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UNIVERSITY OF KENTUCKY
LEWIS HONORS COLLEGE

**Juror Perceptions of Heterosexual and Same-Sex Spousal Rape in
the Courtroom**

by

Haley Hintz

AN UNDERGRADUATE THESIS SUBMITTED
IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DISTINCTION OF UNIVERSITY HONORS

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Abstract

Approximately 10-15% of American women will be raped by a spouse in their lifetime (Bureau of Justice Statistics, 2002). Research suggests that the American public regards spousal rape as *wrong but not rape* (Lynch et al., 2017). Research on spousal rape has centered on heterosexual couples despite a higher likelihood that LGBTQ+ individuals will experience severe intimate partner violence (IPV) (Rollé et al., 2019). Therefore, the present study investigated mock juror perceptions of spousal rape of heterosexual and same-sex couples in the courtroom. We employed a 2 (victim gender) x 2 (defendant gender) x 2 (participant gender) between-participants design. Participants were asked to read a vignette about a spousal rape trial, render a verdict of *guilty* or *not guilty*, and rate variables related to the case (e.g., severity of the crime). There were two hypotheses for this study: We predicted a main effect of participant gender in that women would be more pro-victim (e.g., higher blame ratings) than men (Gerber et al. 2006; Golding et al., 2016; Wasarhaley et al, 2017). There was support for this hypothesis. Women blamed the defendant more than men. We also predicted a main effect on political orientation such that liberal participants will be more likely to render pro-victim judgements (for example, rate the victim as more moral), than conservative participants (Graf, 2018; Kurtzleben, 2017). There was support for this hypothesis. Liberal participants rendered more guilty verdicts than conservative participants. Exploratory analyses found that differences between heterosexual and same-sex spousal rape generally did not emerge.

Keywords: spousal rape, juror decision making, sexual orientation

Juror Perceptions of Heterosexual and Same-Sex Spousal Rape in the Courtroom

Spousal rape is a nationwide crisis, although the severity of this crime often goes unrecognized. Approximately 10-15% of all American women will be raped by a spouse in their lifetime (Bureau of Justice Statistics, 2002). Yet, spousal rape is the most underrepresented form of sexual violence; it is estimated that up to 77% of incidences go unreported to law enforcement (Bureau of Justice Statistics). In recent years, there has been an increase in research investigating intimate partner violence (IPV), of which spousal rape is a subtype, specifically with the emergence of social movements illuminating the prevalence of sexual assault. IPV is a broad term and includes acts of violence between individuals who know each other, individuals who are in a dating relationship, and individuals who are married; These acts of violence include the use of physical force or power, threatened or actual against a person or group that results in injury, psychological harm, maldevelopment, or deprivation (World Health Organization [WHO], 2002). In the United States, research on IPV has typically focused on heterosexual relationships, and it is known that 21.2% of heterosexual women are likely to be a victim of IPV (Messinger, 2010). However, it has been noted that there is an “academic silence” regarding the study of spousal rape especially in same sex couples despite a higher likelihood of LGBTQ+ individuals to experience severe or prolonged IPV (Rollé et al., 2019). For example, approximately 61% of bisexual women, 43.8% of lesbian women, and 37% of bisexual men will experience violence from a partner in their lifetime (Rollé et al.). The purpose of the present study is to investigate perceptions of spousal rape in heterosexual and same-sex couples in the courtroom.

Despite the relatively high rates of IPV, research on attitudes towards spousal rape has shown that it is not perceived as a serious issue by the public. For instance, social norms of gendered sexual behaviors have been linked to the general acceptance of forced sexual acts in

relationships (Lynch et al, 2017). In this study of attitudes towards sexual assault, researchers presented participants with a survey consisting of questions in the following five domains: (a) participant demographic information, (b) partner sexual behavior norms, (c) acceptability of nonconsensual partner sex, (d) *wrong but not rape* judgments, and (e) charging partner rape judgments. The participants were assigned to a condition where a heterosexual couple was either married or the couple was cohabitating but unmarried. The study found that with regard to expectations of sex between heterosexual intimate partners, males agreed more than females that it is okay to coerce a partner to have sex. Moreover, the more a person believes that it is okay to coerce a partner to have sex, the more likely they were to believe that the act was *wrong but not rape*. In another study, research found that men with a *benevolent* sexist attitude in contrast to a *hostile* sexist attitude are more likely to believe in *wrong not rape judgements* (Swami & Tovee, 2013). This supports the view that while the defendant should have been more attentive to his partner's wishes, consent is insinuated within the context of marriage and the situation should not be considered rape. Therefore, men who hold these benevolently sexist attitudes actually believe that they are helping women conform to social expectations of marriage.

Beliefs about rape may be influenced by a variety of demographic factors such as a person's political ideologies. Data proves that most people who self-identify as liberal are more likely to vote along Democratic party lines (Gilberstadt & Daniller, 2020), and most people who identify as conservative vote along Republican party lines (Pew Research Center, 2019).

Kurtzleben (2017) examined how attitudes between self-reported Democrat and Republican voters differed towards attitudes of sexual crimes. Researchers conducted an online poll where they asked Americans to rate their agreement with certain statements on a scale of 1 (*strongly disagree*) – 7 (*strongly agree*). Results showed that 94% of Democrats indicated that sexual

violence crimes were a serious problem in the United States compared to only 54% of Republicans. In a similar correlational survey conducted by the Pew Research Center (2018) studying attitudes toward the *#metoo* movement, findings demonstrated that Democrats were more likely to believe that women who report sexual assault in the workplace should be believed (60%), exhibiting pro-victim attitudes, than Conservatives (28%). In fact, conservatives are even more likely to endorse the idea that women falsify claims of sexual assault (34%) than liberals (29%).

Despite the public's general apathy towards spousal rape, Federal Law has developed protections for victims in recent years. It is important to note that rape is a broad term defined as "the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim" (The United States Department of Justice, 2012). This definition of rape specifies that the victim or perpetrator can be of any gender; the previous definition defined as "a man forcibly penetrating a woman through her vagina," had not been updated since 1927 and was limited to female victims assaulted by a male perpetrator (The United States Department of Justice). As recently as 2017, all states in the United States have criminalized rape within the context of marriage. Yet, in 20 states, there are legal distinctions between marital rape and stranger rape; these distinctions constitute allowances instead of restrictions (Levine, 2017). This means that many states perceive the oath of marriage to be a universal declaration of sexual consent granting (usually) a husband access to his wife's body. Consequentially, these distinctions can lead to minimized sentencing; in South Carolina for example, First and Second Degree Rape carry 20-30 year sentence minimums whereas the maximum sentence for Marital Rape is only 10 years (South Carolina Code Ann. § 16-3-651).

