Saving damsels, sentencing deviants and selective chivalry decisions: juror decision-making in an ambiguous assault case

Lauren T. Meaux , Jennifer Cox and Megan R. Kopkin

Department of Clinical Psychology, University of Alabama, Tuscaloosa, Alabama, United States

In sexually motivated crimes, female defendants are treated more leniently and female jurors are more punitive, relative to their male counterparts. However, few studies have examined the impact and interactions of juror, defendant and victim sex in non-sexually motivated crimes. In this study, mock jurors responded to an assault case in which the sex of both the defendant and the victim was manipulated, creating four conditions. The female jurors reported higher confidence in a guilty verdict, regardless of the defendant's and victim's sex. Additionally, the mock jurors – particularly the females – were more confident in a guilty verdict when the victim was female, regardless of the defendant's sex. Finally, the mock jurors recommended a harsher sentence for the female defendant – but only when the victim was male. These results are discussed in the context of understanding sex and gender within the criminal justice system and potential implications for juror decision-making.

Key words: juror; juror decision-making; violent assault; juror sex; juror perceptions.

Introduction

In the adversarial United States (US) justice system, the jury plays a vital role in both civil and criminal trials. Jurors weigh and consider the evidence presented by both the prosecution (in civil cases, the plaintiff) and the defence, before ultimately reaching a verdict concerning the defendant's culpability. In felony criminal trials specifically, some jurisdictions allow for jurors to participate in the punishment phase of the trial as well (Hoffman, 2003). In these cases, jurors consider various factors related to the crime and the defendant in order to determine the most appropriate punishment to impose. Considering the critical role of juries within the US justice system, research regarding juror decision-making has been a dominant focus of

psycholegal research for the last 65 years (Devine, 2012; Diamond, 1997).

The legal system is predicated on the assumption that jurors are unbiased decision-makers. The court attempts to safeguard this supposition by allowing both the prosecution and the defence to excuse jurors that they believe to be biased, as well as instructing jurors on their role to objectively apply the law and securing an oath from every juror to perform this duty accordingly. However, as evidenced by the wealth of literature examining jury decision-making, jurors cannot be expected to maintain complete impartiality (Bornstein, 1999; Bornstein & Greene, 2017). Decades of research suggests that juror decision-making may be influenced by a variety of extralegal factors, including cognitive

Correspondence: Lauren T. Meaux, Gordon Palmer Hall, The University of Alabama, Tuscaloosa, AL, 35487-0348. Phone: +(205) 348-5083, 348. Email: ltmeaux@crimson.ua.edu

biases, the quality of evidence communication and sociodemographic factors (Devine, 2012; Schutte & Hosch, 1997; Skeem & Golding, 2001; Stalans & Diamond, 1990). However, the specific circumstances under which extralegal factors play a role, as well as the robustness of these effects, remains a debate within the psycholegal literature.

Effects of defendant sex on verdicts

One extralegal factor of interest is the sex of criminal defendants. A large body of literature exists concerning the differential treatment of men and women in the criminal justice system (Ahola, Christianson, & Hellström, 2009; Auerhahn, 2007; Henning & Feder, 2005; Hodell, Wasarhaley, Lynch, & Golding, 2014; Pozzulo, Dempsey, Maeder, & Allen, 2010; Spohn & Beichner, 2000; Steffensmeier & Demuth, 2006). When considering the verdict phase of criminal trials, the vast majority of the research on this differential treatment focuses on intimate partner violence (IPV) and sexually motivated crimes. Within this context, female defendants are consistently treated more leniently than their male counterparts (Henning & Feder, 2005; Pozzulo et al., 2010). For example, Hodell et al. (2014) asked 189 mock jurors to read a scenario involving the killing of an allegedly abusive intimate partner and determine a verdict for the defendant. The researchers manipulated the sex of the defendant and the victim so that the scenario either involved a male killing an abusive female partner or a female killing an abusive male partner. It was found that the female defendant was more likely to be acquitted and that both the male and female jurors sympathized more with the female compared to her male counterpart, regardless of whether she was the defendant or the victim. Similar findings were reported by Pozzulo et al. (2010), with mock jurors more likely to find a male defendant guilty of sexual assault compared to a female defendant.

Despite the body of literature on gender effects in IPV and sexually motivated crimes, limited research exists that examines gender discrepancies and juror verdicts in non-IPV cases, such as assault and homicide (Devine, 2012). However, in one study, Blais and Forth (2014) found no main effect of defendant gender on juror verdict in a case of aggravated assault. In fact, of the studies that have found differences due to gender, confounding factors such as defendant mental illness (Breheney, Groscup, & Galitta, 2007) have limited the extent to which conclusions on the specific impact of gender can be drawn. Given the ‘file-drawer effect’ and the lower rate of publication for studies revealing null effects, one can conclude that the defendant’s sex does not reliably influence juror verdicts in non-IPV cases.

Effects of defendant sex on sentencing

In addition to the effects of defendant sex on verdicts, researchers have also explored potential disparities in sentencing. Concerning IPV cases, Henning and Feder (2005) examined over 4000 domestic violence arrests over a one-year period and found that prosecutors were less likely to pursue criminal charges when the case involved a female defendant. Furthermore, female defendants were more likely than their male counterparts to be released on their own recognisance and less likely to serve time in jail.

