

EFFECTS OF SEX OF DEFENDANT AND VICTIM ON  
SIMULATED CRIMINAL COURT TRIAL OUTCOMES

BY

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A Thesis

Submitted to the Faculty of Graduate Studies  
in Partial Fulfillment of the Requirements  
for the Degree of

MASTER OF ARTS

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## ABSTRACT

Research examining the influence of gender on criminal court trial outcomes has indicated that female defendants are treated more leniently than male defendants. Explanations offered to account for these findings relate to paternalistic attitudes, perceptions of the impulsiveness of crimes, beliefs about the probability of future criminal action, and perceptions of danger and fear. However, these hypotheses have not been empirically tested. The present study examined the effects of sex of defendant, victim, and juror on verdict and sentencing decisions. Subjects, role-playing as jurors, read one of four fictitious court transcripts of a murder trial. The four versions of the transcript differed only in terms of sex of the defendant and sex of the victim. Results showed that although there were no differences in verdict decisions, male defendants received significantly longer sentences than female defendants. Male and female subject-judges did not differ in their decisions. Sex of the victim of crime and perceptions of the victim's actions did not have an influence on verdict or sentencing decisions. Characteristics of the defendant (i.e., defendant responsibility, impulsiveness of the crime, likelihood of rehabilitation, probability of future criminal behavior, dangerousness, and fear evoked by the defendant) were found to be significant predictors of verdicts and sentences, but could not account for the differential treatment of male and female defendants. Further research is necessary in order to determine mediators of sex differences in sentencing.



Effects of Sex of Defendant and Victim on  
Simulated Criminal Court Trial Outcomes

Equality of treatment by law is a fundamental principle of the Canadian criminal justice system. Equal rights are guaranteed to all Canadian citizens by the Canadian Charter of Rights (1991, section 15, subsection 1) which states:

Every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. Thus, the personal characteristics of an offender are, at least in theory, legally-irrelevant factors in the processing of that offender in the criminal justice system. Legal agents who work within the criminal justice system are responsible for guaranteeing the rights and freedoms of offenders.

In courtroom trials, judges and jurors are the legal agents responsible for determining justice in the cases before them. Under ideal judicial circumstances, judges and jurors would enter the courtroom free from prior opinions and biases, would weigh the evidence rationally, and would arrive at a decision based strictly on the facts of a case. Given these circumstances, variation in the judgement of defendants would arise from legally-relevant variables such as the seriousness of the charge, the number of charges, and the strength of the evidence. However, empirical investigations have indicated that circumstances are, to say the

least, less than ideal in the courtroom, and researchers have long been interested in identifying "extra-legal" factors that influence judge and jury decisions. Research has shown that many legally-irrelevant characteristics of the defendant can have significant effects on trial outcomes. Such characteristics include: the social attractiveness of the defendant (Landy & Aronson, 1969); the physical attractiveness of the defendant (Sigall & Ostrove, 1975); the social respectability of the defendant (Kruttschnitt, 1982); and the race of the defendant (Ugwuegbu, 1979). Further complicating matters is the finding that certain characteristics of the victim can also influence judgement of the defendant. Victim characteristics that have been found to affect judicial decisions are similar to those identified in regard to the defendant, and include social attractiveness (Landy & Aronson, 1969), respectability (Feldman-Summers & Lindner, 1976; Jones & Aronson, 1973), and race (Ritchot & Sande, 1990; Ugwuegbu 1979). These studies further establish the importance of extra-legal factors in influencing judge and jury decisions.

Sex of the defendant is another legally-irrelevant factor that should have no bearing on the treatment of a defendant during the court trial procedure. Section 28 of the Canadian Charter of Rights (1991) states: "Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons." Thus, males and females are guaranteed equality before and under the law, and equal protection

and benefit of the law. However, contrary to the ideal of gender equality, recent investigations have raised the possibility that sex-based differences exist in the judicial processing of criminal defendants. The present study addressed the issue of gender equality in the courtroom by investigating the effects of sex of the defendant on judicial decisions in criminal court trials, as well as considering factors which may mediate these effects. The influence of sex of the victim and juror also was examined in order to gain a more comprehensive understanding of gender effects in the courtroom. A review of the literature pertaining to sex of the defendant, victim, and juror provides a basis for the present study, as well as initial insight into the issues under investigation.

#### Sex of the Defendant

A substantial amount of research has been conducted using police and court records to determine whether sex of a defendant affects his or her treatment at various stages in the court trial procedure. In one early study, Nagel and Weitzman (1971) employed data compiled from county courts in all 50 states to examine how females are treated relative to males in criminal court cases. Drawing on cases in which the charge against the defendant was either grand larceny or felonious assault, their comparisons showed that females were more likely than males to be released on bail prior to trial, to have their cases dismissed, and, if their cases proceeded to trial, females were more likely to be acquitted. If convicted, female defendants were more likely to

receive sentences of probation or suspended sentences. On the basis of this evidence, Nagel and Weitzman (1971) concluded that "women as litigants do not receive the same treatment that men receive as litigants" (p. 197). These results suggest that, in general, female defendants receive less severe treatment in criminal court trials than do male defendants.