While spousal rape is illegal, it is still highly difficult to prosecute. For that reason, only ~32% of rapes of intimate partner rape (IPR) are prosecuted and only ~36% of those cases result in a conviction (Tjaden & National Institute of Justice, 2000). In comparison, the conviction rate for non-IPR rape is ~62% (Tjaden & Thoennes, 2006). Allegations of spousal rape are not believed in the courtroom due to the likelihood of previous sexual consent, the likely lack of witnesses (Woolley, 2007), lack of physical evidence (i.e., “he said she said”), and prevailing rape myths. Rape myths are prejudicial beliefs that jurors hold about what justifies a crime as “real rape” (Lundrigan et al., 2019). For example, prevailing rape myths include how many people perceive sex within marriage as a “wifely duty” (Logan et al., 2007) and that sex in marriage is a private matter (Logan & Cole, 2011). Regarding sex as a private matter, for women who have experienced IPV, 82% said that they did not discuss their sex life with anyone (Logan & Cole). Therefore, these myths have led to the normalization of violence within marriage and can prevent intervention by law enforcement or jurors who feel as that instances of spousal rape should not be handled through the legal system.

Further evidence showing the difficulty of prosecuting spousal rape can be seen in research investigating perceptions of spousal rape in the courtroom. For example, a study by Lynch et al. (2018) sought to determine how community members perceived married and non-married couples who were on trial for Rape in the First Degree. Participants were presented with a vignette describing a couple who had been together for six years and were either married or unmarried. The vignette said that after a period of fighting in their relationship, the couple had not had sex in three months. When the victim (the wife or the girlfriend) stated she was too tired to have sex, the defendant (the husband or the boyfriend) held her down in the bed while engaging in sexual intercourse. Lynch et al. found that when given different verdict options (not

guilty, guilty of Rape in the First Degree, Intimate Partner Rape, or Misconduct), only 4% of men and 13% of women found the defendant guilty across both conditions and there was no significant difference between married and unmarried couples.

Regarding research investigating legal decision-making and same-sex couples, there is no research that directly addresses this issue. However, previous research regarding domestic violence shows that mock jurors hold biases against same-sex couples. An experiment by Stanziani et al. (2017) presented participants with a vignette detailing an incident of marital domestic violence by a male defendant who abused either a female victim or a male victim. The participants were asked to rate how morally responsible they believed the defendant to be for the crime on a scale of 0 (*not at all responsible*) - 100 (*extremely responsible*). Participants rated the male more morally responsible for the crime assaulting the female victim than the male victim. This suggests there are statistically significant differences in perceptions of LGBTQ+ individuals in court. Moral reprehension and homophobic attitudes may be what leads to negative perceptions of LGBTQ+ victims – jurors find LGBTQ+ victims more responsible than non-LGBTQ+ victims (Stanziani et al.).

Research has also been conducted on perceptions of same-sex couples in other types of legal contexts. From the moment the prosecution process begins (i.e., when local law enforcement agencies arrive to the scene of a crime), there have already been proven disparities in the legal process of prosecuting interpersonal violence based on sexual orientation. For instance, in a study of police officers, researchers found that upon arrival at a scene of intimate partner violence, law enforcement is less likely to arrest the perpetrator if the violence took place between a same-sex couple (Franklin et al., 2019). This suggests that when there is limited public awareness of the varying forms of IPV, it leads to more stigma towards a same-sex IPV victims.

Such unequal treatment of same-sex victims results in barriers towards legal prosecution. However, with more data on disparities in the IPV prosecution process, it may become possible to address judicial biases (Turchik et al., 2015). It should be noted that such treatment by the legal system has resulted in, gay, non-white, male individuals (Guadalupe, 2015) and lesbian women (Alhusen et al., 2010) not reporting an incident of sexual assault to the police stemming from belief that their report will not be taken seriously or believing that the violence was their fault.

In order to further investigate perceptions of same-sex spousal rape in the courtroom, the present study employed a 2 (victim gender) x 2 (defendant gender) x 2 (participant gender) between-participants design. Participants received a trial summary describing a spousal rape case where the victim testifies that their spouse raped them in their shared residence. After reading the trial, the participants rendered a verdict of *guilty* or *not guilty* and answered questions about the victim and defendant (e.g., how credible was the victim). Based on previous research this study had two hypotheses:

H1: Consistent with research investigating sexual assault in the courtroom, I predict a main effect of participant gender; females will be more pro-victim (for example, render more guilty verdicts) than males (Gerber et al. 2006; Golding et al., 2016; Wasarhaley et al, 2017).

H2: Based on previous research correlating political ideology to beliefs about sexual crimes, I predict a main effect on political orientation. Liberal leaning participants will be more likely to render pro-victim judgements (for example, rate the victim as more moral), whereas conservative leaning participants will be more likely to render pro-defendant judgements (for example, rate the defendant as more credible) (Graf, 2018; Kurtzleben, 2017).

Exploratory Analyses:

We conducted exploratory analyses to investigate whether any of the other independent variables lead to main effects or interactions.

Defendant Gender

There may be a main effect on perpetrator gender such that male defendants will receive more guilty verdicts and lower pro-defendant ratings than female defendants. This possibility is based on research showing that when males and females are accused of the same crimes, males are convicted more (Gerber et al., 2006). Additionally, males account for 99.6% of convicted rapists in the United States (Bureau of Justice Statistics, 1997). Therefore, commonly held stereotypes of men being more aggressive (Kay & Jefferies, 2010) may lead to men being perceived as a more conceivable perpetrator of violent crime than females. It has been shown male perpetrators will lead to more guilty verdicts and pro-victim attitudes (e.g., victim credibility) than female perpetrators (Gerber et al., 2006).

Victim Gender

In addition, victim gender may lead to a main effect. Cases with female victims may lead to more guilty verdicts and higher pro-victim ratings than male victims based on research showing that when a victim in a specific case matches the normative stereotype of the victim, jurors are more likely to convict the defendant (McKimmie et al., 2014). In the United States, this has been the case since 94.5% of convicted rape victims are female (Bureau of Justice Statistics, 1997) and women are seen as being less violent (Gilbert, 2002). Because women may be viewed as the stereotypical rape victim, previous research has also suggested male victims are perceived as more blameworthy and deserving of less sympathy than victims who are female (Stanziani et al., 2017).

Interactions

Finally, there may be interactions such as that between defendant gender and victim gender. Based on prior research (Hassouneh & Glass, 2008; Salertero, 2017; Wasarhaley et al, 2017), victim and perpetrator gender may affect the percentage of rendered guilty verdicts (from highest to lowest) in the following order: a male perpetrator with a female victim, same-sex female victims, same-sex male victims, and a female perpetrator with a male victim. This possible ordering is based on several pieces of evidence. First, most convicted rapists in the United States are men and most victims are women. For rapists who have been convicted in the United States, 99.6% are men and 94.5% of victims are female (Bureau of Justice Statistics, 1997). This stereotypical rape scenario suggests that this condition should result in the highest number of guilty verdicts (Bureau of Justice Statistics).