However, when the crime does not include a sexual act or IPV, data are inconsistent (Ahola et al., 2009; Ahola, Hellström, & Christianson, 2010; Blais & Forth, 2014; Spohn, 1999). Some research concerning non-IPV crimes supports the notion of leniency towards female defendants. Drawing from a large sample of urban courts, Steffensmeier and Demuth (2006) found that female defendants, across a wide range of crimes, received more lenient sentences. Additionally, Spohn (1999) examined 1544 drug-related convictions over a two-year period in Chicago and determined that although

females were less likely to be sentenced to prison than males, the females who were sentenced received sentence lengths comparable to their male counterparts. Ahola et al. (2009) found across a variety of crimes that, on average, mock jurors gave significantly shorter sentences to female defendants (2.78 years) compared to male defendants (4.02 years). However, not all research has concluded that there is a main effect of leniency on female defendants. Ahola et al. (2010) found a 'same-sex penalty effect', wherein judges and jurors provided harsher sentences for a defendant accused of a violent crime when the defendant's sex was the same as the sex of the judge or juror. On the other hand, when Blais and Forth (2014) examined the effect of manipulating defendant sex on juror decision-making in the context of a violent crime, they found no differences in incarceration rates between males and females.

Some opine that leniency is the product of chivalry and paternalism on the part of legal decision-makers. Chivalry theory postulates that, within the realm of the legal system, women are perceived as less accountable for their actions, and thus in need of protection from harsh punishment (Edwards, 1989). Some research suggests the existence of a *selective* chivalry effect, wherein only females whose crimes are consistent with stereotypical gender roles benefit from paternalistic leniency (Bickle & Peterson, 1991; O'Neil, 1999; Steury & Frank, 1990). Given that violent crimes are seen as masculine offenses (Gilbert, 2002; Hendree & Nicks, 2000), selective chivalry may offer one explanation as to the inconsistencies and discrepancies in verdict (Blais & Forth, 2014) and sentencing (Ahola et al., 2010; Blais & Forth, 2014) outcomes for males and females in IPV and non-IPV cases.

Effects of victim sex

Compared to the literature base exploring defendant sex, the research examining the impact of victim sex is less well developed,

although fairly consistent in that offenders convicted of victimizing a female are more likely to receive harsher penalties (Curry, Lee, & Rodriguez, 2004; Hindson, Potter, & Radelet, 2006; Williams & Holcomb, 2001). For example, Curry et al. (2004) examined the data from 1242 cases across several large Texan cities, in which the defendants were convicted of assault, robbery or homicide. The researchers found that both male and female defendants who victimized a female received longer sentences than those who victimized a male. Additionally, of the defendants who victimized females, the males received the longest sentences. Other research suggests that prosecutors are more likely to pursue the death penalty when the defendant is male (Hindson et al., 2006), and that male defendants are more likely to receive the death penalty when the victim is female (Williams & Holcomb, 2001).

Similarly, Franklin and Fearn (2008) examined over 2500 homicide offences from across the US and determined that male defendants who targeted female victims received the most punitive sentences compared to any other defendant-victim sex dyad. The authors argue that these data support an adapted version of the chivalry theory, in that the criminal justice system and its legal decision-makers were acting to protect females and punish those males who have deviated from the protector role.

Effects of juror sex

In addition to defendant and victim sex, researchers have opined as to how, if at all, juror sex may influence verdict and sentencing decisions. A meta-analysis examined 36 juror decision-making studies and reported that female jurors were more likely than male jurors to convict in cases involving sex crimes (Schutte & Hosch, 1997). This effect has held true in other studies for a variety of sex crimes, including rape (McNamara, Vattano, & Viney, 1993), child sexual abuse (Gabora, Spanos, & Joab, 1993), repressed

childhood sexual abuse (Golding, Sego, Sanchez, & Hasemann, 1995; Key, Warren, & Ross, 1996; Schutte, 1994) and teacher molestation of a student (Bottoms & Goodman, 1994). Additionally, female jurors are more likely than male jurors to give harsher punishments to defendants convicted of sex crimes (Scroggs, 1976). Of note, not a single reviewed published report found that male mock jurors were more punitive, suggesting a fairly robust relationship between juror sex and punitiveness in the context of sexually motivated and IPV cases.

However, the harshness of female jurors may not generalize outside of the context of IPV/sexually motivated crimes. Devine (2012) notes that the theoretical relationship between juror sex and decision-making is based on the juror's ability to empathize with the victim, a trait which is presumably more salient for women, who are more likely to be victims of sexually motivated crimes (Catalano, Curto, & Young, 2013). Thus, researchers in this domain may have no theoretical basis for examining the relationship between juror and legal decision-making in crimes that are not sexual in nature. It is also possible that research has failed to find a consistent and robust impact of juror sex on decision-making (outside of the specific contexts mentioned above) because, indeed, no relationship exists. In fact, Devine notes that a lack of empirical support could be the result of the 'file-drawer effect', with non-significant relationships less likely to be published (Franco, Malhotra, & Simonovits, 2014; Rosenthal, 1979).

The current study

The purpose of the current study is to examine how defendant, victim and juror sex influence mock juror decision-making in an ambiguous case of violent assault. The aim is to develop a better understanding of what role, if any, these demographic factors play in legal cases that do not involve a sexually motivated crime. Regarding verdict, a main

effect of defendant sex was anticipated, with the male defendant more likely to receive a guilty verdict than his female counterpart. A main effect of defendant sex on sentencing recommendations was also anticipated, with the female defendant receiving a more lenient sentence than the male defendant. Additionally, a main effect of victim sex on juror punitiveness was hypothesized, with jurors more likely to find the defendant guilty and sentence the defendant more harshly when the victim is female. Finally, given the dearth of published research exploring juror sex and decision-making in non-IPV and sexually motivated crimes, it is of interest to understand the relationship between juror sex and verdict and sentencing decisions. No specific hypotheses were made regarding these factors.

