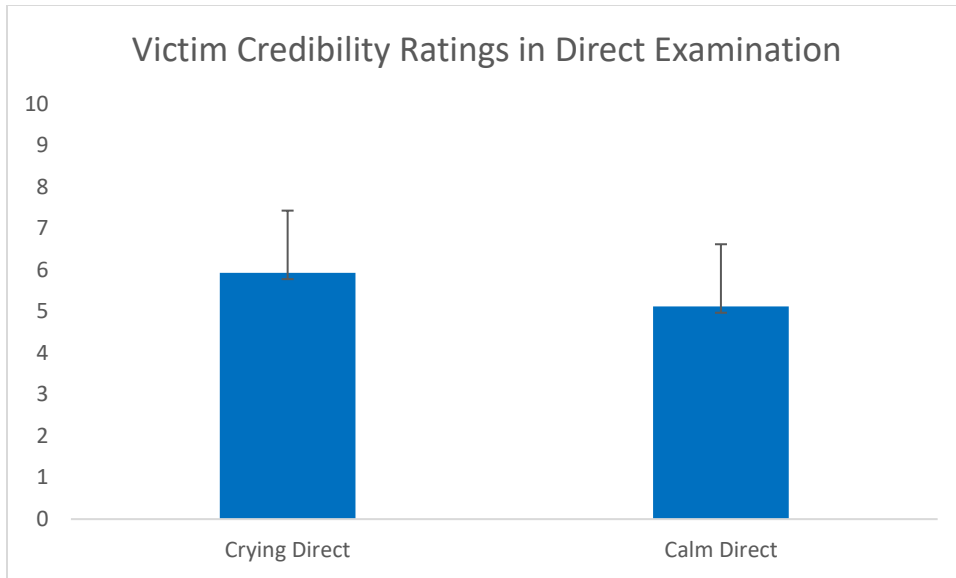


Figure 3.5 Victim Credibility in Direct-Examination. Mean credibility ratings given by participants between emotional demeanor conditions (crying vs. calm) in the direct-examination on a 10-pt Likert scale. Error bars represent the 95% confidence interval.

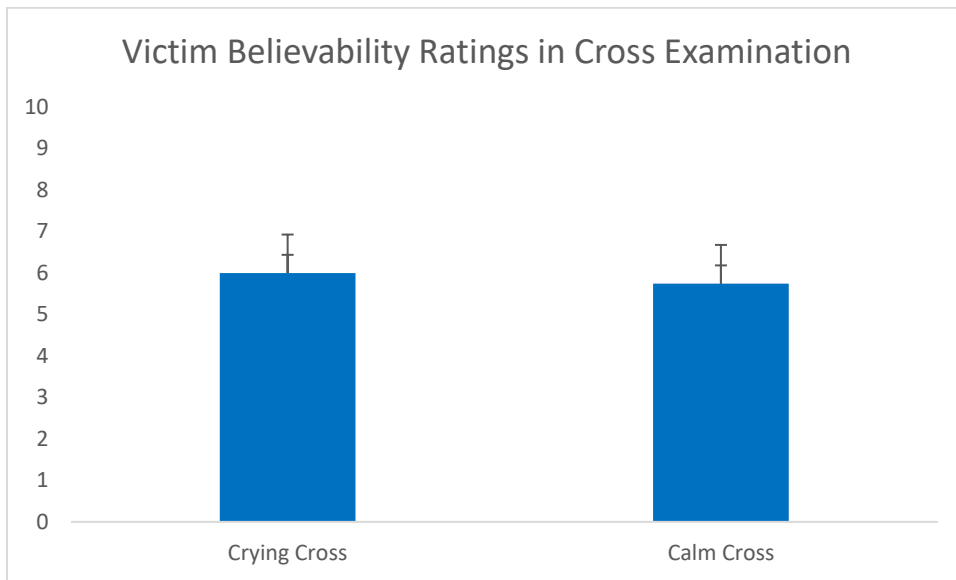


Figure 3.6 Victim Believability in Cross-Examination. Mean believability ratings given by participants between emotional demeanor conditions (crying vs. calm) in the cross-examination on a 10-pt Likert scale. Error bars represent the 95% confidence interval.

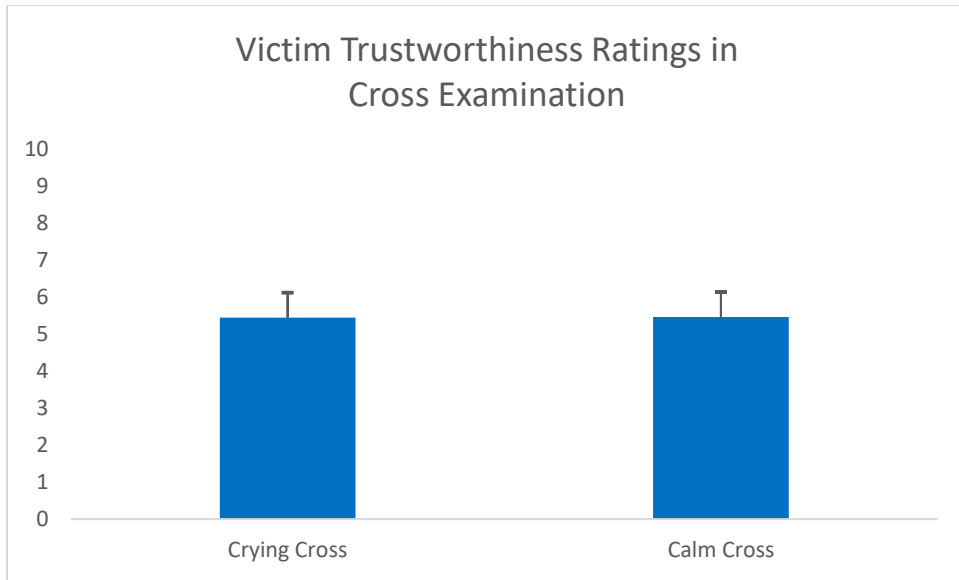


Figure 3.7 Victim Trustworthiness in Cross-Examination. Mean trustworthiness ratings given by participants between emotional demeanor conditions (crying vs. calm) in the cross-examination on a 10-pt Likert scale. Error bars represent the 95% confidence interval.

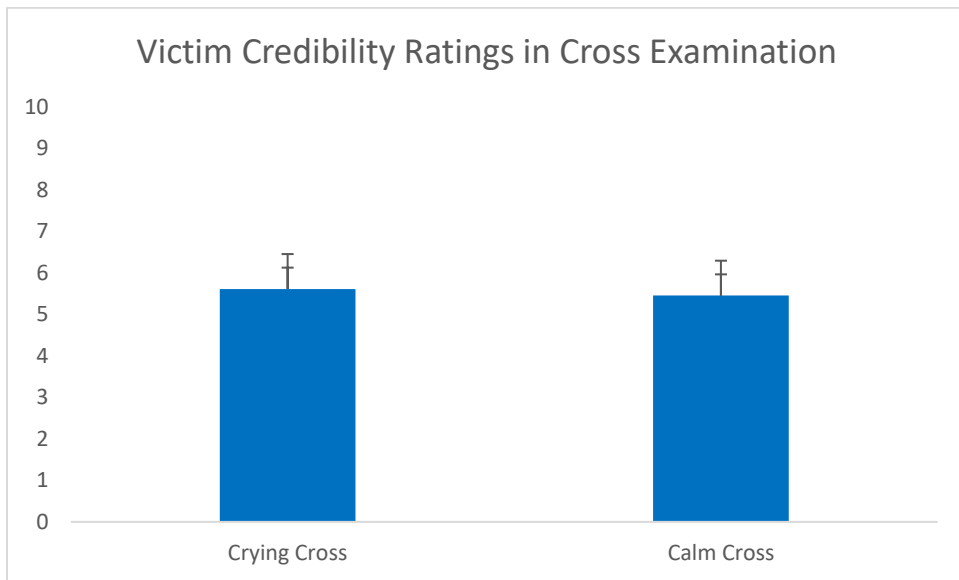


Figure 3.8 Victim Credibility in Cross-Examination. Mean credibility ratings given by participants between emotional demeanor conditions (crying vs. calm) in the cross-examination on a 10-pt Likert scale. Error bars represent the 95% confidence interval.

3.2 Hypothesis 2. Trial Phase

Hypothesis 2 was partially supported; the logistic regression showed there was a main effect of the trial phase for direct examination for guilty verdicts, ($B = -1.02$, Wald's $\chi^2(1) = 8.20$, 95% CI [.18, .73], OR = .36, $p = .004$). Participants voted guilty more often when the victim was shown crying in the direct examination (see Figure 3.1). Cross-examination did not have a significant effect on guilty verdicts, ($B = .38$, Wald's $\chi^2 = 1.12$, 95% CI [.73, 2.91], OR = 1.54, $p = .29$). Participants did not vote guilty more often when the victim was shown crying in the cross-examination (see Figure 3.2).

3.3 Hypothesis 3. Participant Gender

Hypothesis 3 was partially supported. For verdict, the logistic regression was not significant for gender, ($B = -.23$, Wald's $\chi^2(1) = .462$, 95% CI [.41, 1.55], OR = .79, $p = .50$). There was not a significant difference between male and female participants (see Figure 3.9). The linear regression was significant for gender only for pro-victim rating for believability, ($B = .88$, $t(2) = 2.54$, 95% CI [.20, 1.57], $p = .012$) (see Figure 3.10), but not for victim trustworthiness, ($B = .48$, $t(2) = 1.38$, 95% CI [-.21, 1.16], $p = .17$) (see Figure 3.11), or for victim credibility, ($B = .59$, $t(2) = 1.71$, 95% CI [-.09, 1.28], $p = .09$). (see Figure 3.12). Females rated the victim higher for believability, but not trustworthiness or credibility.