Second, regarding same-sex couples and perceptions of spousal rape, there is some research supporting the informal prediction that same-sex female victims will receive fewer guilty verdicts than the stereotypical heterosexual female victim. Salerno et al. (2017) found that there were differences in how gay and lesbian defendants are punished in court. These researchers found that when participants were presented with a case of two juveniles engaging in consensual sex, participants rendered the defendant guilty as a sex offender more often when they were a gay male than when they were a lesbian female. This may result in perceptions of gendered expectations of sexual behavior. For example, because lesbian relationships are viewed as having equal power dynamics, jurors may not believe that violence between women occurred at all or they will believe that the sex was consensual (Wasarhaley et al, 2017).

Third, for same-sex male relationships, jurors may view same-sex male couples more negatively overall because of stereotypes that they are overtly sexual (Sánchez et al., 2009). Also, they may not believe the victim because of the perception that a man could have had the

strength to stop the violence from occurring if it was unwanted. A study of gay male rape myths by Chapleau et. al (2008) revealed that 16.4% of male college students and 5.8% of female college students agreed with the statement that “men who are raped by other men are somewhat to blame for not escaping or fighting off the man” (p. 14). However, in some other limited studies of interpersonal violence, researchers “found little support for the idea that people would be less concerned about domestic violence in gay and lesbian than in heterosexual relationships” (Seelau & Seelau, 2005, p. 364).

Finally, the condition in which there is a male victim with a female perpetrator will likely receive the fewest guilty verdicts. In general, male victims of rape are viewed negatively. In a sample of college students, 21.2% of men and 17.2% of women do not believe that it is even possible for a man to be raped by a woman (Chapleau et. al, 2008). Compared to men who are raped by other men, men who are raped by women are viewed as more likely to have enjoyed the assault (Smith et al., 1988). Additionally, only 0.4% of convicted rapists are women (Bureau of Justice Statistics, 1997).

Method

Participants

Using Mechanical Turk, an Amazon-based participant recruiting service, the study recruited both male and female participants. Participants received 50 cents for completing the online survey. In total, the final sample consisted of 235 participants; there were 148 females and 86 males. The original sample consisted of 247 participants, but 12 participants were deleted if they answered manipulation check questions incorrectly.

The subjects were primarily Caucasian (79%) with ages ranging from 18-83. The University of Kentucky Institutional Review Board approved collection of data for this

experiment. This study required at least 119 participants for sufficient power (.95) to identify a small-sized effect (.15); (GPower Software; Faul, Erdfelder, & Lang, 2009).

Design

In this experiment, we used a 2 (victim gender) x 2 (defendant gender) x 2 (participant gender) between-participants design. The dependent variables measured verdict and various perceptions of the victim and defendant (described below).

Materials

Trial summary. This mock-juror study consisted of a fictional spousal rape trial in the state of Kentucky that follows the typical order of courtroom proceedings including the prosecution's case, the defendant's case, cross-examinations, and juror instructions from the trial judge (see example of a trial in Appendix A). The trial described a case in which the defendant was accused of raping their spouse in a shared residence. Therefore, the study examined the perceptions of spousal rape on two heterosexual couples and two same-sex couples. The first witness called by the prosecution was the victim; they testify that they have been living with their spouse for three years. On this date night, the victim refused the defendant's sexual advances at which point the defendant became angry and forced him or her to engage in forms of sex. A second witness was the police officer who was called to the scene. He testified that the victim was clearly shaken but refused medical attention.

The first witness in the defense's case was the defendant, the spouse of the victim. The defendant testified that while the sex may have been a bit rough, she would never engage in non-consensual sex. The second witness for the defense was the victim's coworker, who testified that the victim stated that they were excited to spend a romantic night with their spouse later that day.

After both the prosecution and the defense presented their case, the judge issued instructions regarding the legal standard for conviction, and the parties made closing statements.

Throughout the trial, participants answered questions to verify that they were thoroughly reading and understanding each condition. Two of these questions were manipulation-check questions designed to confirm that the participant understood the condition of the experiment to which they were assigned. Therefore, the manipulation questions asked the participant to correctly identify the gender of the victim and the defendant. In addition, there were five comprehension check questions designed to assess the participants' reading of the details in the trial. (See Appendix B for manipulation and comprehension check questions).

Trial questionnaire. Participants were asked to render their own "guilty" or "not guilty" verdict and then rated confidence in their verdict on the same 1 (*not at all*) to 10 (*completely*) scale. Next, participants briefly explained in their own words what led them to their verdict. Similarly, on a 1 (*not at all*) to 10 (*completely*) scale, the participants rated items about their attitudes towards the victim and defendant (described below) and other aspects of the trial (See Appendix C for a full list of dependent variable measures).

Confidence. Mock jurors rated how confident they were in their judgement of guilty or not guilty to be on a scale of 1 (*not at all*) to 10 (*completely*)

Credibility. Mock jurors rated how credible they believed the victim and defendant to be on a scale of 1 (*not at all*) to 10 (*completely*).

Morality. Mock jurors rated how moral they believed the victim and defendant to be on a scale of 1 (*not at all*) to 10 (*completely*).

Sympathy. Mock jurors rated their level of sympathy towards the victim and defendant on a scale of 1 (*none at all*) to 10 (*a lot*).

Demographics. Participants were asked to self-report a series of demographic information including their age, citizenship status, gender, ethnicity, marital status, political orientation, and their number of children, if any. We coded marital status on a binary scale. Participants who were married, divorced, separated, widowed, in a relationship (living together or apart) were coded as 1 whereas participants who are singled were coded as 0. Political orientation was coded on a continuous scale from 1 (*very liberal*) – 7 (*very conservative*).

Procedure

Participants were recruited through Mechanical Turk. Then, were directed to the study presented on Qualtrics.com. First, they read and signed an informed consent sheet. Moving forward, participants learned about the definition of a criminal trial in the American legal system and answered a comprehension check question about the definition they just read before proceeding. Participants were then presented with the trial. Participants were allowed to take as much time as they would like to read each condition once, but they could not go backwards. Throughout the trial, participants were asked comprehension and manipulation check questions. The study took approximately 10-20 minutes to complete from start to finish.

Results

Descriptive statistics for all variables as a function of participant gender are presented in Table 1. We utilized logistic regression to examine the impact of independent variables on verdict. We employed a step wise linear regression to investigate the impact of predictors on our dependent rating variables (e.g., victim credibility, victim blame, defendant credibility, defendant blame). We entered participant's gender, age, marital status, and political orientation in Step 1, the victim and defendant gender in Step 2, and the interactions between victim and defendant

gender, participant and victim gender, and participant and defendant gender in Step 3. Table 1 presents the means and standard deviations for all variables measured.