In addition to the main effects listed above, it was expected that several interactions would emerge. First, an interaction between juror and victim sex was predicted such that female jurors would be more punitive in terms of conviction and sentencing, particularly when the victim is female. Second, it was anticipated that the male defendant would be more likely to receive a guilty verdict and a more punitive sentence, particularly when the victim was female. In addition, exploratory analyses were conducted to investigate a possible three-way interaction between juror, defendant and victim sex with no a-priori hypotheses.

Method

Participants

A total of 394 undergraduate students at a large state university were recruited from introductory psychology courses and received class credit for participation, of which 48 were removed for failing one of three questions designed to ensure that participants appropriately attended to the stimulus material, resulting in a final sample of 346 participants. Just over half of the 346 participants (54.3%) identified as male, and an average

age of 18.74 years ($SD = 1.10$) was reported. The majority of the sample was Caucasian (85.0%), followed by relatively smaller proportions of Black/African Americans (8.7%), Asian/Asian Americans (1.4%), Native Americans (1.2%), and 'other' (3.8%).

Materials and procedures

The mock jurors first completed a standard demographic questionnaire followed by a series of questionnaires irrelevant to the current study. Next, they read a short summary of an ambiguous assault case in which the defendant claimed self-defence. In order to simulate a criminal trial, the summary included the judge's initial statements, the prosecution's and defence's opening statements, witness testimony from both the victim and the defendant and cross-examination transcripts.

The case describes an altercation between two acquaintances in which the victim accused the defendant of stealing money (US\$500) from the victim while attending a party at the victim's apartment. According to the trial testimony, the victim confronted the defendant and a physical altercation ensued. The transcript states that the victim was stabbed in the chest with a piece of broken glass before being rushed to hospital, where doctors were able to treat his/her injuries. The testimony from the defence also states that the defendant sustained bruising to his/her neck. The stimulus materials conclude with instructions from the judge to the jurors regarding applicable law (based on Alabama's official criminal code) and their civic duty (e.g. to reach a verdict, burden of proof).

The sexes of the defendant and the victim, implied by gender-specific names (Jessica and Stephen vs James and Sarah), are manipulated to create four conditions: male defendant and female victim; male defendant and male victim; female defendant and female victim; and female defendant and male victim. With the exception of the name

manipulations, all other information is identical in all the conditions.

After reading through the case materials, the mock jurors rendered a verdict (guilty or not guilty) and, in the case of a guilty verdict, a sentence recommendation in accordance with the guidelines provided by the judge. Although it is not particularly common for juries to dole out specific sentences in non-capital trials, a handful of jurisdictions do allow for felony juries to act in this capacity (Hoffman, 2003). In the current study, this variable serves as an indicator of mock juror perceptions of, and punitiveness towards, the defendant. The mock jurors were provided with guidelines based on Alabama law that outline a minimum of 2 years and a maximum of 20 years in a state prison.

The mock jurors also completed additional questionnaires pertaining to their perceptions of the defendant's conformity to traditional gender roles, treatment amenability and likelihood of recidivism, as well as the extent to which the defendant is a 'psychopath'. Finally, the mock jurors answered three questions to ensure their comprehension of pertinent facts related to the case.

Results

Preliminary analyses

Portions of the preliminary data have been reported elsewhere (Cox & Kopkin, 2016). The preliminary analyses indicated no significant demographic differences between the experimental groups. Regarding verdict, overall, 59% of mock jurors supported a guilty verdict. However, previous research suggests that mock jurors' confidence in their verdicts may impact decision-making (Krauss, McCabe, & Lieberman, 2012). Therefore, consistent with earlier studies (Cox & Kopkin, 2016), verdict confidence was controlled for by multiplying subjective confidence ratings with categorical guilty (−1) and not guilty (+1) verdicts. This

‘Verdict Index’ calculation resulted in a continuous variable reflecting mock juror confidence in a guilty verdict (as indicated by scores closer to -1) and mock juror confidence in a not guilty verdict (as indicated by scores closer to $+1$). For all mock jurors, Verdict Index scores ranged from -1 to $+1$ ($M = -19.32$, $SD = 68.04$).

In terms of sentencing decisions, more than half of the mock jurors (67%) endorsed the minimum punishment of 2 years in state prison. A small number (9.5%) selected the maximum punishment of 20 years, and the rest chose a sentence between these two extremes. Consistent with previous research (Cox & Kopkin, 2016; Cox, Edens, Rulseh, & Clark, 2016), these write-in responses were coded and combined with the minimum and maximum sentence options to create a single continuous ‘Sentencing’ variable. To account for variability, the coded variable considered the recommended number of years in prison. For example, if a mock juror recommended 10 years, this was coded as a 10. However, if a mock juror recommended probation or retribution, this was coded as a 0, considering that the defendant would spend no time incarcerated. Overall, the mock jurors recommended an average sentence of 4.59 years ($SD = 5.55$).

Main effects

The hypotheses predicting a significant impact of defendant sex were not supported. Specifically, the mock jurors were not significantly more or less confident in a guilty verdict for the male defendant ($M = -15.15$, $SD = 71.21$) compared to the female defendant ($M = -23.18$, $SD = 64.92$), $F(1, 341) = 1.00$, $p = .317$, $d = .11$. Defendant sex also had no impact on recommended sentence length, with a similar sentence being delivered for the male defendant ($M = 5.20$, $SD = 6.25$) and the female defendant ($M = 4.07$, $SD = 4.84$), $F(1, 196) = 1.40$, $p = .237$, $d = .20$.