Other archival studies have also found evidence for a pattern of lenient treatment of females in the courtroom. Females, as compared to males, have been found to be more likely to remain free prior to trial (Kruttschnitt, 1984; Kruttschnitt & Green, 1984; Kruttschnitt & McCarthy, 1985), to receive less severe verdicts (Kritzer & Uhlman, 1977; Swigert & Farrell, 1977), to receive lighter sentences if convicted (Frazier, Bock, & Henretta, 1983; Heilbrun, 1982; Heilbrun & Heilbrun, 1986; Kritzer & Uhlman, 1977; Kruttschnitt, 1984; Moulds, 1978; Nagel, Cardascia, & Ross, 1980; Steffensmeier & Kramer, 1982), and to be assigned shorter parole periods (Heilbrun, 1982). These effects have been found for offenses ranging in severity from drug law violations (e.g., Kruttschnitt & Green, 1984) to homicide (e.g., Moulds, 1978; Swigert & Farrell, 1977). Although these studies support the notion of female favoritism in the courtroom, the results of other investigations indicate that females may not always receive preferential treatment. For example, Zingraff and Thomson (1984) found that females received shorter sentences than males in felony cases (e.g., second-degree murder, manslaughter, larceny), but not in misdemeanor cases (e.g., simple assault, writing bad checks).

Curran (1983) found that females were given lighter sentences than males when convicted of the same crimes, but there were no differences in plea negotiations, decisions to prosecute, or likelihood of conviction. In one of the few Canadian studies in this area, Hagan and O'Donnel (1978) reported small and consistent differences in the severity of treatment received by males and females at various stages in the judicial system; these differences, however, were not statistically significant. In contrast to Nagel & Weitzman (1971), they concluded that "past belief in the lenient influence of sexual stereotypes on judicial sentencing ... has to be re-examined" (Hagan & O'Donnel, 1978, p. 318).

Research that has been conducted using police and court records has produced a large body of data that, although mixed, has been useful in assessing the extent to which males and females are treated equally in the courtroom. However, this type of research is subject to certain problems that must be taken into account when interpreting the findings. Archival research has been criticized because some studies fail to control for legally-relevant and/or legally-irrelevant offense and offender characteristics that may influence results (Curran, 1983; Kruttschnitt, 1984; Gruhl, Welch, & Spohn, 1984; Nagel & Hagan, 1983; Steffensmeier, 1980; Zingraff & Thomson, 1984). Legally-relevant variables refer to such factors as offense seriousness, number of charges, and prior record, whereas legally-irrelevant variables include the race, age, and economic status of the

defendant. Most of the studies that have drawn data from judicial records did consider factors in addition to sex of the defendant, although the number and type of control variables employed in the analyses have varied. Several investigations employed little or no control (e.g., Heilbrun, 1982; Heilbrun & Heilbrun, 1986; Moulds, 1978; Nagel & Weitzman, 1971; Steffensmeier & Kramer, 1982), whereas others controlled for many offense and offender characteristics (e.g., Curran, 1983; Frazier et al., 1983; Kritzer & Uhlman, 1977; Kruttschnitt, 1984; Kruttschnitt & Green, 1984; Kruttschnitt & McCarthy, 1985; Nagel, Cardascia, & Ross, 1980; Zingraff & Thomson, 1984). The majority of studies in this area have reported differences in the treatment of males and females in criminal court regardless of such factors as offense seriousness, prior record, and race and age of the defendant. Furthermore, even with control for variables that were assumed to reflect social and economic differences between males and females, such as family composition and source of economic support, sex-based differences were still found in pretrial release and sentencing decisions (Frazier et al., 1983; Kruttschnitt, 1984; Kruttschnitt & Green, 1984; Kruttschnitt & McCarthy, 1985). In general, these studies have shown that controlling for social and economic variables reduces, but does not eliminate, the degree of sex-based leniency in judicial decisions.

Experimental research has also been conducted to examine the influence of sex of the defendant on judge and jury decisions. Stephan (1974) had subjects read a brief synopsis of a murder

trial in which the defendant was either a man or a woman who murdered his or her spouse after the discovery of the spouse's involvement in a love affair. When asked to render verdicts and sentences, subjects in this study were more likely to find a defendant of the opposite sex guilty than a defendant of the same sex, indicating same-sex favoritism on the part of the subject. No differences were found in terms of sentencing decisions.

Other experimental investigations have produced results markedly different from those of Stephan (1974). In a study by Steffensmeier (1977), subjects were presented with a list of offenses including murder of spouse, resisting arrest, child beating, seduction of a minor, embezzlement, public drunkenness, and shoplifting. Subjects were told either that a male or a female offender was found to be guilty of the crime in each case, and that their task was to decide on an appropriate penalty for the offender. With penalties ranging from absolute acquittal, through various fines and jail terms, to execution, Steffensmeier (1977) found that subjects tended to assign more lenient penalties to female offenders. Using the same offenses, Steffensmeier and Kramer (1982) compared the penalty assignments of three subject samples: college students, prison inmates, and members of the community. Once again, male offenders were assigned harsher penalties than female offenders, and this pattern held for all three subject samples. Steffensmeier and Kramer (1982) concluded:

While these findings offer support for the view of

preferential treatment of women defendants, the data indicate

that with the exception of a few offenses (e.g., seduction of a minor), the differences in sentencing of male and female defendants are likely to be quite small for any specific offense. Preferential treatment of female defendants appears to be consistent, though of small magnitude, and relatively diffuse; that is, it cuts across most offense categories (p. 297).

However, in contrast to these findings, Wear and Pasewark (1984) found no differences in the sentencing decisions of mock judges on the basis of sex of the defendant for the crimes of homicide, embezzlement, fraudulent issuance of checks, and heroin possession. Thus, the experimental research in this area, like the archival research, has produced mixed results.