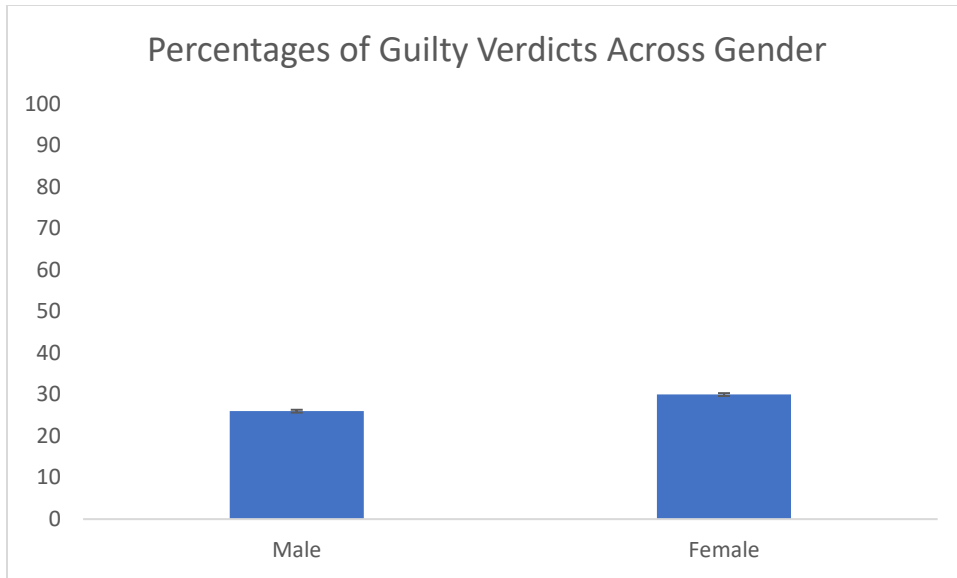


Figure 3.9 Guilty Verdicts Across Participant Gender. Percentages of guilty verdicts across participant gender collapsed across conditions. Error bars represent 95% confidence interval.

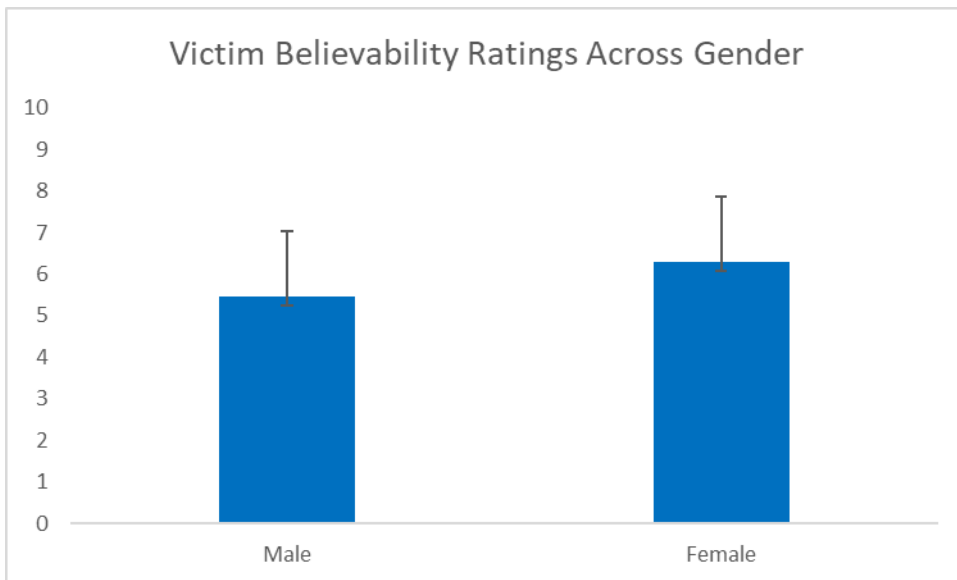


Figure 3.10 Victim Believability Across Participant Gender. Mean believability ratings across participant gender collapsed across conditions on a 10-pt Likert scale. Error bars represent 95% confidence interval.

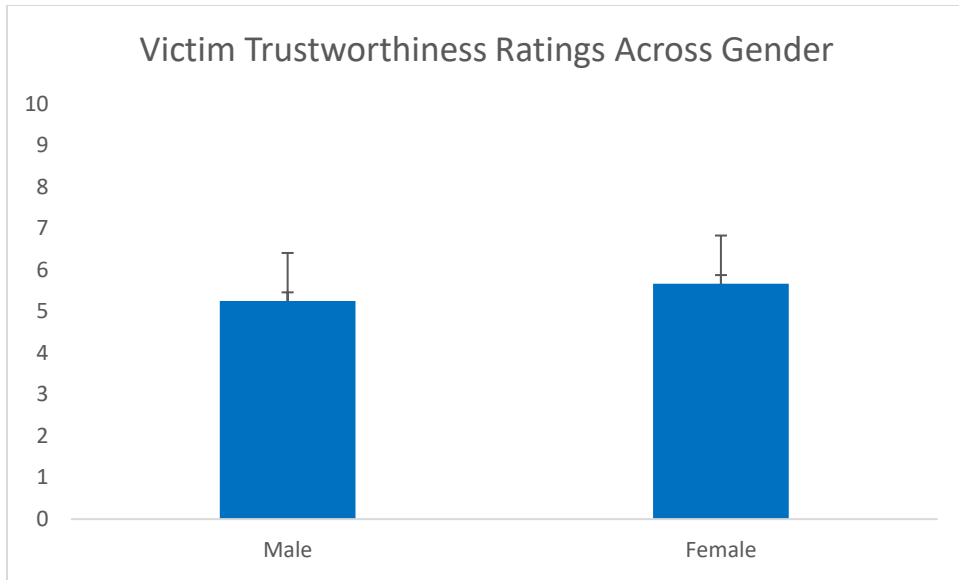


Figure 3.11 Victim Trustworthiness Across Participant Gender. Mean trustworthiness ratings across participant gender collapsed across conditions on a 10-pt Likert scale. Error bars represent 95% confidence interval.

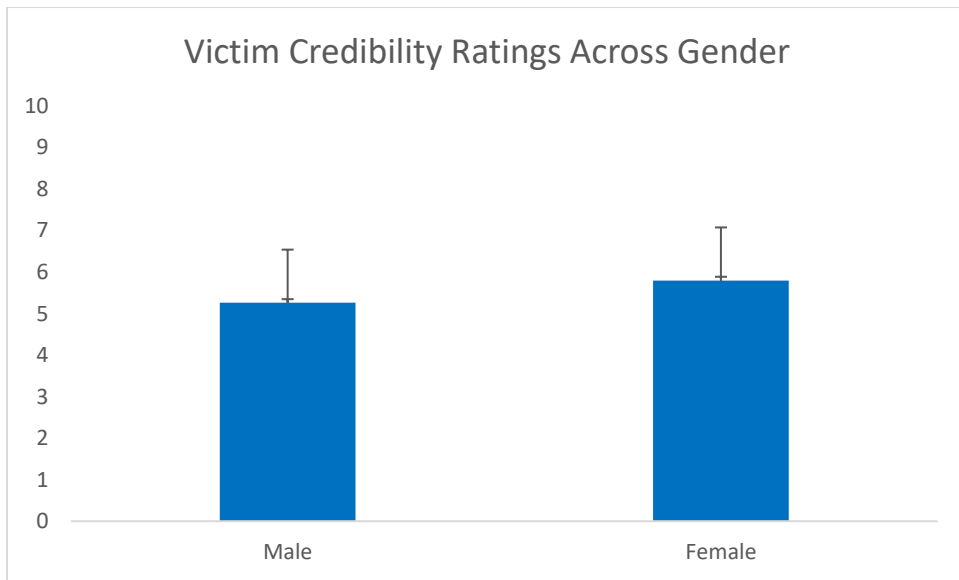


Figure 3.12 Victim Credibility Across Participant Gender. Mean credibility ratings across participant gender collapsed across conditions on a 10-pt Likert scale. Error bars represent 95% confidence interval.

3.4 Hypothesis 4. Verdict Reasoning

The open-ended responses were analyzed using Pathfinder analysis (Schvaneveldt, 1990) which formulates cognitive networks to represent a conceptual organization of terms. Pathfinder networks consist of nodes that are connected by a varying number of links. The links that branch from the nodes represent the degree of importance associated with each node. A larger number of links connecting to a specific node indicates that the term within the node holds a high level of relevance within the participant responses. Additionally, these networks can be interpreted using the Q max score that is generated when creating the network. The Q max score represented the strength of the association between nodes in the network, and a Q max score of 0.30 or above indicated a strong association between terms. Individual terms with associations to each other are grouped in close proximity to form communities. Pathfinder analysis has been utilized to examine open-ended responses in numerous studies of a similar nature (Jenkins *et al.*, 2023; Golding *et al.*, 2022; Lynch *et al.*, 2019).

The cognitive networks for participants who provided guilty verdicts in the *calm* conditions are displayed in Figure 3.13. The central term in the network was rape and the belief that a rape did occur. Three communities were identified ($Q = 0.3$). The general themes reflected in the communities related to the demeanor of the victim reflecting that of a rape victim, the photos adding credibility that a rape occurred, and the defendant was guilty and not trustworthy.