Regarding victim sex, a multivariate analysis of variance (MANOVA) indicates a significant effect, $F(1, 341) = 4.02$, $p = .046$,

with mock jurors showing more confidence in a guilty verdict when the victim was female ($M = -25.81$, $SD = 67.54$) than when the victim was male ($M = -12.39$, $SD = 68.04$; $d = .20$). Considering only the mock jurors who found the defendant guilty, the mean recommended sentences do not differ between victim sex groups, $F(1, 196) = 0.36$, $p = .552$, with the mock jurors sentencing the defendant who assaulted a male victim to an average of 4.34 years ($SD = 5.57$) compared to 4.81 years ($SD = 5.55$; $d = .08$) for the defendant who assaulted a female victim.

Finally, a main effect of mock juror sex emerged, $F(1, 341) = 9.36$, $p = .002$, with more confidence shown in a guilty verdict by female mock jurors ($M = -31.66$, $SD = 64.71$) than male mock jurors ($M = -9.03$, $SD = 69.19$, $d = .34$). However, no significant differences emerged concerning sentencing recommendations, $F(1, 196) = 0.77$, $p = .383$, with male mock jurors recommending an average of 4.95 years ($SD = 5.68$) and female mock jurors recommending an average of 4.25 years ($SD = 5.42$; $d = .13$).

Interactions

In addition to the main effects, it was hypothesized that a number of interactions would emerge. A factorial MANOVA indicates no significant interactions between defendant sex, victim sex and mock juror sex on the Verdict Index (Table 1). However, concerning the dependent variable of sentence recommendation, three interactions emerged (Table 1). Simple effects analyses indicate that the female mock jurors recommended more lenient sentences when the defendant was female, $F(1, 188) = 6.96$, $p < .01$, $d = .39$, while male mock jurors recommended harsher sentences when the defendant was female, $F(1, 188) = 7.76$, $p < .01$, $d = .41$. Finally, all mock jurors, regardless of sex, sentenced the female defendant more harshly when the victim was male ($M = 4.87$, $SD = 6.01$) compared to when the victim was female ($M = 3.33$, $SD = 3.32$, $d = .38$).

Table 1. Interaction effects of the defendant, victim and mock juror sex on the Verdict Index and the sentence.

Variable	Interaction	<i>F</i>	<i>p</i> -value	Cohen's <i>d</i>
Verdict index	Victim × defendant	1.59	.208	.14
	Defendant × juror	0.69	.409	.09
	Victim × juror	2.61	.107	.18
	Victim × defendant × juror	0.44	.508	.06
Sentence	Victim × defendant	6.85*	.010	.38
	Defendant × juror	7.23**	.008	.39
	Victim × juror	3.73	.055	.28
	Victim × defendant × juror	0.78	.378	.13

Note. * $p < .05$; ** $p < .01$. Defendant = defendant sex; juror = mock juror sex; victim = victim sex.

Perceptions of the defendant, the victim and the case

In addition to the mock jurors' ultimate legal decisions of verdict, their perceptions of the defendant were also assessed, as these perceptions may act as a proxy to better understanding the cognitive judgements being made.¹ Regarding the mock jurors' perception of the defendant's likelihood to recidivate violently, a factorial MANOVA indicates no main effects, although a significant interaction emerged (Table 2) wherein the female mock jurors rated the defendant as being more likely to violently recidivate, but only when the victim was female ($M = 60.25$, $SD = 26.91$) as opposed to when the victim was male ($M = 54.64$, $SD = 24.92$, $d = .22$). The mock jurors were asked how typical the defendant is in regard to their same-sex peers. When the victim was male, the mock jurors rated the defendant (either male or female) as more typical of their respective sex ($M = 36.80$, $SD = 21.71$) compared to when the victim was female ($M = 30.71$, $SD = 23.29$, $d = .26$). The mock jurors were also asked how much the defendant may benefit from mental health treatment. No significant main effects emerged; however, a factorial MANOVA yielded a significant three-way interaction, with the female mock

jurors perceiving the male defendant as being less likely to benefit from treatment, but only when the victim was male (Table 3). Finally, the mock jurors rated how 'psychopathic' they believed the defendant to be; the female defendant was rated as significantly more psychopathic ($M = 51.97$, $SD = 25.98$) compared to the male defendant ($M = 36.64$, $SD = 26.23$, $d = .59$). No other significant main effects or interactions occurred.

Discussion

The results of the research on the impact of gender on legal decision-making are mixed (as demonstrated in the review above), with most studies indicating a significant impact of juror and/or defendant sex when the crime is sexually motivated. The purpose of the current study is to investigate how defendant, victim and juror sex interact to influence juror decision-making in the context of a non-sexually motivated violent crime. This is the first study to explore the main and interaction effects of each of these independent variables.

Defendant sex

While previous studies report increased punitiveness towards male defendants in IPV

Table 2. Influence of the defendant, victim and mock juror sex on how the defendant is perceived.