One of the major shortcomings of experimental studies in this area is that subjects have been asked to assign penalties to offenders on the basis of very little information. Steffensmeier (1977) and Steffensmeier and Kramer (1982) presented subjects with a brief paragraph of instructions indicating the sex and general background of the offender in each case, and then presented a list of offenses and requested subjects to assign penalties to the offenders. Similarly, Wear and Pasewark (1984) presented cases in a paragraph of a few sentences describing the crime and the sex of the offender. These procedures lack realism in the sense that subjects made decisions based on much less evidence than would be available to a real judge or juror. Stephan's (1974) study was more realistic in that subjects were asked to read a two page



synopsis of a murder trial which provided background information, a description of the circumstances leading up to and surrounding the crime, as well as the pleas of the attorneys in the case.

Although the results of archival and experimental investigations have been mixed, the bulk of the research seems to indicate that females receive preferential treatment, particularly in terms of sentencing decisions. Reviewing the literature in this area, Nagel and Hagan (1983) concluded that "when court outcomes for male defendants are compared with those meted out to female defendants, females are more likely to receive the more favorable outcomes" (p. 135). These authors added that "clearly the research on sentencing produces the strongest evidence for the thesis that gender does affect courtroom outcome decisions and that women receive preferential treatment" (Nagel & Hagan, 1983, p. 134). Moulds (1978) reached the same conclusions, while also pointing to one of the limitations of this research:

It is clear from the data that the criminal justice system treats women substantially differently from the way in which it treats men. It is apparent that women receive gentler handling than do men. This handling is pervasive regardless of race, type of crime, or prior record. What the data do not show is why this preferential treatment exists (p. 429). The question that arises, then, is why female defendants are treated differently from male defendants. Several explanations have been forwarded in an attempt to account for these differences.

### Proposed Mediating Factors

One of the most frequently cited explanations for sex differences in court trial outcomes is the "paternalism hypothesis" (Gruhl, Welch, & Spohn, 1984; Steffensmeier 1977). According to Steffensmeier (1977), three interrelated factors comprise the paternalism hypothesis: "chivalry," "naivete," and "practicality." Chivalry refers to the generally protective and benevolent attitudes toward women in our society, and naivete represents the belief that females are less capable than males of committing criminal acts (Steffensmeier, 1977, 1980; Steffensmeier & Kramer, 1982). Steffensmeier (1980) and Steffensmeier and Kramer (1982) argued that these two factors are associated with socially-defined conceptions of women as weaker, more passive, and more dependent than men. Female offenders are therefore perceived as being less responsible for, or less a cause of, their own criminality than are male offenders, and less able to cope with the physical and emotional stress of court proceedings and a prison term. The third factor, practicality, which is associated with women's traditional child-rearing role, relates to the assumption that most female defendants have young children and that harshly penalizing a mother disrupts the family and, consequently, places a burden on the rest of society. The paternalism hypothesis suggests that these perceptions on the part of judges and jurors account for the less severe treatment of females in the courtroom.

Heilbrun (1982) and Heilbrun and Heilbrun (1986) have

proposed another explanation for the the differential sentencing of male and female defendants. Heilbrun (1982) conducted a study in which impulsivity ratings of actual crimes committed by females were compared to those committed by males. Heilbrun found that violent crimes committed by females (e.g., murder, manslaughter, and assault) were more impulsive than the same crimes committed by males; however, nonviolent crimes committed by women (e.g., theft, forgery, and drug offenses) were found to be less impulsive, or more premeditated, than was true for men. The initial rationale behind this study was that if female crime is truly more impulsive than male crime, then differential sentencing of male and female defendants would be expected because premeditated crime is judged more harshly in the legal system than is impulsive crime. These authors argued, then, that males are justifiably given sterner sentences for crimes of violence because their violence is more controlled and intentional; harsher sentencing of males simply reflects the incidence of greater premeditation in male violent crime. However, this explanation cannot account for differential sentencing in cases of nonviolent crimes in which females have been found to be less impulsive than males.

Steffensmeier (1977, 1980) and Steffensmeier and Kramer (1982) have also suggested that certain other perceptions of the defendant may contribute to the more lenient sentencing of female offenders. They have proposed, for example, that beliefs about the defendant's potential for future criminality may affect verdict and sentencing decisions. From this perspective, females

receive less severe penalties because they are perceived as being more amenable to rehabilitation and less likely to transgress in the future than are male defendants. Other factors that may be operative are the view that male offenders are a greater danger to society and the fear that such a threat evokes. This perceived greater danger and feeling of fear finds its basis in the culturally-defined male role as more aggressive and autonomous, as well as in the greater physical strength of males. These perceptions may account for the harsher treatment of male defendants (Steffensmeier 1977, 1980; Steffensmeier & Kramer, 1982).

These hypotheses have all been proposed as post hoc explanations to account for the finding that females are generally treated more leniently than males in the court system. Paternalistic attitudes toward women, perceptions of greater impulsivity of female crime, beliefs that females are more amenable to rehabilitation and less likely to engage in future criminal action, and perceptions of greater danger and fear of male defendants are all plausible explanations that could help to account for the differential treatment of male and female defendants. Empirical investigations, although not specifically considering sex-based effects, have established the importance of several of these factors in influencing judicial decisions. For example, dangerous offenders are less likely to be released on their own recognizance prior to trial (Nagel, 1983), offenders who are seen as the cause of their own criminality are given longer

prison sentences (Carroll, 1978), and offenders for whom recidivism is anticipated and rehabilitation is considered unsuccessful are less likely to be granted parole (Carroll & Payne, 1977). The influence of sex of the defendant on these factors has not yet been examined. Empirical investigation is needed in order to determine the validity of these explanations as mediating sex differences in court trial outcomes.