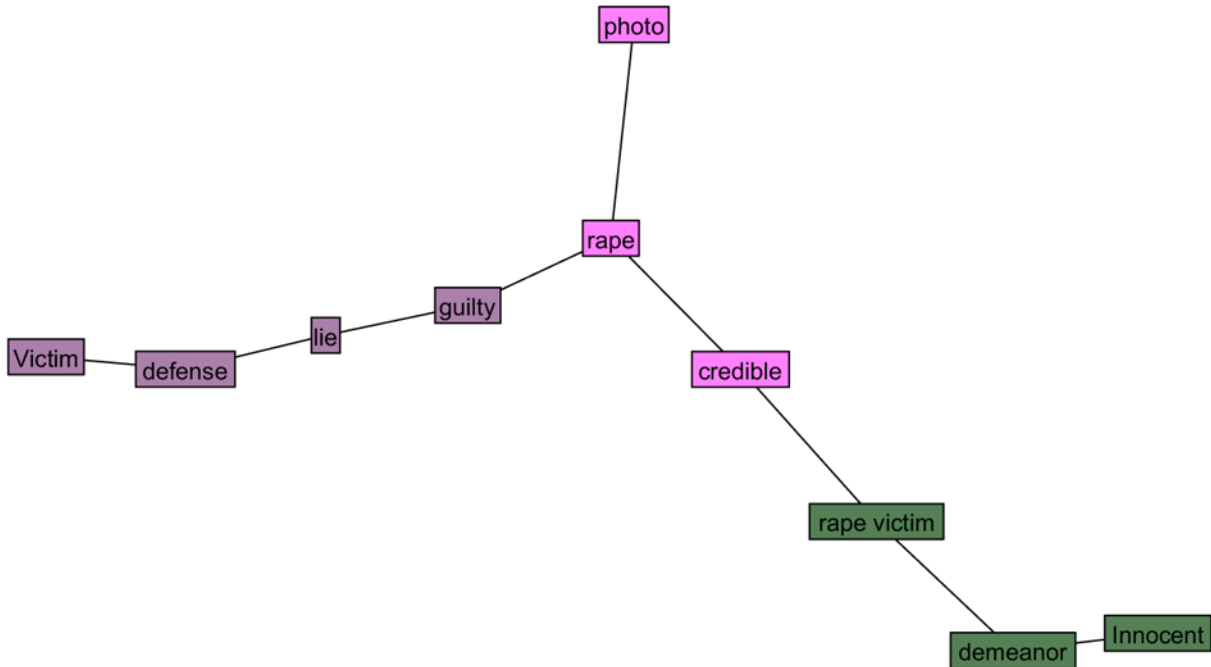


Figure 3.13 Verdict Reasoning when Victim was Calm in Both Trial Phases. The cognitive network of verdict reasoning data from participants in conditions where the victim was shown calm in both trial phases (direct and cross-examination).

The cognitive networks for participants who provided guilty verdicts in the *crying* conditions are displayed in Figure 3.14. The central term in the network was the credibility of the victim. Three communities were identified ($Q = .3$). The general themes reflected in the communities related to victim crying in the photos showing in the trial transcript, the expectation that rape victims would cry after a traumatic experience, and the victim had no reason to lie.

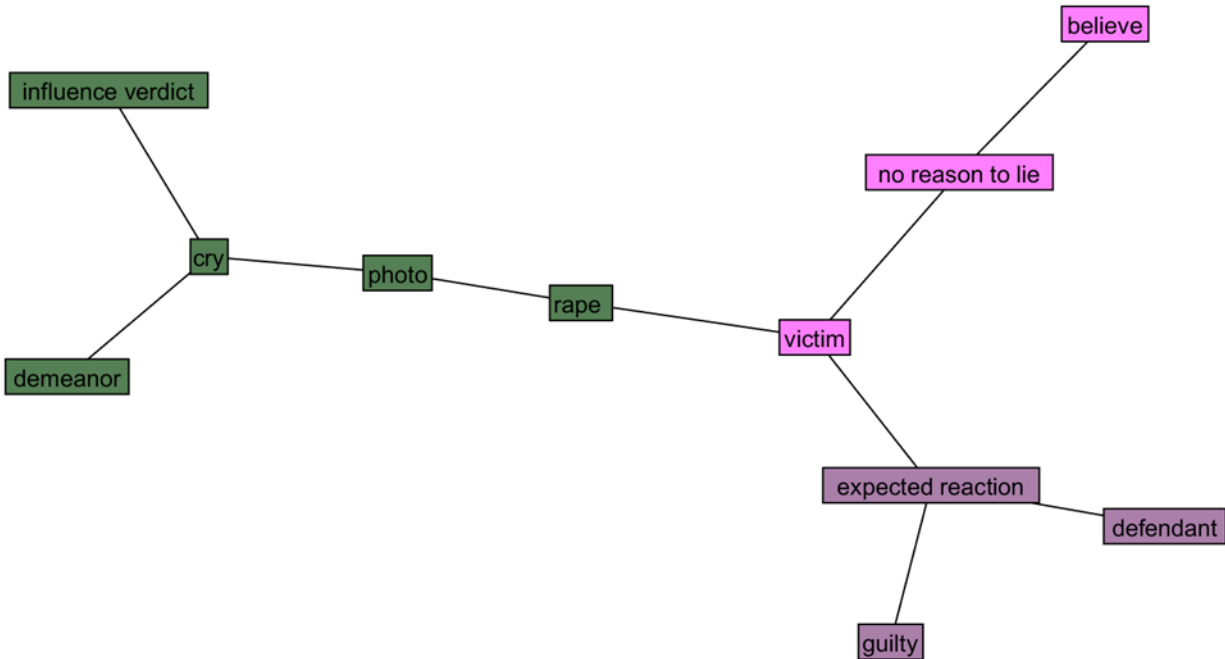


Figure 3.14 Verdict Reasoning when Victim was Crying in Both Trial Phases. The cognitive network of verdict reasoning data from participants in conditions where the victim was shown crying in both trial phases (direct and cross-examination).

The reasoning data for participants in the conditions with different emotions (*crying or calm*) for each trial phase (*direct and cross*) were combined to form one network. For participants who provided a guilty verdict, the central node reflected the reasoning data was focused on the victim's testimony (see Figure 3.15). Three communities were identified ($Q = 0.35$). The general themes were the victim upset and crying showing emotions expected from typical rape victims, rape is an emotional experience, and the emotional victim testimony strengthened the defendant's guilt, and the participants believed the victim had no reason to lie.

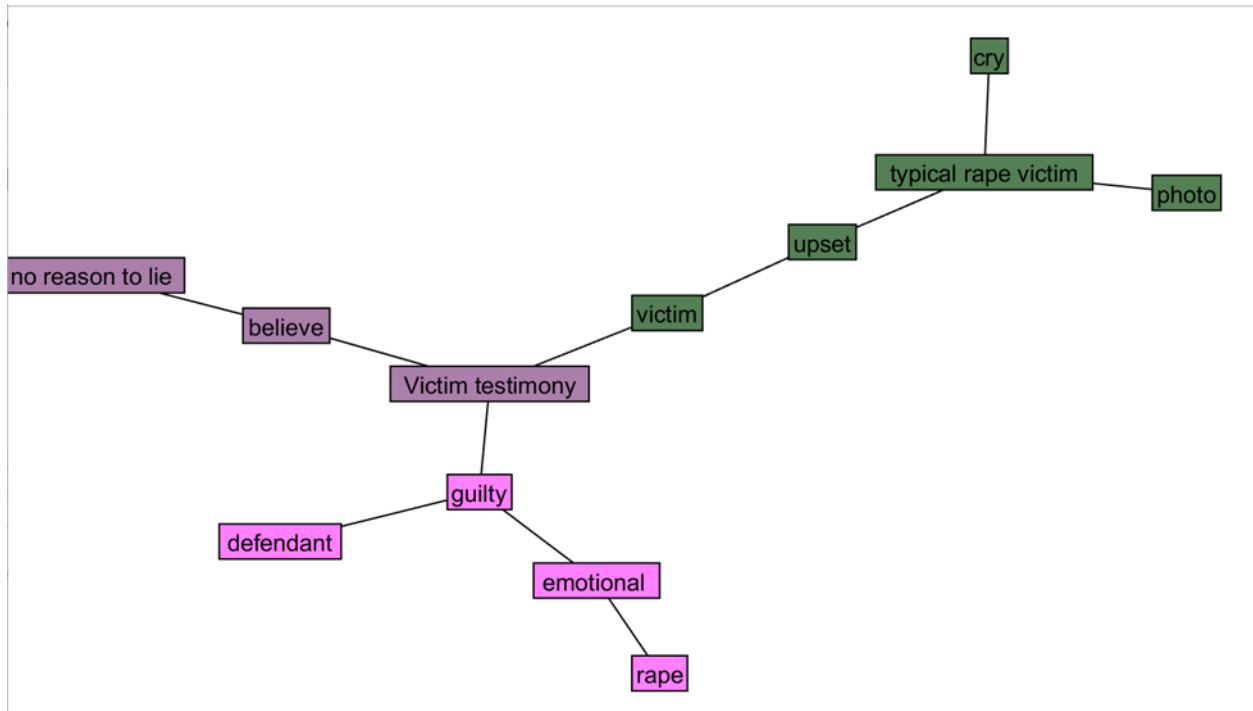


Figure 3.15 Verdict Reasoning when Victim shown Crying and Calm. The cognitive network of verdict reasoning data from participants in conditions where the victim was shown crying in one trial phase (either direct or cross-examination) and calm in the other trial phase. Reasoning data was collapsed across two conditions: crying in direct and calm in cross, and calm in direct and crying in cross.

Chapter 4. Discussion

The present study investigated the effect of a female victim's emotional demeanor on legal decision-making in a rape trial with a male defendant. The results showed that a victim shown crying during the direct examination resulted in more guilty verdicts and higher pro-victim ratings than when the victim was calm in the direct examination consistent with results from Van Doorn and Koster (2019) and Burgoon (1993). There was not a main effect of cross-examination on verdict or pro-victim ratings. Female participants did not give significantly more guilty verdicts than male participants. Female participants provided higher pro-victim ratings only for victim believability (Bottoms & Goodman, 1994; Quas *et al.*, 2002). Cognitive networks showed that participants' reason for a guilty verdict focused on their expectations for how rape victims should behave and express emotions (*e.g.*, rape victims experienced a traumatic event and are expected to cry) in support of the expectancy violation theory (Burgoon, 1993).