We created four subscales based on materials from previous research (e.g., Golding et al., 2016; Golding et al., 2015) that examined rape in a fictitious trial context: victim credibility, victim blame, defendant credibility, and defendant blame. (1) For the *victim credibility subscale*, the average of victim credibility, victim honesty, and victim believability was measured (Cronbach's $\alpha = .869$). (2) Similarly, for the *defendant credibility subscale*, defendant credibility, defendant honesty, and defendant believability ratings were averaged (Cronbach's $\alpha = .880$). (3) the *victim blame subscale* averaged ratings of victim responsibility, victim blame, and anger towards the victim (Cronbach's $\alpha = .814$). (4) Finally, *defendant blame subscale* averaged ratings of defendant responsibility, defendant blame, and anger towards the defendant (Cronbach's $\alpha = .858$).

Hypothesis 1: Participant Gender

Hypothesis 1 was partially supported. For verdict, although females (26%) did render a higher percentage of guilty verdicts than males (16%), this difference was not significant at Step 1, $\chi^2 = 2.786, p = .095$, and did not produce a significant effect of participant gender (OR = .568, $p = .103$). However, Hypothesis 1 was supported at Step 1 for the *defendant blame subscale*, $R_2 = .342, F(6, 235) = 7.603, p < .001$ —female participants had more pro-victim judgements than male participants, ($\beta = -.351, t = 7.837, p = .011$).

Hypothesis 2: Political Orientation

Hypothesis 2 was fully supported. The logistic regression reached significance at Step 1, $\chi^2(1) = 8.569, p = .005$, and yielded a significant effect of political orientation, (OR = .778) – participants who identified as liberal were more likely to find the defendant guilty than

participants who identified themselves as conservative (see Figure 1). The linear regression was significant at Step 1 for victim morality, $R_2 = .088$, $F(4, 235) = 5.522$, $p = .000$, sympathy towards the victim, $R_2 = .109$, $F(4, 235) = 7.012$, $p = .000$, victim credibility, $R_2 = .071$, $F(4, 235) = 4.405$, $p = .002$, defendant blame, $R_2 = .117$, $F(4, 235) = 7.603$, $p = .000$, defendant morality, $R_2 = .055$, $F(4, 235) = 3.329$, $p = .011$, sympathy for the defendant, $R_2 = .062$, $F(4, 235) = 3.774$, $p = .005$, victim blame, $R_2 = .096$, $F(4, 235) = 6.140$, $p = .000$, and defendant credibility, $R_2 = .054$, $F(4, 235) = 3.277$, $p = .012$. Liberal participants were more likely to display pro-victim attitudes by rating the victim and defendant higher in conditions such as victim credibility, ($\beta = -0.227$, $t = -3.506$, $p = .001$), victim morality, ($\beta = -0.317$, $t = -4.080$, $p = .000$), sympathy towards the victim, ($\beta = -0.432$, $t = 7.519$, $p = .000$), and defendant blame, ($\beta = -0.351$, $t = -7.837$, $p = .000$) than conservative participants. In contrast, conservative participants were more likely to display more pro-defendant attitudes by rating the victim and defendant higher in conditions such as defendant credibility overall, ($\beta = 0.234$, $t = 3.484$, $p = .001$), defendant morality, ($\beta = 0.215$, $t = 2.994$, $p = .003$), sympathy for the defendant, ($\beta = 0.313$, $t = -2.174$, $p = .001$), and victim blame, ($\beta = 0.300$, $t = 4.163$, $p = .000$) than liberal participants.

Exploratory Analysis

Defendant Gender

There was partial support for the idea that male perpetrators would be rated more harshly than female perpetrators. The manipulation of defendant gender was not significantly associated with more guilty verdicts—the logistic regression model did not reach significance at Step 2, $\chi^2(1) = .593$, $p = .441$, meaning that jurors were not more likely to render a guilty verdict when the defendant was male than female (OR = 1.275, $p = .442$). Yet, results indicated a significant main effect on defendant gender for trial rating variables at Step 2 for sympathy towards the

victim, $R_2 = .159$, $F(6, 235) = 7.202$, $p = .000$, and sympathy towards the defendant, $R_2 = .096$, $F(6, 235) = 4.049$, $p = .001$. Participants report more sympathy towards the victim, ($\beta = -0.753$, $t = -2.174$, $p = .031$), and have less sympathy for the defendant, ($\beta = 0.808$, $t = 2.210$, $p = .028$), when the defendant is male than female.

Victim gender

Data indicated partial support for the prediction that there would be a main effect on victim gender in that female victims would receive more pro-victim ratings than male victims. Our analysis found that victim gender was not a significant predictor of verdict at Step 2, $\chi^2(1) = .078$, $p = .780$, and there was no significant effect on victim gender (OR = 0.916, $p = .780$). It was a predictor for five of the rating dependent variables such as sympathy towards the victim, $R_2 = .159$, $F(6, 235) = 7.202$, $p = .000$, morality of the victim, $R_2 = .124$, $F(6, 235) = 5.359$, $p = .000$, severity of the crime, $R_2 = .058$, $F(6, 235) = 2.331$, $p = .033$, sympathy towards the defendant, $R_2 = .096$, $F(6, 235) = 4.049$, $p = .001$, and victim credibility, $R_2 = .098$, $F(6, 235) = 4.117$, $p = .001$. When the victim was female, the participants were more likely to feel more sympathy for the victim, ($\beta = -1.084$, $t = -2.979$, $p = .003$), rate the victim as more moral, ($\beta = -0.768$, $t = -2.657$, $p = .008$), believe that the crime was more severe, ($\beta = -0.996$, $t = -2.711$, $p = .007$), have less sympathy for the defendant, ($\beta = 0.693$, $t = 2.012$, $p = .045$), and believe the victim is more credible overall, ($\beta = -0.669$, $t = -2.212$, $p = .028$) than when the participant is male.

Interactions

The interaction between defendant and victim gender allowed for deeper analysis examining attitudes towards same-sex and heterosexual couples. The prediction that same-sex couples would be convicted at lower rates than heterosexual couples was not supported. Our

analysis found that the interaction between victim gender and defendant gender was not a significant predictor of verdict at Step 3, $\chi^2(1) = .374$, $p = .541$, (OR = 1.091, $p = .539$).

However, the results indicated significant interactions between victim gender and defendant gender on two rating variables at Step 3: (1) severity of the crime, $R_2 = .076$, $F(9, 235) = 2.066$, $p = .034$, and (2) morality of the victim, $R_2 = .176$, $F(9, 235) = 5.322$, $p = .000$. Consistent with our prediction, in the condition where there was a female perpetrator and a male victim, participants believed the crime was less severe, ($\beta = 1.567$, $t = 2.093$, $p = .037$), and scored the victim as less moral, ($\beta = 1.845$, $t = 3.201$, $p = .002$), than in the other three conditions. However, when there was a male victim with a male defendant, there was no significant difference on any variable than when the victim was female with a male or female defendant (see Figure 2).