Practicality is the only proposed mediating factor for which empirical evidence exists. In an experimental test of this hypothesis, Steffensmeier and Faulkner (1978) found that parental status did not have an effect on sentencing decisions; female defendants were given preferential treatment regardless of whether or not they had children. In contrast to these findings, Daly (1987a) conducted interviews with court officials and found that concern for the protection of the family and those dependent on an offender were important factors influencing judicial decisions. Further, in analyses using court records for data, Daly (1987b, 1989) found that male and female defendants with no family ties were treated the same, defendants with family ties were treated more leniently than defendants with no family ties, and female defendants with family ties were treated more leniently than male defendants with family ties. Daly (1987b, 1989) therefore argued that sex differences in court trial outcomes can be explained by the defendant's familial circumstances. However, other archival studies that have included family composition variables in the analyses found that controlling for these variables did not

eliminate sex differences in trial outcomes (e.g., Frazier et al., 1983; Kruttschnitt & Green, 1984; Kruttschnitt & McCarthy, 1985). Thus, no definitive conclusions can be drawn about practicality as mediating the differential treatment of male and female defendants.

#### Sex of the Victim

The sex of the defendant represents only one possible source of gender influence in the courtroom. In order to examine sex-based influences on judicial decisions more comprehensively, the sex of other individuals involved in the court trial procedure must be taken into consideration. Research has indicated, for example, that the sex of the victim of crime can have significant effects on decisions regarding the defendant. Myers (1979) employed data from court cases in which the charges ranged from theft to homicide in order to examine the role that victim characteristics play in the sentencing of convicted felons. Although the effect was small in magnitude, sex of the victim significantly influenced sentencing of the defendant; defendants who committed crimes against females were more likely to be sentenced to prison than defendants who victimized males (Myers, 1979). In a study of victim involvement in the criminal justice system, Hagan (1983) found that offenders who victimized females were more likely to be held for a bail hearing as well as to receive a severe sentence. These findings introduce sex of the victim as another source of gender influence in the courtroom. However, these studies provide no information about the possible

relationship between sex of the victim and sex of the defendant.

Another finding from Myer's (1979) study provides a possible clue as to why female victims elicit more severe treatment of defendants. In addition to victims' sex, Myers (1979) found that alleged victim misconduct also affected sentencing decisions. When the victim engaged in some behavior prior to the offense that suggested that he or she deserved, provoked, or was at least partially responsible for the criminal action of the defendant, the defendant was less likely to be sentenced to prison. A victim who was perceived as in some way contributing to the crime apparently reduced the culpability of the defendant and elicited a more lenient sentence in the case. Thus, perceptions of the victim also can affect the outcomes of criminal court trials. These perceptions may, however, be influenced by the sex of the victim. For example, because weak or defenseless victims are seen as less likely to have provoked the criminal act and less deserving of their fates (Greenburg & Ruback, 1982), female victims, perceived as weaker and more defenseless than males, may be seen as contributing less to the criminal actions of the offender, thus resulting in more severe treatment of the offender. The influence of sex of the victim and his or her actions were tested in the present study.

#### Sex of the Judge and Juror

Sex of the judge or juror is another potentially important sex-based influence that has been examined in several studies. For example, Kritzer and Uhlman (1977) included sex of the judge

as a factor in their archival study and found that females were consistently given lesser verdicts and shorter sentences, regardless of the sex of the judge. Gruhl, Spohn, and Welch (1981) reported that female judges in felony cases generally did not convict or sentence defendants differently than male judges, with the exception that female judges were considerably more likely to sentence convicted female defendants to prison. However, Stephan (1974) found that male subjects tended to favor male defendants and female subjects tended to favor female defendants in the case of a fictitious murder trial. Steffensmeier (1977), Steffensmeier and Kramer (1982), and Wear and Pasewark (1984) found no differences in the sentencing patterns of male and female subject-judges: all subjects tended to favor female defendants. Thus, it appears, somewhat surprisingly perhaps, that sex of the judge does not have a significant effect on judicial decisions. However, it is not known how sex of the judge or juror may interact with sex of the victim in cases in which a victim is involved.

Interestingly, the finding that male and female judges do not differ in verdict or sentencing decisions has been used as evidence to refute chivalry as an explanation for the more lenient treatment of female defendants. Kritzer and Uhlman (1977) reasoned that if chivalrous attitudes on the part of judges were the explanation, then sex-based leniency in judicial decisions should exist only for male judges. These authors have argued that because female judges also exhibit preferential treatment of



female defendants, chivalry cannot possibly be mediating this effect. This argument implicitly assumes that only males can be concerned with the safety and protection of female defendants, but Kritzer and Uhlman (1977) provide no direct evidence that this is the case. Perhaps females are equally likely to hold the paternalistic attitudes that have been assumed to be characteristic only of males in our society. Alternatively, perhaps different factors influence the judicial decisions of male and female judges, but result in the same outcomes. This is one of the issues that was addressed in the present study.