The present results regarding emotional demeanor indicated that mock jurors are influenced by expectations of how a victim should behave as stated in the EVT (Burgoon, 1993). Mock jurors have an idea of how they expect a rape victim to behave and when it matches their expectations, they rate the victim as more credible, trustworthy, and believable and are more likely to provide a guilty verdict. Consistent with prior research (Klippenstine, 2011; Ask & Landstrom, 2010), the present study showed that when the victim was crying during the direct examination, mock jurors provided more guilty verdicts than when she was calm. In regard to a rape case, victims are expected to be distraught and hysterical (Klippenstine); mock jurors were not skeptical of the authenticity of the victim because the emotional demeanor matched their

schema of a rape victim. When victim behavior matches expectations, they are seen as more credible, trustworthy, and believable.

There was not a significant effect of cross-examination emotional demeanor on guilty verdicts or pro-victim judgments. This could be explained by the first impression bias (Jaeger *et al.*, 2020). When the victim's first appearance is emotional and crying, the EVE was strengthened by the first impression bias (Van Doorn & Koster, 2019). This results in jurors voting guilty more often based on the emotional demeanor displayed during the direct-examination. When the victim was emotional while telling their story during the direct-examination, the emotion matched the expected emotion and was seen as more believable, trustworthy, and credible (Klippenstine, 2011). The cross-examination emotional demeanor did not have a significant effect because of the EVE. When the victim was emotional during the direct-examination, even when calm in cross-examination, there were more guilty verdicts because the first emotion seen was crying. The EVE was not supported when the victim was only crying in cross but not during direct examination. When the victim was shown calm in direct and crying in cross, the expected emotion was violated, demonstrating the EVT and resulting in fewer guilty verdicts and lower pro-victim ratings. The first impression of the expected emotional demeanor of a rape victim was more important to the jury's decision-making than the emotion displayed in the cross-examination.

Additional evidence showing how emotional demeanor was perceived differently in the direct and cross-examination was found in the cognitive networks. The cognitive network from conditions where the victim cried in both the direct and cross-examination showed that participants reasoned that it is expected for a victim to cry after a traumatic experience. The victim is fulfilling the EVT (Burgoon, 1993); which meant that the participants were able to

support their verdict because the emotional victim fit their expectation of a rape victim (Dahl *et al.*, 2006). The EVE was also supported because mock jurors reasoned that the victim was emotional and believable (Pals *et al.*, 2023). The guilty verdict reasoning when the victim was shown as calm in both the direct and cross-examination supported the EVT because the victim was expected to remain calm the entire time and when the expected emotion was shown, the mock juror acknowledged the consistency. The calm emotions violate the EVE of a rape victim (crying); therefore, the mock juror verdict reasoning emphasized the evidence presented during the trial. An alternative explanation for the EVT and EVE for the calm during direct and cross-examinations, could be the heuristic-systematic model (Nitschke *et al.*, 2022). Participants make their decision on their personal heuristics regarding rape instead of emotions. These heuristics rely on victim stereotypic behavior (*e.g.*, reporting the assault immediately) in relation to the evidence presented. When the victim was shown as calm during direct and cross-examination, guilty verdict reasoning reflected the evidence presented during the trial and how the defendant's testimony was weak. The mock jurors decided their verdict based on the facts of the case and they have a heuristic based on personal experience to always believe the victim of any rape case (Nitschke *et al.*, 2022).

In the conditions where the victim was seen both crying and calm, the guilty verdict reasoning focused more on the crying images and empathy towards the victim. Participants gave explanations for the switch in emotions, stating that crying was the raw emotion and when she was calm that was her 'hardening up' to face the defendant or tell her story. Based on the EVE, when the victim is emotional, they are more believable (Klippenstine, 2011), the mock juror made justifications for believing the victim when the victim also displayed a calm emotional demeanor during the trial. Crying strengthened the EVE and resulted in more guilty verdicts and

higher pro-victim ratings. Although crying during the cross-examination did not have a significant effect on guilty verdicts, this could be explained by the EVT. When mock jurors saw the victim calm in the direct and then crying during the cross-examination it violated the expected emotion of calm, resulting in less guilty verdicts. Even when mock jurors saw the victim crying in both direct and cross and gave guilty verdicts, there were not significantly more guilty verdicts to result in a main effect of cross-examination.

This study extended the results of Golding *et al.* (2003) in that when a child female victim expressed a teary level of crying during the direct testimony, they were seen as more credible, believable, and trustworthy and participants provided more guilty verdicts. The present results were consistent for adult female rape victims who cried during their direct-examination received more guilty verdicts and higher pro-victim ratings. The results extended the results from Golding *et al.* who found that crying during direct-examination increased guilty verdicts and female participants provided higher pro-victim ratings for believability. Results differed from Golding *et al.* who found that female participants voted guilty more often than male participants. The present study did not find a significant difference for gender in guilty verdicts, pro-victim ratings of credibility, and trustworthiness.

The reason for the lack of gender differences could be that participants were equally affected by the emotional victim effect, *i.e.*, there was not a difference in how they perceived the victim when making their verdict. The implementation of real images of an emotional female could have contributed to the lack of gender differences in the verdict, as opposed to the drawings used in Golding *et al.* (2003). Seeing a photograph of an upset woman could have increased guilty verdicts from men. Most responses in reasoning data included details about the victim looking like a real rape victim and increasing the expectancy violation effect (Burgoon,

1993) because the photo of the female victim matched what the mock juror expected a rape victim to look like. Female participants did provide higher believability ratings. Females saw the victim as believable, but not credible or trustworthy because they had the heuristic of believing any rape victim, but they thought the emotional demeanor or the statements from the victim was not credible or trustworthy (Nitschke *et al.*, 2022; Dahl *et al.*, 2006).

As with all research, there are limitations that should be addressed in future research. The present study did not examine the defendant's emotional demeanor or the male victim's emotional demeanor. This could have impacted my results if participants could have evaluated each witness's emotional demeanor then they could have used different emotional and behavioral cues from each testimony to decide their final verdict. Future research should focus on evaluating whether there are differences in how mock jurors evaluate the emotional demeanor of the defendant or whether other witnesses change their verdict or support their initial decision. This is important to study because jurors observe multiple witnesses (Magyarics *et al.*, 2015) while on trial, and how they use emotional demeanor as a factor in their verdict can help to better prepare witnesses and educate jurors. Another limitation was the variable of the trial phase was conducted as a within-subjects variable and not manipulated between subjects limiting the analysis of verdict decision and pro-victim ratings across all conditions. Manipulating the trial phase between subjects could impact the results because each participant would only observe one emotion during either the direct or cross only. The results would more accurately represent which emotion and at what time during the trial it has a significant influence on the verdict. Future analysis of the impact of emotional demeanor between subjects throughout the trial would further explain how mock jurors evaluate inconsistent emotions and the effect of the EVT (Burgoon, 1993) while determining a verdict. Manipulating the emotions between subjects

would decrease ecological validity of a real trial where jurors view the witnesses throughout the direct and cross-examination.

Other limitations to address include that unlike in a real trial, the present study examined individual juror decisions as opposed to jury deliberation. It has been determined that individual verdict decisions are predictive of jury deliberation outcomes (Devine *et al.*, 2001). Lastly, the format of the study may bring concerns, as online studies cannot control distractions to participants' attention (Brühlmann *et al.*, 2020). Similarly, because the present research used a community sample recruited via MTurk (Brühlmann *et al.*, 2020), the generalizability and quality of the responses may be questioned. To address each concern, prior research has concluded that results from online studies are comparable to those conducted in person (Gosling *et al.*, 2004), and samples recruited from MTurk are comparable to online or traditional samples (Buhrmester *et al.*, 2011).

The present findings offer implications for rape cases with a female victim and a male perpetrator. When the victim is emotional while testifying it does influence a juror's decision-making and can lead to a guilty verdict. Direct-examination emotional demeanor influences the jury more than the cross-examination emotional demeanor; therefore, when preparing witnesses to testify it is important to make sure that they are prepared to express their authentic emotions first. Attorneys can use this research to update the LOFT model to encourage the witness (*i.e.*, The victim) to relax and be authentic in their testimony (National Legal Research Group, 2016). Jurors expect rape victims to cry and appear upset. Jurors are subconsciously persuaded by the emotional demeanor, but they consciously are trying to only make their verdict based on facts (Nitschke *et al.*, 2022). Witnesses should be encouraged to be themselves and not try to cover up their feelings, they do not need to put on a performance to convince the jury as long as they are

clear in their testimony and expressive in their emotions. Police can use these results to learn why it is important to properly evaluate and record the emotional demeanor of the victim at the time the assault is reported. This can help give the jury a baseline to use as a reference for the emotional expressions of the victim in court.

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Appendix A. UAH IRB Approval Letter



Date: 29 November 2023

PI: Callie Ahearn
PI Department: Psychology
The University of Alabama in Huntsville

<input checked="" type="checkbox"/> Expedited (see pg 2)
<input type="checkbox"/> Exempted (see pg 3)
<input type="checkbox"/> Full Review
<input type="checkbox"/> Extension of Approval

Dear Callie,

The UAH Institutional Review Board of Human Subjects Committee has reviewed your proposal titled: *The Effect of Emotional Demeanor of an Adult Sexual Assault Victim Testimonies on Mock Jurors Verdicts* and found it meets the necessary criteria for approval. Your proposal seems to be in compliance with these institutions Federal Wide Assurance (FWA) 00019998 and the DHHS Regulations for the Protection of Human Subjects (45 CFR 46).

Please note that this approval is good for one year from the date on this letter. If data collection continues past this period, you are responsible for processing a renewal application a minimum of 60 days prior to the expiration date.