Variable	<i>F</i>	<i>p</i> -value	Cohen's <i>d</i>
Likelihood of future violent act			
Defendant	1.46	.228	.13
Victim	0.02	.894	.00
Juror	2.61	.107	.18
Victim × juror	3.87*	.050	.22
Defendant typicality			
Defendant	2.25	.134	.17
Victim	5.66*	.018	.26
Juror	0.44	.511	.06
Defendant treatment benefit			
Defendant	2.67	.103	.18
Victim	0.10	.750	.00
Juror	1.09	.298	.11
Defendant × victim × juror	4.78*	.029	.24
Defendant psychopathy			
Defendant	26.10**	.001	.58
Victim	0.00	.997	.00
Juror	3.13	.078	.20

Note. **p* < .05; ***p* < .01. Defendant = defendant sex; juror = mock juror sex; victim = victim sex.

(Henning & Feder, 2005; Spohn & Beichner, 2000; Steffensmeier & Demuth, 2006) and sexual assault (Pozzulo et al., 2010) cases, the data from the current study indicate no effect of defendant sex on the juror verdicts and sentencing recommendations in an assault case. Although seemingly contrary to the chivalry hypothesis, null findings are consistent with Blais and Forth (2014), who

report that the defendant's gender did not impact the jurors' verdict in a case of aggravated assault. Considering publication bias (Franco et al., 2014), the 'file-drawer problem' (Rosenthal, 1979) in scientific research and the tendency for journals to focus on publishing significant results, one may opine that these null findings are more reliable and generalizable than is currently reported in the

Table 3. Influence of the defendant, victim and mock juror sex on perceptions of the likelihood that the defendant would benefit from treatment.

Defendant sex	Victim sex	Male jurors		Female jurors		All jurors	
		<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>
Male	Male	59.55	28.10	44.92*	29.23	52.79	29.37
Male	Female	52.77	29.27	62.73	25.35	57.15	27.90
Female	Male	63.24	28.41	60.10	27.00	61.76	27.64
Female	Female	60.38	24.18	55.74	26.14	58.21	25.08

Note. **p* < .05.

literature. Yet, replication (and dissemination) is necessary before any definitive conclusions can be drawn.

The null findings in the current study may be explained by *selective chivalry theory*. Building on Edwards' (1989) chivalry theory, which proposes that protective attitudes towards women drive the leniency that they receive in conviction rates and sentencing, selective chivalry theory is postulated to account for non-traditional females in the legal system (Bickle & Peterson, 1991; O'Neil, 1999; Visser, 1983). Selective chivalry holds that only women who adhere to the normative female role regarding gender-typical behaviours benefit from the legal system's leniency because they are perceived as more respectable than their non-traditional counterparts. Furthermore, women who engage in behaviour that is not compatible with their traditional gender role (e.g. violence, physical aggression, promiscuity) are doubly punished – both for their crimes and for their failure to conform to gender norms (Bickle & Peterson, 1991; Eaton, 1987).

Previous studies have found some support for selective chivalry theory (Gilbert, 2002; Hendree & Nicks, 2000). For example, Fosterlee, Fox, Fosterlee, and Ho (2004) found that a victim impact statement in a mock heinous homicide case resulted in the participants reporting more anger towards a female defendant than a male defendant. Given that homicide is a highly aggressive act which is typically viewed as male-perpetrated behaviour (Gilbert, 2002), a female defendant accused of violence may not receive the same leniency afforded to a female defendant accused of a non-violent or drug-related crime.

In the current study, the treatment of the male and female defendants is relatively equal in terms of verdict and sentencing decisions, suggesting that selective chivalry does not afford leniency in violent assault cases. The mock jurors' ratings on attitudinal variables potentially related to ultimate decision-making provide additional support for this

notion; for example, the female defendant was rated as significantly more 'psychopathic' compared to the male defendant, suggesting that a difference in maleficent personality traits may have been perceived between the two sexes.

When examining gender differences, Eagly (1995) and Archer (1996) argue that interactions, as opposed to main effects, are most appropriate. Although defendant sex did not affect punitiveness overall, a significant interaction emerged regarding sentencing recommendations wherein the male mock jurors provided harsher sentences for the female defendant than for the male defendant. The mock jurors, regardless of sex, also sentenced the female defendant more harshly when the victim was a male compared to when the victim was a female. While female physical aggression is incongruent with traditional gender roles, female aggression *directed at a male* may be viewed as being even more so, and may explain these results. Further, these data are somewhat consistent with Breheney et al.'s (2007) findings of increased punitiveness towards females committing violent offenses, and lend further credence to the selective chivalry hypothesis.

Victim sex

A main effect of victim sex emerged in that the mock jurors were more confident in a guilty verdict when the victim was female compared to when the victim was male. Although little research has examined attitudinal perceptions and their effect on legal decision-making in regard to victim sex, this finding may suggest an adaptation of true chivalry. In patriarchal cultures, women are viewed as defenceless and thus requiring protection from danger (Edwards, 1989). Perhaps the same protective attitudes that some argue are afforded to female defendants (although notably not found in this study) translate to female victims – specifically, jurors may punish the defendant for causing harm to someone that society generally

characterizes as defenceless, penalizing the defendant not only for committing a violent crime but for committing a violent crime against a woman.

Juror sex

A main effect of juror sex emerged wherein the female mock jurors were more confident in a guilty verdict regardless of the defendant and victim sex. This pattern, while present in the IPV literature, has not previously been reported for non-IPV, violent crimes. In IPV and sexually motivated cases, theory assumes that female jurors empathize with the victim because they are more likely to be victims of such crimes themselves compared to their male counterparts. Previously, the extent to which this theory translates to non-IPV and non-sexually motivated crimes was unknown, as the female stereotype does not typically include barroom brawls and fist fights; however, the data from the current study support the notion that juror sex may demonstrate a relationship with legal decision-making in contexts that are broader than IPV and sexually motivated crimes.