#### The Present Study

The present research was designed to examine the effects of sex of the defendant, sex of the victim, and sex of the juror on judicial decisions in a simulated criminal court case by means of a controlled laboratory experiment. In this study, subjects read a fictitious but realistic summary of a murder trial and role-played as jurors. Sex of the defendant and sex of the victim were orthogonally manipulated in order to investigate their effects on judicial decisions. After reading the trial transcript, subjects were asked to decide on a verdict in the case and to sentence the defendant. They also answered questions that assessed their perceptions of the defendant and the victim as they related to the mediating factors that have been proposed to account for sex differences in criminal court trial outcomes.

The use of a court trial transcript made the experimental task more realistic in that subjects were provided with the same

type of information that would be available to a real judge or juror in a criminal court trial. All subjects were provided with exactly the same information, with the exception of information about sex of the defendant and sex of the victim, thus affording control over other legal and extra-legal variables that have been found to affect judicial decisions. For example, the defendant always was described as employed and as having no prior record of criminal charges. Because investigating the effects of marital and parental status was not the main focus of this experiment, these variables were controlled by describing both male and female defendants as single and childless.

The severity of the offense also was controlled in this investigation; the charge was second-degree murder. Murder was chosen as the crime to investigate in this study because it is a crime serious enough to warrant a jury trial, and because a wide range of verdicts and sentences are possible. The strength of the evidence presented at the trial, a variable which is virtually impossible to control in studies using data from actual court cases, was the same in each condition. The court transcripts were carefully constructed in order that they be ambiguous about the details of the case. This ambiguity was built into the transcripts so that any biases subjects may have had regarding sex of the defendant and/or the sex of the victim could more readily influence their interpretation of events. Darley and Gross (1983) have demonstrated that biases have their greatest effect on judgements when the information provided about a situation is

ambiguous.

On the basis of previous research in this area, it was hypothesized that, overall, male defendants would receive harsher verdicts and longer sentences than female defendants. It was also hypothesized that defendants accused of killing a female would be given harsher verdicts and longer sentences than defendants accused of killing a male. Specifically, male defendants accused of killing a female were expected to receive the harshest treatment, whereas female defendants accused of killing a male were expected to receive the most lenient treatment. No hypotheses were advanced regarding effects due to sex of the subject. The influence of the proposed mediating factors and perceptions of the victim on verdict and sentencing decisions was also explored.

#### Method

##### Design

This experiment employed a 2 x 2 x 2 factorial design. The three between-subjects factors were: sex of the subject; sex of the defendant in the trial; and sex of the victim in the trial.

##### Materials

Four versions of a fictional court transcript describing the case of a second-degree murder trial were used in this study. All of the transcripts were identical to one another, except the name of the defendant, the name of the victim, and all gender-specific language was changed to create the four experimental conditions: a male accused of murdering a male (MM); a male accused of

murdering a female (MF); a female accused of murdering a female (FF); and a female accused of murdering a male (FM). The trial transcript describing the case of a female defendant and a male victim (FM) can be found in Appendix A.

The fictional court transcripts described the relationship between the victim and the defendant and the events that transpired on the evening of the incident in question. They included the testimony of physicians, police officers, eyewitnesses, and the defendant, as well as the opening statements and closing remarks of the attorneys and the judge. The defendant and the victim were described as having a long-standing dispute over a business failure, and a mutual dislike for one another. On the evening of their high school reunion, the two met again, had an argument, and the defendant hit and killed the victim with his or her car in the parking lot. The defense argues that it was an unfortunate accident that occurred on a dark, wet night. The prosecution asserts that the defendant intentionally killed the victim out of anger. The details of the story were such that the death of the victim could potentially be viewed as accidental or purposeful.

#### Dependent Measures

Verdict. Once subjects finished reading the court transcript, they were told that the trial was over and that their duty was to reach a verdict for this case. Subjects were instructed not to refer back to the court transcript when making their decisions. The measure of subjects' verdicts was

accompanied by a Verdict-Guidelines Summary (see Appendix B) which briefly described the five possible verdicts that could be reached in this case. The possible verdicts, in descending order of severity, included: guilty of second-degree murder; guilty of manslaughter; guilty of criminal negligence causing death; guilty of aggravated assault; and not guilty. Subjects were asked to indicate which verdict they reached by circling one of the five options (see Appendix B). All of the dependent measures described in the Appendices correspond to the FM version of the court transcript.

Sentencing. Subjects were asked to take a different perspective for this question and assume that they were now the judge in this case, and that the jury, having considered the same evidence, had found the defendant guilty of manslaughter. They were told that they must now sentence the defendant, and that the sentence may vary from no time in prison (probation only) to 25 years in prison (maximum prison term) (see Appendix C).

Paternalism. Following the sentencing measure, subjects were instructed that they would answer some questions that were relevant to the judicial deliberation process. These questions assessed the potential influence of various mediating factors that have been proposed to account for sex differences in criminal court trial outcomes. The possible role that the paternalism hypothesis plays in the verdict and sentencing of males and females in criminal court was assessed using five questions relevant to the three interrelated factors of this viewpoint.