The interaction between victim gender and participant gender was not a significant predictor of verdict, $\chi^2(1) = 1.136$, $p = .336$, (OR = .838, $p = .297$). There was one significant interaction between victim gender and participant gender on trial rating variables at Step 3 for victim blame, $R_2 = .176$, $F(9, 235) = 4.070$, $p = .000$. When the participant was female, they were less likely to blame a female victim than male participants, ($\beta = -1.189$, $t = -2.091$, $p = .038$). The interaction between defendant gender and participant gender did not predict verdict outcomes, $\chi^2(1) = .338$, $p = .603$, ((OR = .911, $p = .565$) and was not significant on any dependent rating measures.

Mediation

To analyze mediation effects, we utilized Process (Hayes, 2013). The effects of mediation are significant when the upper and lower limits of the 95% confidence interval (CI) do not cross the horizontal axis or 0. Results indicated that jurors' ratings of defendant blame mediated the relationship between verdict and participant gender, 95% CI: [-1.6710, -.1327].

Women blamed the perpetrator more than men leading to an increase in guilty verdicts in comparison to male participants (see Figure 3).

Discussion

The goal of the present study was to investigate jurors' perceptions of heterosexual and same-sex spousal rape. Overall, the results indicated that same-sex spousal rape cases are viewed similarly by jurors to heterosexual spousal rape cases with a male perpetrator. However, heterosexual cases with a female perpetrator are viewed as the least severe by jurors. The largest predictor of guilty verdicts was participant's political orientation—when jurors were liberal, they were more likely to render a guilty verdict than when they were conservative.

There was support for the hypothesis that female participants would be more pro-victim than male participants. Although participant gender was not significantly associated with verdict, the results trended in the direction of our hypothesis such that women rendered a higher percentage of guilty verdicts than men. However, very few participants were willing to convict in cases of spousal rape consistent with previous literature (see Lynch et al., 2018). Overall, 77.9% of verdicts rendered in this trial were *not guilty*. Because jurors typically regard spousal rape as *wrong but not rape* (Lynch et al., 2017) and believe that marriage implies continuous consent to sex (Logan et al., 2017), the manipulation of gender may not have impacted verdict likely due to a floor effect. That is, overall, few jurors were willing to send someone to jail for the crime of rape within marriage. However, participant gender did lead to a main effect on the trial rating variable of defendant blame. Specifically, women attributed more blame to the defendant for the crime than men, a result consistent with previous research demonstrating that women exhibit more pro-victim attitudes (Gerber et al. 2006; Golding et al., 2016; Wasarhaley et al, 2017). Similarly, during the exploratory analysis, we found one interaction between participant gender

and victim gender. When the participant was female, they attributed less blame to female victims than male participants. Because women are more likely victims of rape than men (Bureau of Justice Statistics, 1997), female participants showed in-group favorability by exhibiting more pro-victim attitudes towards women.

Regarding political orientation, self-identified liberal leaning participants were more likely to render guilty verdicts and exhibit more pro-victim attitudes (e.g., crime severity) than conservative leaning participants. The present study supported previous research that showed liberal individuals were more likely to believe that sexual assault is a serious problem in the United States (Kurtzleben, 2017). In contrast, conservative participants were more likely to support pro-defendant attitudes than liberal participants consistent with prior findings that conservatives were more likely to believe that victims falsify claims of sexual assault than liberals, therefore, empathizing more with the defendant (Graf, 2018). It is possible that liberal participants hold a stricter definition of rape than conservative participants when it comes to spousal rape. Thus, further research should examine if political ideology leads to *wrong but not rape* judgments.

Regarding the exploratory analyses conducted in the present experiment, there were several interesting findings. First, victim gender did not impact guilty verdicts but was a significant predictor for other trial rating variables. For example, jurors held more pro-victim attitudes (i.e., had more sympathy towards the victim) when the victim was female than when the victim was male. Consistent with research by Stanziani (2017), male victims likely received less sympathy from participants because they represented a counterstereotypical victim of the crime. Since 94.5% of reported rape victims are female, it is likely that jurors more easily conceptualized females as the victim and, in turn, rated female victims higher on pro-victim

measures such as victim credibility than male victims who represent a less conceivable victim (Bureau of Justice Statistics, 1997).

Second, defendant gender also did not impact verdict judgements, but influenced some dependent rating variables. Defendants were viewed more harshly when they were male than female overall. Previous research has suggested that males are viewed as more violent than females (Kay & Jefferies, 2010) and that females are perceived as less likely perpetrators of violent crime (Gerber et al., 2006). In turn, the participants in this study likely reported less sympathy towards male perpetrators than female perpetrators of spousal rape because they believed that the victim was telling the truth about the incident and that the defendant deserved their punishment.

Finally, interactions between victim and defendant gender revealed that same-sex couples are equally as likely to receive guilty verdicts as heterosexual couples when the perpetrator was male. However, the female perpetrator and male victim condition led to the lowest ratings by jurors of the severity of the crime out of the four conditions. Therefore, interactions between victim and defendant gender are likely explained by perceptions of *gender* stereotypes and whether jurors think it is probable that the crime occurred. Past research has shown that neither men nor women are likely to believe that a man can be raped by a woman (Chapleau et. al, 2008) because it is inconsistent with expectations of rape victims to be feminine, weak, and defenseless (Cahill, 2000). In contrast, jurors can believe that women could be raped by a man because women would have more difficulty resisting a male perpetrator. Same-sex couples may be perceived similarly as female rape victims with a male perpetrator because same-sex couples are stereotyped as egalitarian (Hassouneh & Glass, 2008). With regard to gender role stereotypes, this means that when jurors picture the crime, they can conceive that it would be difficult for a

same-sex victim to resist rape by their same gender partner because they would likely be similar in size.

Additionally, differences in the rating of crime severity between the heterosexual couple conditions may be accounted for by societal expectations of the gendered love/sex binary which is the belief that women desire romance from their husband whereas men desire sex from their wife (Wade & Ferree, 2018). For this reason, jurors cannot conceive that a husband could be raped by his wife because men are expected to always welcome sex. Also, previous research concluded that people who endorse the belief that men should demand sex from a partner also agree that forced sex with a partner is wrong but not rape; those who believe it is wrong but not rape also believe that men should not be charged in instances of partner rape (Lynch et al., 2017). These attitudes that spousal rape by husbands does not constitute as “real rape” allows men to engage in sanctioned violence because jurors view the act as *wrong but not rape*. Our results showing that heterosexual spousal rape is viewed as more serious when the wife is raped by her husband extends this prior research by showing that male rape victimization by a female (even in the context of spousal rape) is viewed as less severe by jurors than the other victimization conditions.