No changes are to be made to the approved protocol without prior review and approval from the UAH IRB. All changes (e.g. a change in procedure, number of subjects, personnel, study locations, new recruitment materials, study instruments, etc) must be prospectively reviewed and approved by the IRB before they are implemented. You should report any unanticipated problems involving risks to the participants or others to the IRB Chair.

If you have any questions regarding the IRB's decision, please contact me.

Sincerely,

Expediated Review: Form 2

_____ Clinical studies of drugs and medical devices only when condition (a) or (b) is met. (a) Research on drugs for which an investigational new drug application (21 CFR Part 312) is not required. (Note: Research on marketed drugs that significantly increases the risks or decreases the acceptability of the risks associated with the use of the product is not eligible for expedited review. (b) Research on medical devices for which (i) an investigational device exemption application (21 CFR Part 812) is not required; or (ii) the medical device is cleared/approved for marketing and the medical device is being used in accordance with its cleared/approved labeling.

_____ Collection of blood samples by finger stick, heel stick, ear stick, or venipuncture as follows: (a) from healthy, nonpregnant adults who weigh at least 110 pounds. For these subjects, the amounts drawn may not exceed 550 ml in an 8 week period and collection may not occur more frequently than 2 times per week; or (b) from other adults and children, considering the age, weight, and health of the subjects, the collection procedure, the amount of blood to be collected, and the frequency with which it will be collected. For these subjects, the amount drawn may not exceed the lesser of 50 ml or 3 ml per kg in an 8 week period and collection may not occur more frequently than 2 times per week.

_____ Prospective collection of biological specimens for research purposes by noninvasive means. Examples: (a) hair and nail clippings in a nondisfiguring manner; (b) deciduous teeth at time of exfoliation or if routine patient care indicates a need for extraction; (c) permanent teeth if routine patient care indicates a need for extraction; (d) excreta and external secretions (including sweat); (e) uncannulated saliva collected either in an unstimulated fashion or stimulated by chewing gumbase or wax or by applying a dilute citric solution to the tongue; (f) placenta removed at delivery; (g) amniotic fluid obtained at the time of rupture of the membrane prior to or during labor; (h) supra- and subgingival dental plaque and calculus, provided the collection procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques; (i) mucosal and skin cells collected by buccal scraping or swab, skin swab, or mouth washings; (j) sputum collected after saline mist nebulization.

_____ Collection of data through noninvasive procedures (not involving general anesthesia or sedation) routinely employed in clinical practice, excluding procedures involving x-rays or microwaves. Where medical devices are employed, they must be cleared/approved for marketing. (Studies intended to evaluate the safety and effectiveness of the medical device are not generally eligible for expedited review, including studies of cleared medical devices for new indications).

_____ Research involving materials (data, documents, records, or specimens) that have been collected, or will be collected solely for non-research purposes (such as medical treatment or diagnosis).

_____ Collection of data from voice, video, digital, or image recordings made for research purposes.

X Research on individual or group characteristics or behavior (including, but not limited to, research on perception, cognition, motivation, identity, language, communication, cultural beliefs or practices, and social behavior) or research employing survey, interview, oral history, focus group, program evaluation, human factors evaluation, or quality assurance methodologies.

_____ Continuing review of research previously approved by the convened IRB as follows: a. where (i) the research is permanently closed to the enrollment of new subjects; (ii) all subjects have completed all research-related interventions; and (iii) the research remains active only for long-term follow-up of subjects; or b. where no subjects have been enrolled and no additional risks have been identified; or where the remaining research activities are limited to data analysis.

_____ Continuing review of research, not conducted under an investigational new drug application or investigational device exemption where categories two (2) through eight (8) do not apply but the IRB has determined and documented at a convened meeting that the research involves no greater than minimal risk and no additional risks have been identified.

Exempted Review: Form 3

Please check one or more of the categories below:

1. Research, conducted in established or commonly accepted educational settings, that specifically involves normal educational practices that are not likely to adversely impact students' opportunity to learn required educational content or the assessment of educators who provide instruction. This includes most research on regular and special education instruction strategies, and research on the effectiveness of or the comparison among

instructional techniques, curricula, or classroom management methods. This category does not apply to Food and Drug Administration (FDA) regulated research.

- 2. Research that only includes interactions involving educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior (including visual or auditory recording) if at least one of the following criteria is met:

- (i) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects cannot readily be ascertained, directly or through identifiers linked to the subjects;

- (ii) Any disclosure of the human subjects' responses outside the research would not reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, educational advancement, or reputation; or

- (iii) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects can readily be ascertained, directly or through identifiers linked to the subjects, and an IRB conducts a limited IRB review to make the determination required by 45 CFR 46.111(a)(7).

The first two criteria of this category (i and ii) may not be applied to research with minors when involving surveys and/or interviews. They may only be applied to research with minors when involving educational tests or the observation of public behavior and the investigators do not participate in those activities. The third criteria of this exemption (iii) may not be applied to research with minors.

- 3. Research involving benign behavioral interventions in conjunction with the collection of information from an adult subject through verbal or written responses (including data entry) or audiovisual recording if the subject prospectively agrees to the intervention and information collection and at least one of the following criteria is met:

- (A) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects cannot readily be ascertained, directly or through identifiers linked to the subjects;

- (B) Any disclosure of the human subjects' responses outside the research would not reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, educational advancement, or reputation; or

- (C) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects can readily be ascertained, directly or through identifiers linked to the subjects, and an IRB conducts a limited IRB review to make the

determination required by 45 CFR 46.111(a)(7).

For the purpose of this provision, benign behavioral interventions are brief in duration, harmless, painless, not physically invasive, not likely to have a significant adverse lasting impact on the subjects, and the investigator has no reason to think the subjects will find the interventions offensive or embarrassing. UAH defines brief duration for an intervention (not including data collection, unless intertwined) as lasting no longer than a few minutes to a few hours on a single day. Provided all such criteria are met, examples of such benign behavioral interventions would include having the subjects play an online game, having them solve puzzles under various noise conditions, or having them decide how to allocate a nominal amount of received cash between themselves and someone else.

If the research involves deceiving the subjects regarding the nature or purposes of the research, this exemption is not applicable unless the subject authorizes the deception through a prospective agreement to participate in research in circumstances in which the subject is informed that he or she will be unaware of or misled regarding the nature or purposes of the research.

Research involving minors is not eligible for this category of exemption and this category does not apply to FDA regulated research.

4. Secondary research for which consent is not required: Secondary research uses of identifiable private information or identifiable biospecimens that have been or will be collected for a nonrelated primary or initial activity, if at least one of the following criteria is met:

(i) The identifiable private information or identifiable biospecimens are publicly available;

(ii) Information, which may include information about biospecimens, is recorded by the investigator in such a manner that the identity of the human subjects cannot readily be ascertained directly or through identifiers linked to the subjects, the investigator does not contact the subjects, and the investigator will not re-identify subjects;

(iii) The research involves only information collection and analysis involving the investigator's use of identifiable health information when that use is regulated under 45 CFR parts 160 and 164, subparts A and E, for the purposes of "health care operations" or "research" as those terms are defined at 45 CFR 164.501 or for "public health activities and purposes" as described under 45 CFR 164.512(b); or

(iv) The research is conducted by, or on behalf of, a Federal department or agency using government-generated or government-collected information obtained for non-research activities, if the research generates identifiable private information that is or will be maintained on information technology that is subject to and in compliance with section

208(b) of the E-Government Act of 2002, 44 U.S.C. 3501 note, if all of the identifiable private information collected, used, or generated as part of the activity will be maintained in systems of records subject to the Privacy Act of 1974, 5 U.S.C. 552a, and, if applicable, the information used in the research was collected subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq.

Note: This category may not be applied to research involving primary collection from subjects; collection must be performed for a non-related purpose. Collection can be either prospective or retrospective. This category does not apply to FDA regulated research.

- 5. Research and demonstration projects that are conducted or supported by a Federal department or agency, or otherwise subject to the approval of department or agency heads (or the approval of the heads of bureaus or other subordinate agencies that have been delegated authority to conduct the research and demonstration projects), and that are designed to study, evaluate, improve, or otherwise examine public benefit or service programs, including procedures for obtaining benefits or services under those programs, possible changes in or alternatives to those programs or procedures, or possible changes in methods or levels of payment for benefits or services under those programs. Such projects include, but are not limited to, internal studies by Federal employees, and studies under contracts or consulting arrangements, cooperative agreements, or grants. Exempt projects also include waivers of otherwise mandatory requirements using authorities such as sections 1115 and 1115A of the Social Security Act, as amended.

- (i) Each Federal department or agency conducting or supporting the research and demonstration projects must establish, on a publicly accessible Federal website or in such other manner as the department or agency head may determine, a list of the research and demonstration projects that the Federal department or agency conducts or supports under this provision. The research or demonstration project must be published on this list prior to commencing the research involving human subjects.

- 6. Taste and food quality evaluation and consumer acceptance studies, if:
 - (i). wholesome foods without additives are consumed or
 - (ii). a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

(Approved by the Office of Management and Budget under Control Number 0990–0260)

Appendix B. Consent Form

The consent form was administered to Amazon Mechanical Turk worker who participated in the study. All participants had to give their consent before continuing onto the study.

Consent Form: Trial Decisions Study

You are invited to participate in a research study about juror decision-making. This study is designed to help us to better understand how jurors make decisions and evaluate evidence used in criminal cases.

KEY INFORMATION:

- This form seeks your consent to participate in this research study. Your participation is voluntary. This study is designed to help us better understand juror decision-making in criminal cases. This study should take no longer than 1 hour to complete. You will be asked to rate the perceived emotion of a model, and then answer related questions. There are no expected risks associated with participating, but the trial summary contains expressions of raw emotions, which may create minimal discomfort. There are no direct benefits to you.