Subjects responded to these questions using 7-point Likert scales that ranged from not at all (1) to very much (7). First, to examine the notion of chivalry, subjects were asked to indicate to what extent concern for the physical and emotional well-being of the defendant influenced their verdict decisions. Because verdict decisions and sentencing decisions may involve different concerns and processes, this question was asked again specifically in reference to sentencing decisions. Second, to assess the influence of naivete, subjects were asked to indicate how responsible the defendant was for the death of the victim. Finally, although the influence of practicality could not be directly tested in this experiment, the logic underlying the paternalism hypothesis suggests that female defendants may be perceived as generally playing a more important role in the family than male defendants, and concern for their families may extend to members other than their spouses and children. In order to test whether male and female defendants are perceived differently in terms of family considerations, subjects were asked to indicate the extent to which concern for the family of the defendant influenced their decisions. Again, this question was posed twice; once in reference to verdict decisions, and once in reference to sentencing decisions (see Appendix D).

Impulsivity. In order to determine if perceptions of the impulsiveness of female violent crime influenced subjects in this study, subjects were asked to indicate to what extent they thought the actions of the defendant were impulsive versus premeditated,

using a 7-point scale that ranged from impulsive and unplanned (1) to premediated and planned (7) (see Appendix E).

Beliefs About Future Criminality. The influence of beliefs about future criminality on verdict and sentencing decisions was assessed by asking subjects to indicate the extent to which they believed a prison sentence would be good for the defendant and would help to rehabilitate him or her. Subjects responded to this question using a 7-point Likert scale that ranged from not at all (1) to very much (7). Subjects also were asked to indicate how likely they believed it was that the defendant would commit a crime of a similar nature in the future, using a 7-point scale that ranged from not at all likely (1) to very likely (7) (see Appendix F).

Perceptions of Danger and Fear. In order to determine if male and female defendants are perceived differently in terms of danger and fear, subjects were asked to indicate how dangerous they believed the defendant was to his or her family, friends, and the public at large, using a 7-point scale that ranged from not at all dangerous (1) to very dangerous (7). Subjects also were asked to indicate how fearful they would be if they were to come into contact with the defendant, using a 7-point scale that ranged from not at all fearful (1) to very fearful (7) (see Appendix G).

Perceptions of the Victim. The influence of sex of the victim on perceptions of the victim, and the role these perceptions play in verdict and sentencing decisions were assessed by asking subjects to indicate the extent to which the victim was

responsible for his or her own death, using a 7-point scale that ranged from not at all responsible (1) to completely responsible (7). Next, subjects were asked to indicate to what extent the actions of the victim provoked or caused the actions of the defendant, from not at all (1) to very much (7). Subjects also were asked to indicate the extent to which the victim deserved his or her fate, using a 7-point scale that ranged from did not at all deserve what happened (1) to completely deserved what happened (7) (see Appendix H).

Open-Ended Question. In order to discover if any factors not assessed by the dependent measures influenced subjects' decisions, an open-ended question was posed. Subjects were asked to describe, in the space provided, any additional factors that played a role in their verdict and/or sentencing decisions (see Appendix I).

#### Suspicion Check

In order to determine if any subjects became aware of the true nature of the study, a suspicion check was included with the dependent measures. On this questionnaire, subjects were given an opportunity to write down any comments or questions that they had in regard to their experiences in the study. They also were asked to state what they believed was the purpose of the study, and to indicate if anything about the research procedure seemed puzzling or unusual (see Appendix J).

#### Procedure

Experimental sessions were conducted in a small laboratory



with groups of up to eight subjects. Upon arrival, subjects were told that the purpose of the study was to investigate several factors that affect jury decisions, one of which is individual versus group jury decisions. Subjects were then told that they had been randomly assigned to the individual juror condition, and that the experimental task involved reading an edited and summarized version of an actual court transcript and role-playing as a juror. They were told that once they finished reading about the trial, they would be asked to reach individual verdicts, sentence the defendant, and answer some other questions relevant to the judicial deliberation process. The experimenter's script can be found in Appendix K. Subjects were separated by dividers and ensured of the confidentiality of their responses. An introduction sheet (see Appendix L) and a court transcript were located on each desk in an envelope marked "Transcript." Once subjects finished reading about the case, they placed the transcript back in its envelope, opened an envelope labeled "Decision," and completed the dependent measures. Debriefing forms describing the purpose of the study were made available to all subjects once the data collection phase of the study was complete (see Appendix M).

### Subjects

One hundred and forty male and 146 female subjects were recruited, using sign-up booklets, from Introductory Psychology classes at the University of Manitoba. Space was provided for up to eight subjects to sign up for any one experimental session,

with separate sessions for males and females. Subjects in each session were randomly assigned as a group to one of the four experimental conditions: MM; MF; FF; and FM.

## Results

### Subject Sample

Suspicion checks were first examined in order to determine if any subjects were aware of the true nature of the study. Subjects were considered suspicious if they mentioned sex of the defendant or sex of the victim as possible variables under investigation in response to questions on the suspicion check. Ten subjects were eliminated from the data set because they expressed suspicion or discerned the hypotheses. No more than three subjects were found to be suspicious in any one condition, with the most subjects being eliminated from the FM condition.

Nonwhite subjects (n=31) and subjects who had previously participated in a similar study (n=3) were also excluded from the analyses. The final sample consisted of responses from 118 males and 124 females, for a total of 242 subjects in the data set.

### Verdict and Sentencing

The first stage in the data analysis involved determining the effects of sex of the defendant, victim, and juror on verdict and sentencing decisions.