The finding that rape between same-sex couples were perceived similarly by jurors as heterosexual couples with a female victim may be specific to cases of *spousal* rape because past research regarding perceptions of other sexual crimes revealed different results. For example, previous research found that individuals minimize the seriousness of acquaintance and stranger rape when the victim is gay more than when the victim is heterosexual (White & Yamawaki, 2009). Similarly, a study of perceptions of domestic violence by crisis center staff revealed that same-sex domestic violence was viewed as less serious than heterosexual domestic violence

(Brown & Groscup, 2009). However, it is possible that attitudes towards gendered expectations of rape and stigmas towards same-sex couples have evolved in recent years. Our research is the only known study to investigate perceptions of same-sex spousal rape after marriage equality was granted in *Obergefell v. Hodges* in 2015. Thus, it is possible that the results of previous research are outdated, and same-sex rape myths have evolved in recent years to be more inclusive of same-sex couples which lends an explanation for our results.

There were limitations of this study that are important to note. First, our mock trial did not include a juror deliberation as would be the procedure in a real trial limiting our ability to generalize these results. Although some studies have shown that individual juror decisions usually predict the jury outcome of the case (Diamond, 1997), other research has shown that jury deliberation, individual opinions have the power to influence the decision of the group (Walters & Hans, 2009). To remedy this, future studies should be held in-person and allow participants to deliberate together. Second, we did not collect information relating to participants past history of sexual assault so that this study did not cause the participants' distress. In a typical voir dire jury selection process, attorneys may screen out potential jurors who have a history of sexual violence in order to avoid juror bias. Therefore, this may account for some variance in the statistical analyses making the results more difficult to generalize. Third, there may be intersectional factors that impacted the juror perceptions of the crime. For example, by using names associated with whiteness (i.e. Jillian and Jason), this couple may have benefited from privileges by jurors. To most accurately understand juror perceptions of spousal rape, future research could investigate perceptions of race on verdict because women of color are disproportionately affected by domestic violence (The National Intimate Partner and Sexual Violence Survey, 2012).

In conclusion, this study expands the research regarding perceptions of spousal rape to include LGBTQ+ individuals in the literature. Given that same-sex couples were only granted marriage equality in 2015, this is the first known study to examine juror perceptions of same-sex spousal rape. By better understanding the implications of perceptions of legal rape by jury eligible individuals, research on the topic can help empower victims who have been found to be historically disadvantaged in the courtroom. The current study can serve as a starting point for future research investigating spousal rape and juror perceptions of rape in general involving same-sex couples.

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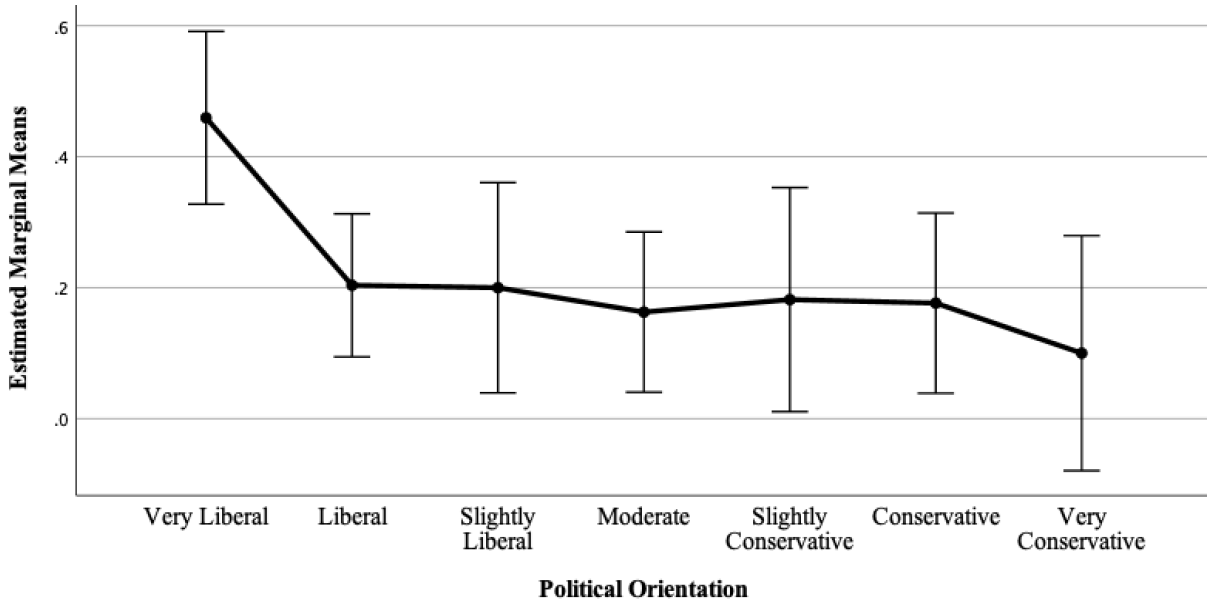
Table 1

Descriptive Statistics -- means (standard deviations) for trial questionnaire N=235

DV	Female Participants				Male Participants			
	Female Defendant		Male Defendant		Female Defendant		Male Defendant	
	Female Victim	Male Victim	Female Victim	Male Victim	Female Victim	Male Victim	Female Victim	Male Victim
Verdict	.36(.489)	.14(.347)	.24(.431)	.29(.461)	.08(.227)	.20(.410)	.18(.395)	.21(.419)
Severity	6.79(2.522)	4.78(2.689)	6.26(3.177)	6.29(2.839)	6.12(2.186)	4.60(3.347)	6.41(2.789)	5.95(2.614)
Confident	7.67(1.979)	8.11(2.246)	7.13(2.703)	7.51(2.656)	7.40(2.160)	7.79(2.472)	7.41(2.396)	6.58(2.673)
Victim Morality	6.64(2.560)	4.24(1.877)	4.24(1.877)	5.76(2.447)	4.92(1.977)	4.10(2.426)	5.27(1.857)	5.79(1.960)
Victim Sympathy	6.52(3.318)	4.14(2.740)	5.92(3.088)	5.17(3.000)	5.04(2.282)	3.35(2.498)	5.36(3.032)	5.37(2.432)
Defendant Morality	4.94(2.633)	6.00(1.795)	5.24(2.387)	5.40(2.176)	5.64(1.254)	5.95(1.538)	4.95(2.035)	5.16(2.292)
Defendant Sympathy	4.45(2.611)	6.08(2.702)	4.03(2.899)	4.56(2.950)	5.48(2.104)	5.30(2.940)	4.86(2.696)	4.84(1.979)
Victim Credibility Overall	6.1414(2.76891)	4.7928(2.44110)	5.6491(2.32876)	5.7805(2.22687)	5.1733(1.76152)	3.9167(2.54291)	5.3509(2.00762)	5.3509(2.00762)
Victim Blame Overall	2.8687(2.10149)	4.2523(1.70961)	2.9825(2.22050)	3.1382(2.03712)	3.8667(2.10819)	4.0500(1.90191)	3.9545(2.16830)	3.0702(1.59698)
Defendant Credibility Overall	6.1212(2.23734)	6.4054(2.22002)	6.0702(2.11836)	5.8211(2.04137)	5.8533(1.61898)	6.7667(2.05793)	6.4394(1.87263)	6.1404(1.223832)
Defendant Blame overall	5.8182(2.69657)	4.6396(2.45626)	5.7018(2.71221)	6.1138(2.65791)	4.6800(1.70370)	4.1167(1.65884)	5.0606(2.46807)	4.5789(2.35399)