The study is being supervised by Dr. Jeffrey Neuschatz, and the primary investigator is Callie Ahearn from The University of Alabama in Huntsville. A total of 150 volunteers will be recruited for this study. Please be advised that this experiment is only open for those who are 18 years of age or older.

PROCEDURE TO BE FOLLOWED IN THE STUDY: Participation in this study is completely voluntary. Once consent is given, you will be asked to read a trial summary on a computer screen and answer some questions. These questions will include determining a verdict for the defendant and making judgments about various aspects of the case, as well as demographic information about yourself. This session will take approximately 1 hour to complete, and you will receive a small monetary reward for your participation in the experiment. **DISCOMFORTS AND RISKS FROM PARTICIPATING IN THIS STUDY:** There are no expected risks associated with your participation. You may have discomfort from the nature of the photos, but it is no more severe than what you may see in popular media. There is a minor risk of eye strain from staring at a screen, but it is no more than what you would experience from daily screen use.

EXPECTED BENEFITS: To our knowledge there are no direct benefits for participating, but results from this study can benefit society by helping to understand how jurors make decision in rape cases. Please see the section below for incentives and compensation for participation in this study.

INCENTIVES AND COMPENSATION FOR PARTICIPATION: You will receive \$1.00 USD for your participation in this study.

CONFIDENTIALITY OF RESULTS: Participants will be assigned a number that is not connected to the participant's identity. Participant numbers will be used to record your data, and

these numbers will be made available only to those researchers directly involved with this study, thereby ensuring strict confidentiality. This consent form will be destroyed after 3 years. The data from your session will only be released to those individuals who are directly involved in the research and only using your participant number.

FREEDOM TO WITHDRAW: You are free to withdraw from the study at any time. You will not be penalized because of withdrawal in any form. Investigators reserve the right to remove any participant from the session without regard to the participant's consent.

CONTACT INFORMATION: If you have any questions, please ask them now. If you have questions later on, you may contact the Principal Investigator Callie Ahearn, at The University of Alabama in Huntsville, at 860-888-2373 or at caa0020@uah.edu. You may also contact the faculty supervisor Jeffrey Neuschatz, at 301 Sparkman Drive, MOR 288, at 256- 824- 2321 or at neuschaj@uah.edu. If you have questions about your rights as a research participant, or concerns or complaints about the research, you may contact the Office of the IRB (IRB) at 256.824.6992 or email the IRB chair Dr. Ann Bianchi at irb.@uah.edu.

This study was approved by the Institutional Review Board at UAH and will expire in one year from November 29, 2023

Do you consent to participate? Check one of the boxes below.

Yes

No (this option will end the study immediately)

(If consent is given, should be redirected to the first content page of the study.)

Appendix C. Trial Summary

The trial summary was administered to each participant online via Qualtrics. Each participant was randomly assigned to 1 of the 4 conditions and saw the victim either crying or calm during the direct and cross-examination.

Condition 1: Crying in both Direct and Cross examination.

The grand jury charges: On or about the 8th day of April, 2022, in Fayette County, Kentucky, the above named defendant committed first-degree rape by engaging in sexual intercourse with Kimberly Fleming by forcible compulsion.

The prosecution alleged that Michael Turner raped Kimberly Fleming on the afternoon of April 8, 2022 at approximately 3:30 P.M. in Mr. Turner's car. At the time of the alleged rape, Kimberly was 22-years-old and Mr. Turner was 35 years old. The state is charging Michael Turner with first-degree rape. The state will call two witnesses for the prosecution: Detective John Perry and Kimberly Fleming.

Mr. Turner pleaded "not guilty" to the charge of rape. The defense attorney will argue that Mr. Turner is a responsible and law-abiding man, and that the charge of rape is a grave mistake. The defense will call two witnesses: Paul Franklin (a close friend of Mr. Turner's) and Michael Turner.

The medical evidence for this case was inconclusive, so it will not be presented in this summary.

PROSECUTION'S CASE

Witness No. 1: Detective John Perry

Direct Examination:

Detective Perry was assigned to Kimberly's case after her mother contacted the police when Kimberly confided in her about the rape. Detective Perry was calm during his entire testimony. He testified that when he arrived at the Fleming home he noticed that Kimberly stayed close to her mother, and told her mother that she was afraid. He stated that he drove Kimberly and her mother to the hospital so that a doctor could examine Kimberly, and collect any available evidence. Detective Perry stated that he was responsible for keeping track of all evidence in the case.

Based on what you just read, where did Detective Perry take Kimberly and her mom?

- a. *The police station*
- b. *The Fleming's home*
- c. *The hospital*

**If participants select "a" or "b", the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

Cross Examination:

Detective Perry acknowledged that he did not know why Kimberly was staying close to her mother or why she was afraid. Moreover, he stated that it is possible that Kimberly was afraid of him, either because he was a stranger or because he was a police officer.

Witness No. 2: Kimberly Fleming



Direct Examination:

Kimberly Fleming is a 22-year-old girl. **She was crying during the direct examination.** She testified that on the afternoon of April 8, 2022 at approximately 3:30 in the afternoon she was walking home from work in the rain when a man offered her a ride home. She alleges that this man was her neighbor, Michael Turner. She further alleged that instead of driving her home, the defendant drove her to an isolated wooded area.

Based on what you just read, the defendant was?

a. The Victim's neighbor

b. A stranger

**If participants select "b", the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

She alleged that the defendant held her down and forced her to have sexual intercourse with him in his car. She testified that the defendant threatened her into silence by saying he would hurt her, and her family would not love her anymore if she told anyone about the incident. Despite the threats, she immediately told her mom and reported the assault to the police.

Cross Examination:



Kimberly was crying during the cross examination. Kimberly admitted that she does not always tell the truth. She also admitted that her parents have warned her against accepting rides from others without their permission. She thought that it was okay to accept a ride from her neighbor, especially since it was raining so hard.

DEFENDANT'S CASE

Witness No. 1: Paul Franklin

Direct Examination:

Mr. Franklin is a close and trusted friend of the defendant. He appeared collected as he explained that he has known Mr. Turner for 15 years and stated that Mr. Turner is a moral person of the utmost character. Mr. Franklin does not believe that the defendant is capable of rape. Moreover, Mr. Franklin believes that Mr. Turner would have confided in him if he had had any contact with Kimberly.

Based on what you just read, Mr. Franklin is a

- A. *Trusted friend of the defendant*
- B. *Dependable coworker of the defendant*
- C. *A cousin of the defendant*

**If participants select “b” or “c”, the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

Cross Examination:

Mr. Franklin admitted that Mr. Turner could have done something outside of his knowledge.

Witness No. 2: Michael Turner

Direct Examination:

Mr. Turner calmly testified that he is an active volunteer in his community. He has an exemplary work record and he is recognized for his unselfish volunteer service to his community. He believes himself to be a responsible citizen. Mr. Turner testified that he has been happily married for five years to Ms. Justine Turner. Mr. Turner denied any sexual contact, at any time, with his 22-year-old neighbor. He believes that the charges against him are a grave mistake.

Based on what you just read, Mr. Turner’s emotion was

- A. *Calm*
- B. *Angry*
- C. *Sad*

**If participants select “b” or “c”, the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was **INCORRECT**. Please make sure you read carefully so that you can answer **ALL** factual questions correctly. Please continue.

Cross Examination:

Mr. Turner admitted that there have been times when he has been driving alone and he has seen Kimberly. He asserted that he has never offered her a ride home.

INSTRUCTIONS TO THE JURY

Judge Albert Graham Judge Graham charged the jurors with the following instructions:

“You will find the defendant guilty of First-degree Rape under this Instruction if, and only if, you believe from the evidence beyond a reasonable doubt all of the following: “That in this county on or about April 8, 2022, and before the finding of the Indictment herein, the defendant engaged in sexual intercourse with Kimberly Fleming by forcible compulsion.”

For these instructions:

Forcible compulsion means physical or threat of physical force, express or implied, which places a person in fear of immediate death or physical injury to self or another person. Physical resistance on the part of the person subjected to forcible compulsion is not necessary to meet this definition.

Closing Arguments: Prosecution

The Prosecution concluded that Mr. Turner should be found guilty and convicted of rape in the first-degree. The victim's testimony made it clear the victim (Kimberly Flemming) was attacked and held down by the defendant who forced her to have sexual intercourse in his car.

Closing Arguments: Defense

The Defense argued that Mr. Turner is a responsible and law-abiding man and that the charge of rape is a grave mistake. The Defense noted that the only evidence presented against him was Kimberly's testimony and there was reasonable doubt that Mr. Turner forced Kimberly to engage in sexual intercourse. Therefore, a not guilty verdict should be rendered.

Condition 2: Crying in Direct and Calm in Cross examination.

The grand jury charges: On or about the 8th day of April, 2022, in Fayette County, Kentucky, the above named defendant committed first-degree rape by engaging in sexual intercourse with Kimberly Fleming by forcible compulsion.

The prosecution alleged that Michael Turner raped Kimberly Fleming on the afternoon of April 8, 2022 at approximately 3:30 P.M. in Mr. Turner’s car. At the time of the alleged rape, Kimberly was 22-years-old and Mr. Turner was 35 years old. The state is charging Michael Turner with first-degree rape. The state will call two witnesses for the prosecution: Detective John Perry and Kimberly Fleming.

Mr. Turner pleaded “not guilty” to the charge of rape. The defense attorney will argue that Mr. Turner is a responsible and law-abiding man, and that the charge of rape is a grave mistake. The defense will call two witnesses: Paul Franklin (a close friend of Mr. Turner’s) and Michael Turner.

The medical evidence for this case was inconclusive, so it will not be presented in this summary.