The results also indicate that the female mock jurors were less punitive when the defendant was female, regardless of the victim's sex. This leniency afforded by women to women may be related to gender-based homophily, the tendency of members of the same gender to affiliate or relate with one another (Lazarsfeld & Merton, 1954; McPherson, Smith-Lovin, & Cook, 2003). Lazarsfeld and Merton (1954) categorized most major sociodemographic variables that stratify society, such as sex, under status homophily. Status homophily based on sex has been observed in a variety of social situations, such as conflict resolution (Eder & Hallinan, 1978), employment settings (Kalleberg, Knoke, Marsden, & Spaeth, 1996) and voluntary organizations (Popielarz, 1999), and may be one explanation for this result.

Limitations

As is often a limitation in jury research, this study did not use actual jurors and deliberating processes but rather employed artificial stimulus materials, which may affect the outcome and also limits the ecological validity of the findings (Wiener, Krauss, & Lieberman, 2011). Further, it is common in mock jury research to recruit undergraduates, as research suggests that data developed from this group may be comparable to community samples (Bornstein, 1999; Bornstein et al., 2017). However, considering that community samples are the population from which juries are constructed, it may be beneficial to theory development to replicate this study with a more diverse and generalizable community sample.

The participants provided ratings on a number of continuous dependent variables. Although the statistical analyses indicate main and interaction effects of the independent variables on many of the dependent variables, a number of the standard deviations are large and overlap between groups, calling into question the utility of the outcome measures. Further, although significant results emerged, with some exceptions, the effect sizes are small, suggesting that the differences between groups, although present, may not be particularly meaningful.

Another notable limitation concerns the lack of focus on the intersectionality of race and gender. The stimulus material does not specify the race or ethnicity of the defendant and the victim; however, names have been shown to prime stereotypes (Carpusor & Loges, 2006) and the names used in the study (Jessica, Sarah, James and Stephen) may be more likely to be associated with White individuals. The disparate treatment of African Americans in the criminal justice system is well documented (Mitchell, Haw, Pfeifer, & Meissner, 2005), and it is unclear if the data from the current study would generalize to non-White defendants, victims and jurors. The study of the intersectionality of gender and race is important, and these data do not

consider how gender and race may interact to influence juror decision-making. Further research in this area is needed before more definitive conclusions can be drawn.

Conclusion

The data from the current study suggest novel sex-dependent patterns regarding juror decision-making in a non-sexually motivated crime. Although sex-dependent patterns have been established in sexually motivated crimes (Gabora et al., 1993; Hodell et al., 2014; McNamara et al., 1993; Schutte, 1994; Schutte & Hosch, 1997), such patterns do not typically emerge for non-sexually motivated crimes. The results of the current study may have practical implications in that they may inform legal decision-makers as to the extra-legal, demographic variables that can impact decision-making in a criminal context. Although one may interpret these data as suggesting certain patterns in female juror decision-making, the paucity of literature on the topic makes it impossible to draw definitive conclusions. Further research is therefore needed to investigate whether or not the effects that have emerged from these data are replicable and generalize to other non-IPV and non-sexually motivated crimes.

Acknowledgements

The authors wish to thank Marissa Stanziani. The content of this paper was previously presented at the 2017 American Psychology-Law Society Conference in Seattle, WA.

Ethical standards

Declaration of conflicts of interest

Lauren T. Meaux has declared no conflicts of interest.

Jennifer Cox has declared no conflicts of interest.

Megan R. Kopkin has declared no conflicts of interest.

Ethical approval

All procedures performed in studies involving human participants were in accordance with the

ethical standards of the institutional and/or national research committee and with the 1964 Helsinki declaration and its later amendments or comparable ethical standards.

Informed consent

Informed consent was obtained from all individual participants included in the study

Note

1. To facilitate clarity and conserve space, only significant interaction statistics are reported.

ORCID

Lauren T. Meaux <http://orcid.org/0000-0002-5075-7461>

References

- Ahola, A., Christianson, S. Å., & Hellström, Å. (2009). Justice needs a blindfold: Effects of gender and attractiveness on prison sentences and attributions of personal characteristics in a judicial process. *Psychiatry Psychology and Law*, 16, S90–S100. doi:10.1080/13218710802242011
- Ahola, A. S., Hellström, Å., & Christianson, S. Å. (2010). Is justice really blind? Effects of crime descriptions, defendant gender and appearance, and legal practitioner gender on sentences and defendant evaluations in a mock trial. *Psychiatry Psychology and Law*, 17(2), 304–324. doi:10.1080/13218710903566896
- Archer, J. (1996). Sex differences in social behavior: Are the social role and evolutionary explanations compatible? *American Psychologist*, 51(9), 909–917. doi:10.1037/0003-066X.51.9.909
- Auerhahn, K. (2007). Just another crime? Examining disparity in homicide sentencing. *The Sociological Quarterly*, 48, 277–313. doi:10.1111/j.1533-8525.2007.00079.x
- Bickle, G. S., & Peterson, R. D. (1991). The impact of gender-based family roles on criminal sentencing. *Social Problems*, 38, 372–394. doi:10.2307/800605
- Blais, J., & Forth, A. E. (2014). Potential labeling effects: Influence of psychopathy diagnosis, defendant age, and defendant gender on mock jurors' decisions. *Psychology Crime and Law*, 20, 116–134. doi:10.1177/0093854813519629