Verdicts. Verdict decisions were analyzed using Multiway Frequency Analyses which are appropriate for use with a categorical dependent variable (Tabachnick & Fidell, 1989, pp. 236-315). This procedure is similar to an Analysis of

Variance for nonparametric data, and entails a test of the overall effect followed by tests for main effects and interactions. As is the case with the Chi Square procedure, the power of a Multiway Frequency Analysis is drastically reduced if more than 20% of the expected cell frequencies are less than five (Tabachnick & Fidell, 1989, p. 240). Because this was the case for the data set in this study when subjects' responses in each condition were tallied according to verdict returned, subjects' verdict decisions were collapsed into two categories, guilty and not guilty. The frequencies used in the first analysis are shown in Table I.

For the first omnibus test of the overall effect, verdicts were analyzed using a  $2 \times 2 \times 2 \times 2$  (Sex of Defendant  $\times$  Sex of Victim  $\times$  Sex of Subject  $\times$  Verdict) Multiway Frequency Analysis. This analysis revealed a significant overall effect,  $G^2(15) = 118.34, p < .01$ . Subsequent tests of main effects yielded a significant result only for verdict,  $G^2(1) = 114.40, p < .01$ . Subjects returned more guilty verdicts ( $n=198$ ) than not guilty verdicts ( $n=40$ ). There were no other significant main effects or interactions.

Because significantly more subjects returned verdicts of guilty than of not guilty, a second analysis of verdict decisions was conducted by examining only those subjects who found the defendant guilty of some criminal charge. For this analysis, guilty verdicts were divided into two categories, guilty of more serious charges (second-degree murder and manslaughter), and guilty of less serious charges (criminal negligence and assault).

Table I  
Frequencies of Guilty/Not Guilty Verdicts  
by Sex of Defendant, Victim, and Subject

	Male Subjects	Female Subjects
	Verdicts (Guilty/Not Guilty)	
Male Defendant		
Male Victim	24/6	28/3
Female Victim	23/6	27/5
Female Defendant		
Male Victim	25/3	25/7
Female Victim	25/4	21/6

The frequencies used in this analysis are shown in Table II.

A 2 x 2 x 2 x 2 (Sex of Defendant x Sex of Victim x Sex of Subject x Verdict) Multiway Frequency Analysis was used to examine the overall effect and yielded a significant result,  $G^2 (15) = 45.80$ ,  $p < .01$ . The main effect for verdict was also significant,  $G^2 (1) = 44.44$ ,  $p < .01$ . Subjects more often found the defendant guilty of the more serious charges of murder and manslaughter ( $n=145$ ) than of the less serious charges of criminal negligence and assault ( $n=53$ ). Further analyses revealed no other significant main effects or interactions.

Sentencing. Subjects' recommended sentences were analyzed using a 2 x 2 x 2 (Sex of Defendant x Sex of Victim x Sex of Subject) Analysis of Variance (ANOVA). The means used in this analysis are reported in Table III. This analysis revealed a significant main effect for sex of defendant,  $F (1, 229) = 4.66$ ,  $p < .05$ . Male defendants were sentenced to a longer prison term ( $M = 106.1$  months) than were female defendants ( $M = 85.4$  months). There were no significant effects due to sex of victim or sex of juror, and no significant interactions were found.

#### Mediators

Factor Analysis. In the first step of this analysis, the 13 potential mediators (concern for the well-being of the defendant and the family of the defendant, defendant responsibility, impulsiveness of the crime, potential for future criminal action, likelihood of rehabilitation, danger posed, feelings of fear, victim responsibility, victim provoking, and victim deserving

Table II  
Frequencies of More and Less Serious Verdicts  
by Sex of Defendant, Victim, and Subject

	Male Subjects	Female Subjects
Verdicts (More Serious <sup>a</sup> /Less Serious <sup>b</sup> )		
Male Defendant		
Male Victim	17/7	20/8
Female Victim	14/9	20/7
Female Defendant		
Male Victim	24/1	16/9
Female Victim	20/5	14/7

<sup>a</sup> More serious charges are second-degree murder and manslaughter.

<sup>b</sup> Less serious charges are criminal negligence and assault.

Table III  
Mean Sentences (in Months) by Sex of  
Defendant, Victim, and Subject

	Male Subjects	Female Subjects
Male Defendant		
Male Victim	107.17 (29) <sup>a</sup>	109.93 (31)
Female Victim	106.76 (29)	100.45 (31)
Female Defendant		
Male Victim	85.07 (28)	69.87 (31)
Female Victim	97.20 (30)	90.21 (28)

<sup>a</sup> Cell n's are reported in brackets.

fate) were factor analyzed using the principle components technique with a varimax rotation. Four factors with eigenvalues greater than 1.0 emerged.<sup>1</sup> The first factor was composed of items relating to characteristics of the defendant and his or her actions and had an eigenvalue of 3.49. The second factor had an eigenvalue of 2.13 and was composed of items measuring concern for the family of the defendant. The third factor had an eigenvalue of 1.39 and was composed of items relating to characteristics of the victim. The items in the fourth factor related to concern for the physical and emotional well-being of the defendant and resulted in an eigenvalue of 1.17. The individual items which make up these four factors are listed in Table IV.

Effects of Sex of Defendant, Victim, and Subject. In order to determine the influence of sex of defendant, victim, and juror on the four factors resulting from the factor analysis, items were summed and averaged within each factor and the four indices were analyzed using a series of 2 x 2 x 2 (Sex of Defendant x Sex of Victim x Sex of Subject) ANOVAs. Analysis of Factor 4 revealed a main effect for sex of subject,  $F(1, 232) = 3.77, p < .05$ . Concern for the physical and emotional well-being of the defendant had more of an influence on the decisions of female subjects ( $M = 4.23$ ) than it did on the decisions of male subjects ( $M = 3.81$ ).