PROSECUTION’S CASE

Witness No. 1: Detective John Perry

Direct Examination:

Detective Perry was assigned to Kimberly’s case after her mother contacted the police when Kimberly confided in her about the rape. Detective Perry was calm during his entire testimony. He testified that when he arrived at the Fleming home he noticed that Kimberly stayed close to her mother, and told her mother that she was afraid. He stated that he drove Kimberly and her mother to the hospital so that a doctor could examine Kimberly and collect any available evidence. Detective Perry stated that he was responsible for keeping track of all evidence in the case.

Based on what you just read, where did Detective Perry take Kimberly and her mom?

- a. The police station*
- b. The Fleming’s home*
- c. The hospital*

**If participants select “a” or “b”, the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was **INCORRECT**. Please make sure you read carefully so that you can answer **ALL** factual questions correctly. Please continue.

Cross Examination:

Detective Perry acknowledged that he did not know why Kimberly was staying close to her mother or why she was afraid. Moreover, he stated that it is possible that Kimberly was afraid of him, either because he was a stranger or because he was a police officer.

Witness No. 2: Kimberly Fleming



Direct Examination:

Kimberly Fleming is a 22-year-old girl. **She was crying during the direct examination.** She testified that on the afternoon of April 8, 2022 at approximately 3:30 in the afternoon she was walking home from work in the rain when a man offered her a ride home. She alleges that this man was her neighbor, Michael Turner. She further alleged that instead of driving her home, the defendant drove her to an isolated wooded area.

Based on what you just read, the defendant was?

- a. *The Victim's neighbor*

b. A stranger

**If participants select “b”, the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

She alleged that the defendant held her down and forced her to have sexual intercourse with him in his car. She testified that the defendant threatened her into silence by saying he would hurt her, and her family would not love her anymore if she told anyone about the incident. Despite these threats, she immediately told her mom and reported the assault to the police.

Cross Examination:



Kimberly was calm during the cross examination. Kimberly admitted that she does not always tell the truth. She also admitted that her parents have warned her against accepting rides from others without their permission. She thought that it was okay to accept a ride from her neighbor, especially since it was raining so hard.

DEFENDANT’S CASE

Witness No. 1: Paul Franklin

Direct Examination:

Mr. Franklin is a close and trusted friend of the defendant. He appeared collected as he explained that he has known Mr. Turner for 15 years and stated that Mr. Turner is a moral person of the

utmost character. Mr. Franklin does not believe that the defendant is capable of rape. Moreover, Mr. Franklin believes that Mr. Turner would have confided in him if he had had any contact with Kimberly.

Based on what you just read, Mr. Franklin is a

- a. Trusted friend of the defendant*
- b. Dependable coworker of the defendant*
- c. A cousin of the defendant*

**If participants select “b” or “c”, the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

Cross Examination:

Mr. Franklin admitted that Mr. Turner could have done something outside of his knowledge.

Witness No. 2: Michael Turner

Direct Examination:

Mr. Turner calmly testified that he is an active volunteer in his community. He has an exemplary work record and he is recognized for his unselfish volunteer service to his community. He believes himself to be a responsible citizen. Mr. Turner testified that he has been happily married for five years to Ms. Justine Turner. Mr. Turner denied any sexual contact, at any time, with his 6-year-old neighbor. He believes that the charges against him are a grave mistake.

Based on what you just read, Mr. Turner’s emotion was

- a. Calm*
- b. Angry*
- c. Sad*

**If participants select “b” or “c”, the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

Cross Examination:

Mr. Turner admitted that there have been times when he has been driving alone and he has seen

Kimberly. He asserted that he has never offered her a ride home.

INSTRUCTIONS TO THE JURY

Judge Albert Graham Judge Graham charged the jurors with the following instructions:

“You will find the defendant guilty of First-degree Rape under this Instruction if, and only if, you believe from the evidence beyond a reasonable doubt all of the following: “That in this county on or about April 8, 2022, and before the finding of the Indictment herein, the defendant engaged in sexual intercourse with Kimberly Fleming by forcible compulsion.”

For these instructions:

Forcible compulsion means physical or threat of physical force, express or implied, which places a person in fear of immediate death or physical injury to self or another person. Physical resistance on the part of the person subjected to forcible compulsion is not necessary to meet this definition.

Closing Arguments: Prosecution

The Prosecution concluded that Mr. Turner should be found guilty and convicted of rape in the first-degree. The victim's testimony made it clear the victim (Kimberly Flemming) was attacked and held down by the defendant who forced her to have sexual intercourse in his car.

Closing Arguments: Defense

The Defense argued that Mr. Turner is a responsible and law-abiding man and that the charge of rape is a grave mistake. The Defense noted that the only evidence presented against him was Kimberly's testimony and there was reasonable doubt that Mr. Turner forced Kimberly to engage in sexual intercourse. Therefore, a not guilty verdict should be rendered.

Condition 3: Calm in Direct and Crying in Cross examination.

The grand jury charges: On or about the 8th day of April, 2022, in Fayette County, Kentucky, the above named defendant committed first-degree rape by engaging in sexual intercourse with Kimberly Fleming by forcible compulsion.

The prosecution alleged that Michael Turner raped Kimberly Fleming on the afternoon of April 8, 2022 at approximately 3:30 P.M. in Mr. Turner's car. At the time of the alleged rape, Kimberly was 22-years-old and Mr. Turner was 35 years old. The state is charging Michael Turner with first-degree rape. The state will call two witnesses for the prosecution: Detective John Perry and Kimberly Fleming.

Mr. Turner pleaded “not guilty” to the charge of rape. The defense attorney will argue that Mr. Turner is a responsible and law-abiding man, and that the charge of rape is a grave mistake. The

defense will call two witnesses: Paul Franklin (a close friend of Mr. Turner's) and Michael Turner.

The medical evidence for this case was inconclusive, so it will not be presented in this summary.

PROSECUTION'S CASE

Witness No. 1: Detective John Perry

Direct Examination:

Detective Perry was assigned to Kimberly's case after her mother contacted the police when Kimberly confided in her about the rape. Detective Perry was calm during his entire testimony. He testified that when he arrived at the Fleming home he noticed that Kimberly stayed close to her mother, and told her mother that she was afraid. He stated that he drove Kimberly and her mother to the hospital so a doctor could examine Kimberly, and collect any available evidence. Detective Perry stated that he was responsible for keeping track of all evidence in the case.

Based on what you just read, where did Detective Perry take Kimberly and her mom?

- a. The police station*
- b. The Fleming's home*
- c. The hospital*

**If participants select "a" or "b", the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

Cross Examination:

Detective Perry acknowledged that he did not know why Kimberly was staying close to her mother or why she was afraid. Moreover, he stated that it is possible that Kimberly was afraid of him, either because he was a stranger or because he was a police officer.

Witness No. 2: Kimberly Fleming



Direct Examination:

Kimberly Fleming is 22-years-old. **She was calm during the direct examination.** She testified that on the afternoon of April 8, 2022 at approximately 3:30 in the afternoon she was walking home from work in the rain when a man offered her a ride home. She alleges that this man was her neighbor, Michael Turner. She further alleged that instead of driving her home, the defendant drove her to an isolated wooded area.

Based on what you just read, the defendant was?

- a. The Victim's neighbor*
- b. A stranger*

**If participants select "b", the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

She alleged that the defendant held her down and forced her to have sexual intercourse with him in his car. She testified that the defendant threatened her into silence by saying he would hurt her, and her family would not love her anymore if she told anyone about the incident. Despite these threats, she immediately told her mom and reported the assault to the police.

Cross Examination:



Kimberly was **crying during the cross examination**. Kimberly admitted that she does not always tell the truth. She also admitted that her parents have warned her against accepting rides from others without their permission. She thought that it was okay to accept a ride from her neighbor, especially since it was raining so hard.

DEFENDANT'S CASE

Witness No. 1: Paul Franklin

Direct Examination:

Mr. Franklin is a close and trusted friend of the defendant. He appeared collected as he explained that he has known Mr. Turner for 15 years and stated that Mr. Turner is a moral person of the utmost character. Mr. Franklin does not believe that the defendant is capable of rape. Moreover, Mr. Franklin believes that Mr. Turner would have confided in him if he had had any contact with Kimberly.

Based on what you just read, Mr. Franklin is a

- a. Trusted friend of the defendant*
- b. Dependable coworker of the defendant*
- c. A cousin of the defendant*

**If participants select "b" or "c", the following message will appear and they will be directed to*

the next block:

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

Cross Examination:

Mr. Franklin admitted that Mr. Turner could have done something outside of his knowledge.

Witness No. 2: Michael Turner

Direct Examination:

Mr. Turner calmly testified that he is an active volunteer in his community. He has an exemplary work record and he is recognized for his unselfish volunteer service to his community. He believes himself to be a responsible citizen. Mr. Turner testified that he has been happily married for five years to Ms. Justine Turner. Mr. Turner denied any sexual contact, at any time, with his 6-year-old neighbor. He believes that the charges against him are a grave mistake.

Based on what you just read, Mr. Turner's emotion was

- a. Calm*
- b. Angry*
- c. Sad*

**If participants select "b" or "c", the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

Cross Examination:

Mr. Turner admitted that there have been times when he has been driving alone and he has seen Kimberly. He asserted that he has never offered her a ride home.

INSTRUCTIONS TO THE JURY

Judge Albert Graham Judge Graham charged the jurors with the following instructions:

“You will find the defendant guilty of First-degree Rape under this Instruction if, and only if, you believe from the evidence beyond a reasonable doubt all of the following: “That in this county on or about April 8, 2022, and before the finding of the Indictment herein, the defendant engaged in sexual intercourse with Kimberly Fleming by forcible compulsion.”

For these instructions:

Forcible compulsion means physical or threat of physical force, express or implied, which places a person in fear of immediate death or physical injury to self or another person. Physical resistance on the part of the person subjected to forcible compulsion is not necessary to meet this definition.