- Bornstein, B. H. (1999). The ecological validity of jury simulations: Is the jury still out? *Law and Human Behavior*, 23, 75–91. doi:10.1023/A:1022326807441
- Bornstein, B. H., Golding, J. M., Neuschatz, J., Kimbrough, C., Reed, K., Magyarics, C., & Luecht, K. (2017). Mock juror sampling issues in jury simulation research: A meta-analysis. *Law and Human Behavior*, 41(1), 13–28. doi:10.1037/lhb0000223
- Bornstein, B. H., & Greene, E. (2017). *The jury under fire: Myth, controversy, and reform*. New York, NY: Oxford University Press.
- Bottoms, B. L., & Goodman, G. S. (1994). Perceptions of children's credibility in sexual assault cases. *Journal of Applied Social Psychology*, 24, 702–732. doi:10.1111/j.1559-1816.1994.tb00608.x
- Breheney, C., Groscup, J., & Galitta, M. (2007). Gender matters in the insanity defence. *Law & Psychology Review*, 31, 93–123.
- Carpusor, A. G., & Loges, W. E. (2006). Rental discrimination and ethnicity in names. *Journal of Applied Social Psychology*, 36(4), 934–952. doi:10.1111/j.0021-9029.2006.00050.x
- Catalano, S. M., Curto, V., & Young, M. (2013). *Intimate partner violence: Attributes of victimization, 1993–2011: Special report/Bureau of Justice Statistics: Special report (United States Bureau of Justice Statistics)*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, 2013.
- Cox, J., Edens, J. F., Rulseh, A., & Clark, J. W. (2016). Juror perceptions of the interpersonal-affective traits of psychopathy predict sentence severity in a white-collar criminal case. *Psychology, Crime & Law*, 22(8), 721–740. doi:10.1080/1068316X.2016.1174864
- Cox, J., & Kopkin, M. R. (2016). Defendant and victim sex, sexism, and decision making in an ambiguous assault case. *Women & Criminal Justice*, 26(5), 381–393. doi:10.1080/08974454.2016.1167153
- Curry, T. R., Lee, G., & Rodriguez, S. F. (2004). Does victim gender increase sentence severity? Further explorations of gender dynamics and sentencing outcomes. *Crime and Delinquency*, 50, 319–343. doi:10.1177/0011128703256265
- Devine, D. J. (2012). *Jury decision making: The state of the science*. New York, NY: New York University Press.
- Diamond, S. S. (1997). Illuminations and shadows from jury simulations. *Law and Human Behaviour*, 21, 561–571. doi:10.1023/A:1024831908377
- Eagly, A. H. (1995). The science and politics of comparing women and men. *American Psychologist*, 50(3), 145–158. doi:10.1037/0003-066X.50.3.145
- Eaton, M. (1987). Question of bail: Magistrates' responses to applications for bail on behalf of men & women defendants. In P. Carlen & A. Worrall (Eds.), *Gender, Crime & Justice* (95–107). Philadelphia: Open University Press.
- Eder, D., & Hallinan, M. T. (1978). Sex differences in children's friendships. *American Sociological Review*, 43, 237–250.
- Edwards, A. R. (1989). Sex/gender, sexism and criminal justice: Some theoretical considerations. *International Journal of the Sociology of Law*, 17, 165–184.
- Fosterlee, L., Fox, G. B., Fosterlee, R., & Ho, R. (2004). The effects of a victim impact statement and gender on juror information processing in a criminal trial: Does the punishment fit the crime? *Australian Psychologist*, 39(1), 57–67. doi:10.1080/00050060410001660353
- Franco, A., Malhotra, N., & Simonovits, G. (2014). Publication bias in social sciences: Unlocking the file drawer. *Science*, 345(6203), 1502–1505. doi:10.1126/science.1255484
- Franklin, C. A., & Fearn, N. E. (2008). Gender, race, and formal court decision-making outcomes: Chivalry/paternalism, conflict theory, or gender conflict? *Journal of Criminal Justice*, 36(3), 279–290. doi:10.1016/j.jcrimjus.2008.04.009
- Gabora, N. J., Spanos, N. P., & Joab, A. (1993). The effects of complainant age and expert psychological testimony in a simulated child sexual abuse trial. *Law and Human Behaviour*, 17, 103–119. doi:10.1007/BF01044540
- Gilbert, P. R. (2002). Discourses of female violence and societal gender stereotypes. *Violence Against Women*, 8, 1271–1300. doi:10.1177/107780102762478019
- Golding, J. M., Sego, S. A., Sanchez, R. P., & Hasemann, D. (1995). The believability of repressed memories. *Law and Human Behaviour*, 19, 569–592. doi:10.1007/BF01499375
- Hendree, P. K., & Nicks, S. D. (2000). Perceptions of violent crimes in relation to sex of perpetrator. *Perceptual and Motor Skills*, 90, 485–488. doi:10.2466/pms.2000.90.2.485
- Henning, K., & Feder, L. (2005). Criminal prosecution of domestic violence offenses: An investigation of factors predictive of court outcomes. *Criminal Justice and Behavior*, 32, 612–642. doi:10.1177/0093854805279945
- Hindson, S., Potter, H., & Radelet, M. L. (2006). Race, gender, region and death sentencing in Colorado, 1980–1999. *University of Colorado Law Review*, 77(3), 549–594.