Figure 1

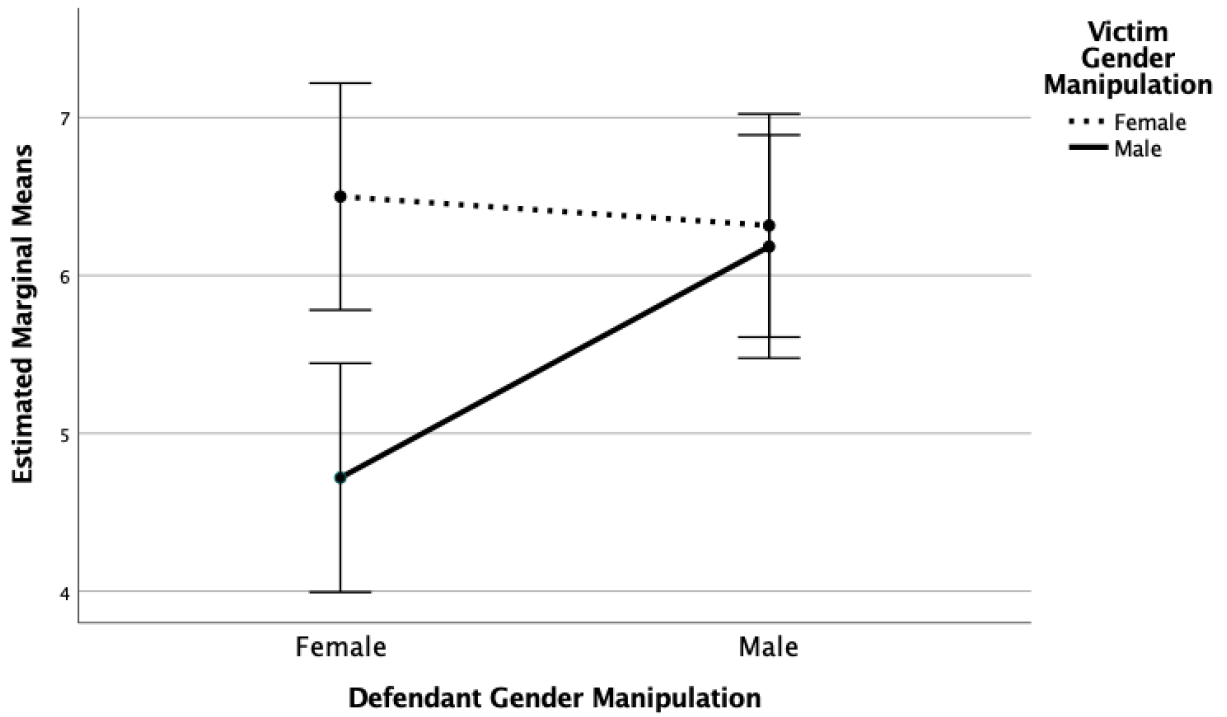
Verdict Judgements as a Function of Political Orientation



Error bars: 95% CI

Figure 2

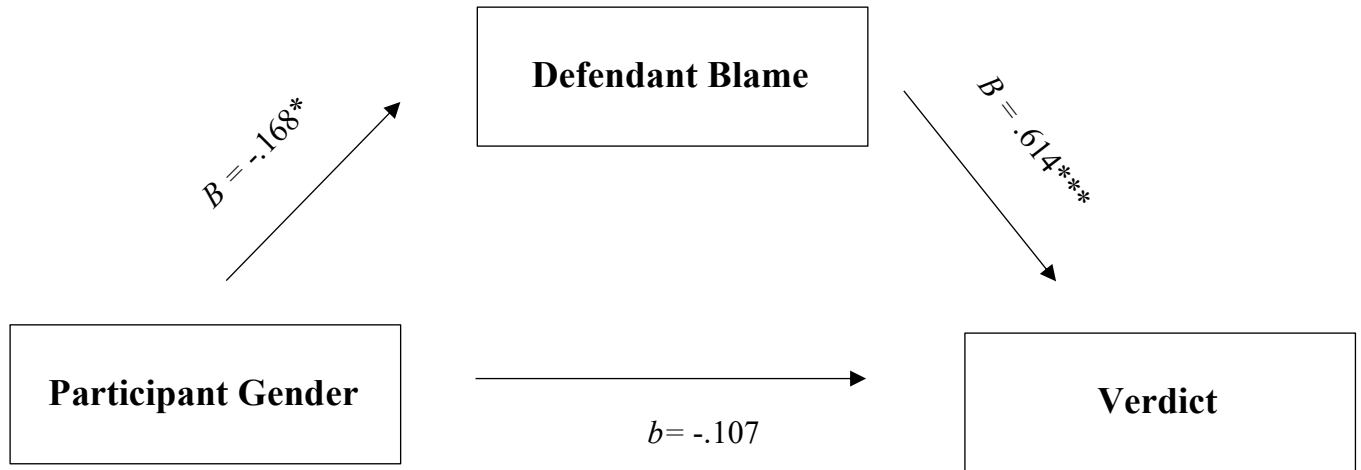
Ratings of Crime Severity as a Function of Victim Gender and Defendant Gender



Error bars: 95% CI

Figure 3

Mediation Model



Note: $*p < .05$

$**p < .01$

$***p < .001$

Appendix A

Example of the Trial Summary for the Male-Male Condition

Criminal Trial

The case you will read about involved a criminal trial. It is important to keep in mind that criminal procedure refers to the legal process for adjudicating claims that someone has violated criminal law. Criminal laws define violations that can be punished by fines, imprisonment, or even death. Such offenses include murder, armed robbery, theft, rape, kidnapping, arson, and assault. In criminal cases, the state or federal government prosecutes an individual (i.e., the defendant) who is alleged to have committed a specific offense. A jury in a criminal case rules “Guilty” if there is evidence beyond a reasonable doubt that the defendant committed the crime. The jury rules “Not Guilty” if there is reasonable doubt that the defendant committed the crime.