Closing Arguments: Prosecution

The Prosecution concluded that Mr. Turner should be found guilty and convicted of rape in the first-degree. The victim's testimony made it clear the victim (Kimberly Flemming) was attacked and held down by the defendant who forced her to have sexual intercourse in his car.

Closing Arguments: Defense

The Defense argued that Mr. Turner is a responsible and law-abiding man and that the charge of rape is a grave mistake. The Defense noted that the only evidence presented against him was Kimberly's testimony and there was reasonable doubt that Mr. Turner forced Kimberly to engage in sexual intercourse. Therefore, a not guilty verdict should be rendered.

Condition 4: Calm in both direct and cross examination

The grand jury charges: On or about the 8th day of April, 2022, in Fayette County, Kentucky, the above named defendant committed first-degree rape by engaging in sexual intercourse with Kimberly Fleming by forcible compulsion.

The prosecution alleged that Michael Turner raped Kimberly Fleming on the afternoon of April 8, 2022 at approximately 3:30 P.M. in Mr. Turner's car. At the time of the alleged rape, Kimberly was 22-years-old and Mr. Turner was 35 years old. The state is charging Michael Turner with first-degree rape. The state will call two witnesses for the prosecution: Detective John Perry and Kimberly Fleming.

Mr. Turner pleaded "not guilty" to the charge of rape. The defense attorney will argue that Mr. Turner is a responsible and law-abiding man, and that the charge of rape is a grave mistake. The defense will call two witnesses: Paul Franklin (a close friend of Mr. Turner's) and Michael Turner.

The medical evidence for this case was inconclusive, so it will not be presented in this summary.

PROSECUTION'S CASE

Witness No. 1: Detective John Perry

Direct Examination:

Detective Perry was assigned to Kimberly's case after her mother contacted the police when Kimberly confided in her about the rape. Detective Perry was calm during his entire testimony. He testified that when he arrived at the Fleming home he noticed that Kimberly stayed close to her mother, and told her mother that she was afraid. He stated that he drove Kimberly and her mother to the hospital so that a doctor could examine Kimberly and collect any available evidence. Detective Perry stated that he was responsible for keeping track of all evidence in the case.

Based on what you just read, where did Detective Perry take Kimberly and her mom?

- a. The police station*
- b. The Fleming's home*

- c. The hospital*

**If participants select "a" or "b", the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

Cross Examination:

Detective Perry acknowledged that he did not know why Kimberly was staying close to her mother or why she was afraid. Moreover, he stated that it is possible that Kimberly was afraid of him, either because he was a stranger or because he was a police officer.

Witness No. 2: Kimberly Fleming



Direct Examination:

Kimberly Fleming is 22-years-old. **She was calm during the direct examination.** She testified that on the afternoon of April 8, 2022 at approximately 3:30 in the afternoon she was walking home from work in the rain when a man offered her a ride home. She alleges that this man was her neighbor, Michael Turner. She further alleged that instead of driving her home, the defendant drove her to an isolated wooded area.

Based on what you just read, the defendant was?

- a. The Victim's neighbor*
- b. A stranger*

**If participants select "b", the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

She alleged that the defendant held her down and forced her to have sexual intercourse with him in his car. She testified that the defendant threatened her into silence by saying he would hurt her, and her family would not love her anymore if she told anyone about the incident. Despite

these threats, she immediately told her mom and reported the assault to the police.

Cross Examination:



Kimberly was calm during the cross examination. Kimberly admitted that she does not always tell the truth. She also admitted that her parents have warned her against accepting rides from others without their permission. She thought that it was okay to accept a ride from her neighbor, especially since it was raining so hard.

DEFENDANT'S CASE

Witness No. 1: Paul Franklin

Direct Examination:

Mr. Franklin is a close and trusted friend of the defendant. He appeared collected as he explained that he has known Mr. Turner for 15 years and stated that Mr. Turner is a moral person of the utmost character. Mr. Franklin does not believe that the defendant is capable of rape. Moreover, Mr. Franklin believes that Mr. Turner would have confided in him if he had had any contact with Kimberly.

Based on what you just read, Mr. Franklin is a

- a. Trusted friend of the defendant*
- b. Dependable coworker of the defendant*
- c. A cousin of the defendant*

**If participants select “b” or “c”, the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

Cross Examination:

Mr. Franklin admitted that Mr. Turner could have done something outside of his knowledge.

Witness No. 2: Michael Turner

Direct Examination:

Mr. Turner calmly testified that he is an active volunteer in his community. He has an exemplary work record and he is recognized for his unselfish volunteer service to his community. He believes himself to be a responsible citizen. Mr. Turner testified that he has been happily married for five years to Ms. Justine Turner. Mr. Turner denied any sexual contact, at any time, with his 6-year-old neighbor. He believes that the charges against him are a grave mistake.

Based on what you just read, Mr. Turner’s emotion was

- a. Calm*
- b. Angry*
- c. Sad*

**If participants select “b” or “c”, the following message will appear and they will be directed to the next block:*

WRONG ANSWER! Your response to the last question was INCORRECT. Please make sure you read carefully so that you can answer ALL factual questions correctly. Please continue.

Cross Examination:

Mr. Turner admitted that there have been times when he has been driving alone and he has seen Kimberly. He asserted that he has never offered her a ride home.

INSTRUCTIONS TO THE JURY

Judge Albert Graham Judge Graham charged the jurors with the following instructions:

“You will find the defendant guilty of First-degree Rape under this Instruction if, and only if, you believe from the evidence beyond a reasonable doubt all of the following: “That in this county on or about April 8, 2022, and before the finding of the Indictment herein, the defendant

engaged in sexual intercourse with Kimberly Fleming by forcible compulsion.”

For these instructions:

Forcible compulsion means physical or threat of physical force, express or implied, which places a person in fear of immediate death or physical injury to self or another person. Physical resistance on the part of the person subjected to forcible compulsion is not necessary to meet this definition.

Closing Arguments: Prosecution

The Prosecution concluded that Mr. Turner should be found guilty and convicted of rape in the first-degree. The victim's testimony made it clear the victim (Kimberly Flemming) was attacked and held down by the defendant who forced her to have sexual intercourse in his car.

Closing Arguments: Defense

The Defense argued that Mr. Turner is a responsible and law-abiding man and that the charge of rape is a grave mistake. The Defense noted that the only evidence presented against him was Kimberly's testimony and there was reasonable doubt that Mr. Turner forced Kimberly to engage in sexual intercourse. Therefore, a not guilty verdict should be rendered.

Appendix D. Manipulation Questions

After reading the trial summary, each participant answered two manipulation check questions. The questions asked what the victim's emotional demeanor was during the direct-examination and the cross-examination. If the participant answered either question wrong, then the participant could complete the study, but the data was later removed from the dataset.

What was the emotion of the Victim, Kimberly Fleming, during her Direct Examination?

- A. Crying
- B. Calm

What was the emotion of the Victim, Kimberly Fleming, during her Cross Examination?

- A. Crying
- B. Calm

Appendix E. Verdict Questions

Participants responded to questions regarding their verdict (Guilty or Not Guilty) and reasoning for why they gave the verdict they did. They provided a confidence rating on a 10-point Likert scale.

What is your verdict?

- A. Guilty
- B. Not Guilty

What is your reasoning for your verdict?

How confident are you in your verdict?

1(*not at all*) – 10 (*Completely*)

Appendix F. Victim Questionnaire

Participants answered questions rating the victim on a 10-point Likert scale for believability, trustworthiness, and credibility. Participants also ranked how much the photos of the victim influenced their verdict and provided reasoning for their rating.

How believable was the Victim?

1(*Not at all*) – 10 (*Completely*)

How trustworthy was the Victim?

1(*Not at all*) – 10 (*Completely*)

How credible was the Victim

1(*Not at all*) – 10 (*Completely*)

How much did the photos of the victim influence your verdict decision?

1 (*Not at all*) – 10 (*Completely*)

Please explain your rating to the last question in regard to the victim's photos influence on your verdict decision.

Appendix G. Defendant Questions

Participants answered questions rating the defendant on a 10-point Likert scale on credibility, believability, honesty, responsibility, and the amount the defendant is to blame. The participant also rated how sympathetic and angry they were towards the defendant and how vulnerable they believed the defendant perceived the victim to be.

How credible was the defendant?

1(*Not at all*) – 10 (*Completely*)

How believable was the defendant?

1(*Not at all*) – 10(*Completely*)

How honest was the defendant?

1(*Not at all*) – 10(*Completely*)

How responsible was the defendant for the incident?

1(*Not at all*) – 10(*Completely*)

How much was the defendant to blame for the incident?

1(*Not at all*) – 10(*Completely*)

How sympathetic are you toward the defendant?

1(*Not at all*) – 10(*Completely*)

How angry are you toward the defendant?

1(*Not at all*) – 10(*Completely*)

How vulnerable did the defendant perceive the victim to be?

1(*Not at all*) – 10(*Completely*)

Appendix H. Demographic Questionnaire

Participants entered their demographic responses. The questions were not required.

1. Are you a citizen of the United States?

Yes

No

2. Are you:

Male

Female

Transgender male

Transgender female

Other

3. What is your age?

4. Have you ever been convicted of a felony?

Yes

No

5. What is your race? [*Participants can select multiple answers.*]

Caucasian

Black/African American

Native American/Alaska Native

Asian or Pacific Islander

Hispanic/Latino

Middle Eastern

Other

—
6. We are interested in your political beliefs. Would you consider yourself more liberal or conservative? Please select an option from this rating scale.

- Very Liberal
- Liberal
- Slightly Liberal
- Moderate
- Slightly Conservative
- Conservative
- Very Conservative

7. Have you ever served on a Jury?

___ yes

___ no

8. If yes, how many times?

9. For each case you served as a juror, what was the crime charged and what was the verdict?