- Hodell, E. C., Wasarhaley, N. E., Lynch, K. R., & Golding, J. M. (2014). Mock juror gender biases and perceptions of self-defence claims in intimate partner homicide. *Journal of Family Violence, 29*, 495–506. doi:10.1007/s10896-014-9609-2
- Hoffman, M. B. (2003). The Case for Jury Sentencing. *Duke Law Journal, 52*(5), 951–1010.
- Kalleberg, A. L., Knoke, D., Marsden, P. V., & Spaeth, J. L. (1996). *Organizations in America: Analyzing their structures and human resource practices*. Thousand Oaks, CA: Sage.
- Key, H. G., Warren, A. R., & Ross, D. F. (1996). Perceptions of repressed memories; A reappraisal. *Law and Human Behavior, 20*, 355–563. doi:10.1007/BF01499041
- Krauss, D. A., McCabe, J. G., & Lieberman, J. D. (2012). Dangerously misunderstood: Representative jurors' reactions to expert testimony on future dangerousness in a sexually violent predator trial. *Psychology, Public Policy, and Law, 18*, 18–49. doi:10.1037/a0024550
- Lazarsfeld, P. F., & Merton, R. K. (1954). Friendship as a social process: A substantive and methodological analysis. In M. Berger (Ed.), *Freedom and Control in Modern Society* (18–66). New York: Van Nostrand.
- McNamara, K., Vattano, F., & Viney, W. (1993). Verdict, sentencing, and certainty as a function of sex of juror and amount of evidence in a simulated rape trial. *Psychological Reports, 72*, 575–583. doi:10.2466/pr0.1993.72.2.575
- McPherson, M., Smith-Lovin, L., & Cook, J. M. (2003). Birds of a feather: Homophily in social networks. *Annual Review of Sociology, 27*(1), 415–444. doi:10.1146/annurev.soc.27.1.415
- Mitchell, T. L., Haw, R. M., Pfeifer, J. E., & Meissner, C. A. (2005). Racial bias in mock juror decision-making: A meta-analytic review of defendant treatment. *Law and Human Behavior, 29*(6), 621–637. doi:10.1007/s10979-005-8122-9
- O'Neil, M. E. (1999). The gender gap argument: Exploring the disparity of sentencing women to death. *New England Journal on Criminal and Civil Confinement, 25*, 213–244.
- Popielarz, P. A. (1999). (In)voluntary association: A multilevel analysis of gender segregation in voluntary organizations. *Gender & Society, 13*, 234–250. doi:10.1177/089124399013002005
- Pozzulo, J. D., Dempsey, J., Maeder, E., & Allen, L. (2010). The effects of victim gender, defendant gender, and defendant age on juror decision making. *Criminal Justice and Behavior, 37*(1), 47–63. doi:10.1177/0093854809344173
- Rosenthal, R. (1979). The file drawer problem and tolerance for null results. *Psychological Bulletin, 86*(3), 638–641. doi:10.1037/0033-2909.86.3.638
- Schutte, J. W. (1994). Repressed memory lawsuits: Potential verdict predictors. *Behavioral Sciences & the Law, 12*(4), 409–416. doi:10.1002/bsl.2370120409
- Schutte, J. W., & Hosch, H. M. (1997). Gender differences in sexual assault verdicts: A meta-analysis. *Journal of Social Behavior & Personality, 12*(3), 759–772.
- Scroggs, J. R. (1976). Penalties for rape as a function of victim provocativeness, damage, and resistance. *Journal of Applied Social Psychology, 6*, 360–368. doi:10.1111/j.1559-1816.1976.tb02411.x
- Skeem, J. L., & Golding, S. L. (2001). Describing jurors' personal conceptions of insanity and their relationship to case judgments. *Psychology, Public Policy, and Law, 7*, 561–621. doi:10.1037/1076-8971.7.3.561
- Spohn, C. (1999). Gender and sentencing of drug offenders: Is chivalry dead? *Criminal Justice Policy Review, 9*, 365–399. doi:10.1177/088740349900900305
- Spohn, C., & Beichner, D. (2000). Is preferential treatment of female offenders a thing of the past? A multisite study of gender, race, and imprisonment. *Criminal Justice Policy Review, 11*, 149–184. doi:10.1177/0887403400011002004
- Stalans, L. J., & Diamond, S. S. (1990). Formation and change in lay evaluations of criminal sentencing: Misperception and discontent. *Law and Human Behavior, 14*, 199–214. doi:10.1007/BF01352749
- Steffensmeier, D., & Demuth, S. (2006). Does gender modify the effects of race-ethnicity on criminal sanctioning? Sentences for male and female white, black, and Hispanic defendants. *Journal of Quantitative Criminology, 22*(3), 241–261. doi:10.1007/s10940-006-9010-2
- Steury, E. H., & Frank, N. (1990). Gender bias and pretrial release: More pieces of the puzzle. *Journal of Criminal Justice, 18*, 417–432. doi:10.1016/0047-2352(90)90057-I
- Visher, C. A. (1983). Gender, Police Arrest Decisions, and Notions of Chivalry. *Criminology, 21*(1), 5–28. doi:10.1111/j.1745-9125.1983.tb00248.x
- Wiener, R. L., Krauss, D. A., & Lieberman, J. D. (2011). Mock Jury Research: Where Do We Go from Here? *Behavioral Sciences & The Law, 29*(3), 467–479. doi:10.1002/bsl.989
- Williams, M., & Holcomb, J. (2001). Racial disparity and death sentences in Ohio. *Journal of Criminal Justice, 29*(3), 207–202. doi:10.1016/S0047-2352(01)00085-X