Trial Summary

There was one charge against the defendant, (defendant’s name).

Charge 1: On or about the 8th day of April 2018, in Fayette County, Kentucky, the above named defendant committed sodomy in the first degree by engaging in oral sex with (victim’s name) by forcible compulsion.

The prosecution alleged that (defendant’s name) assaulted (victim’s name) on the afternoon of April 8, 2018 at approximately 3:30 P.M. in their shared house. The state is charging (defendant’s name) with Sodomy in the First Degree.

Mrs./Mr. (defendant’s name) pleaded “not guilty” to the charge of sodomy in the first degree.

The defense attorney will argue that Mrs./Mr. (defendant’s name) is a responsible and law-abiding person, and that the charge of sodomy is a grave mistake.

Prosecution's Case

Witness Number 1

Direct Examination

Male-Male Spousal Condition

Witness No. 1: Mr. Jason Turner

Direct Examination:

Mr. Jason Turner is a 25-year-old man. He stated that he has been married to another man Mr. Michael Turner, for the past 3 years. Jason Turner testified that on April 8, 2018, at approximately 10:00 PM, he was in the bedroom he shared Michael Turner, and Michael Turner made repeated sexual advances. Jason Turner states that he said "no" to his husband's persistent advances, at which point Michael Turner became angry and pushed Jason Turner to the floor. Michael Turner then took off his own pants and forced Jason Turner to actively perform oral sex on Michael Turner's body. After the assault, Jason Turner reported his husband to the police.

Prosecution's Case

Witness Number 1

Cross Examination

Witness No. 1: Mr. Jason Turner

Cross Examination:

Jason Turner admitted that he does not always tell the truth. He stated that he had willingly performed oral sex on his husband before.

Prosecution's Case

Witness Number 2

Direct Examination

Witness No. 2: Officer Jeremiah Anderson

Direct Examination:

Officer Jeremiah Anderson has been a police officer for 15 years. He testified that on April 8, 2018 at approximately 11:00 PM, he arrived to Jason Turner's residence after a 911 call stating that he had been assaulted. Officer Anderson stated that Jason Turner seemed distressed at the scene. He said that Jason Turner did not want to seek medical attention. Officer Anderson arrested Michael Turner and they left the residence.

Prosecution's Case

Witness Number 2

Cross Examination

Witness No. 2: Officer Jeremiah Anderson

Cross Examination:

Officer Anderson stated that when he arrived at the scene, there was no visible physical harm to Jason Turner's body.

Defendant's Case

Witness Number 1

Direct Examination

Male-Male Spousal Condition

Witness No. 1: Mr. Michael Turner

Direct Examination:

Mr. Michael Turner (defendant) is a 25-year-old man. He stated that he is hard worker at a local business and an active community member, spending much of his weekends doing volunteer work. Michael Turner testified that he has lived with his husband, Mr. Jason Turner, for three years, and that up until this point, he had considered their marriage to be a happy one. Michael

Turner admitted that he and Mr. Jason Turner had oral sex on the night in question, but maintained that the sex was consensual. Michael Turner said that although the sex was a bit rough, there was no point at which he coerced Mr. Jason Turner into having sex. Michael Turner made clear that he would never engage in non-consensual sex.

Defendant's Case

Witness Number 1

Cross Examination

Male-Male Spousal Condition

Witness No 1: Mr. Michael Turner

Michael Turner admitted that Jason Turner may have seemed hesitant to have oral sex at first that night.

Defendant's Case

Witness Number 2

Direct Examination

Witness No. 2: Mr. Ryan Grey

Direct Examination:

Mr. Ryan Grey is Mr. Jason Turner's (the victim's) co-worker of 5 years. He testified that earlier on the day in question, Jason Turner told him that he was excited to spend time with his husband Michael Turner later that night. Jason Turner stated that it had been a while since they had had a romantic night together.

Defendant's Case

Witness Number 2

Cross Examination

Witness No. 2: Mr. Ryan Grey

Cross Examination:

Mr. Grey stated that while Jason Turner said he wanted a romantic night, he never explicitly said he was excited to have oral sex with his spouse.

Instructions to Jurors

Instruction to Jurors:

Judge Albert Graham

Judge Graham charged the jurors with the following instructions:

“You will find the defendant guilty of Sodomy in the First Degree 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, 2018, and before the finding of the Indictment herein, the defendant engaged in deviate sexual intercourse by forcible compulsion with Jason Turner.”

Closing Arguments: Prosecution

(The victim) is an innocent victim of a terrible crime. His spouse, (the defendant) deliberately took advantage of him by committing a sexual crime that will stay with him for the rest of his life. The accused believed that he could take advantage of (the victim), because they were married and no one would find out. (The defendant) did not expect (the victim) to have the bravery to stand up for himself in court. That bravery should be rewarded today by the means of convicting his attacker, (the defendant)

Closing Arguments: Defense

The defense argued that there was inconclusive evidence to convict (the defendant) simply because he has had sex with his spouse. If all cases were taken as such, then most every spouse would be guilty at one point or another. It does not make (the defendant) a rapist any more than

any other spouse who has had a sexual relationship with their spouse. (The defendant) is an exemplary member of his community and the real tragedy would be convicting an innocent man.

Appendix B

List of Manipulation and Comprehension Check Questions

Manipulation Check Questions:

The gender of the victim is...?

The defendant is...?

Comprehension Check Questions:

In criminal trials you are supposed to render a verdict based on ...?

Was there an arrest made at the scene of the incident?

What is the defendant being charged with?

The Prosecution argued that what about the victim should be rewarded?

The defense argued that...?

Appendix C

Trial Questionnaire

How severe do you believe this crime is?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How would you rate the guilt of the defendant of the alleged rape?

(Completely Not Guilty) 1 2 3 4 5 6 7 8 9 10 (Guilty)

What is your verdict with regard to the charge of the alleged rape?

Guilty or Not Guilty

How confident are you of your verdict with regard to the charge of the alleged rape?

(Not confident at all) 1 2 3 4 5 6 7 8 9 10 (Completely confident)

What led to your verdict with regard to the charge of the alleged rape?

Fill in the blank

How credible was the victim?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How believable was the victim?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How honest was the victim?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How responsible was the victim for the incident?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How much was the victim to blame for the incident?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How much sympathy do you have toward the victim?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How much anger do you have toward the victim?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How moral is the victim?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How credible was the defendant?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How believable was the defendant?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How honest was the defendant?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How responsible was the defendant for the incident?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How much to blame was the defendant for the incident?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How much sympathy do you have toward the defendant?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How much anger do you have toward the defendant?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)

How moral is the defendant?

(Not at all) 1 2 3 4 5 6 7 8 9 10 (Extremely)