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<sup>1</sup> The same factor patterns emerged when the principle components analysis was run using the quartimax and oblique rotations. The results from the oblique rotation revealed that the factors were uncorrelated.



Table IV  
Factor Loadings of Potential Mediators

	Factor			
	1	2	3	4
Defendant Responsibility	.7536			
Impulsiveness	.5469			
Rehabilitation	.7478			
Future Crime	.5920			
Danger	.8069			
Fear	.7757			
Concern for Family - Sentence		.9144		
Concern for Family - Verdict		.9087		
Victim Responsibility			.7231	
Victim Provoking			.6592	
Victim Deserving			.6634	
Concern for Defendant - Sentence				.8159
Concern for Defendant - Verdict				.8324

Note: Principle components technique, varimax rotation.

No other main effects or interactions were found.<sup>2</sup>

Predictors of Verdict and Sentence. Logistic regression, which is appropriate for use with a categorical dependent variable (Darlington, 1990, pp. 441-461), was performed using the four factors that emerged from the previous analysis in order to determine which indices were predictive of verdicts. Only the factor composed of items relating to characteristics of the defendant was predictive of verdicts; it accounted for 17.6% of the variance,  $p < .01$ . A summary of the results of the logistic regression for verdicts is presented in Table V.

A stepwise multiple regression was then performed in order to determine if the four factors were predictive of sentencing decisions. The factor composed of items relating to characteristics of the defendant and his or her actions accounted for the greatest proportion of the variance (41.7%,  $p < .01$ ). The second variable to be entered into the equation was the factor composed of measures of concern for the family of the defendant; it accounted for an additional 1.82% of the variance,  $p < .05$ . The factors relating to characteristics of the victim and concern for the well-being of the defendant were not significant predictors of sentencing decisions. A summary of the results of the stepwise multiple regression for sentences is presented in Table VI.

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<sup>2</sup> Separate 2 x 2 x 2 (Sex of Defendant x Sex of Victim x Sex of Subject) ANOVAs performed on each of the 13 items also revealed no significant effects for sex of defendant or sex of victim.

Table V  
Logistic Regression Summary - Verdicts

Factor	R <sup>2</sup> Change	B	Score	p
Defendant Characteristics	.18	3.17	42.13	<.01
Victim Characteristics			3.68	n.s.
Concern for Family			2.59	n.s.
Concern for Defendant			0.13	n.s.

Table VI  
Multiple Regression Summary - Sentences

Factor	R <sup>2</sup> Change	B	Beta	t	p
Defendant Characteristics	.42	49.40	.67	13.37	<.01
Concern for Family	.02	9.23	.14	2.74	<.05
Victim Characteristics				0.56	n.s.
Concern for Defendant				0.47	n.s.

### Discussion

Based on the findings of previous studies designed to examine gender effects in the courtroom, it was hypothesized that female defendants charged with a serious crime would be found guilty less often and would be assigned shorter sentences than male defendants charged with exactly the same crime. Partial support was found for this hypothesis. Although there were no differences due to sex of the defendant for verdicts, the prison sentences assigned to male defendants were, on average, 20.7 months longer than those assigned to female defendants. No support was found for the hypothesis that female victims elicit more severe treatment of the defendant. In accordance with previous research in which sex of the judge or juror was taken into account, male and female subjects did not differ in their verdict or sentencing decisions.

These results lend further support to the growing body of evidence which suggests that sex-based differences exist in the judicial processing of criminal defendants, at least in terms of sentencing decisions. Female defendants are punished more leniently than male defendants when convicted of a serious crime, resulting in an inequality in the treatment of males and females in the courtroom. The question that remains, however, is why these differences exist. The present study was designed to address this issue, but was only partially successful in providing an answer to this question. Several factors that have been proposed as post hoc explanations of sex differences in court trial outcomes were measured. These potential mediators were

factor analyzed to identify patterns among the individual items. The analysis revealed that these explanations formed four factors that can best be described as relating to characteristics of the defendant, concern for the well-being of the defendant, concern for the family of the defendant, and characteristics of the victim. Regression analyses showed that the factor describing characteristics of the defendant accounted for a substantial proportion of the variance in verdicts and sentences. In addition, concern for the defendant's family was a minor predictor of sentences. However, although these analyses identified important predictors of judicial decisions, the proposed mediating factors could not account for the fact that, in this study, female defendants received considerably shorter sentences than the male defendants. That is, the analyses of variance showed that these factors were not significantly affected by the sex of the defendant. Thus, it would appear that the factors examined in this study are not those responsible for the differential treatment of male and female defendants. However, when subjects were asked to indicate, on the open-ended part of the questionnaire, what other variables influenced their decisions, they did not suggest any factors other than those already measured, and, therefore, the jurors in this case did not provide any clues as to other possible mediators of this effect.

It is possible that the factors examined in this study are, in many cases, mediators of sex-based differences in jurors' decisions, but that it was something about the trial scenario used

in this study that resulted in no differentiation between male and female defendants. For example, subjects indicated that concern for the defendant's family had little influence on their decisions (overall mean = 1.60). This outcome is not surprising in view of the fact that family variables were well-controlled and purposely given little attention in the transcript. However, because family variables were not manipulated, and because subjects expressed little concern for the family of any of the defendants, no conclusions can be drawn regarding the influence of this factor on judicial decisions.

Another aspect of the scenario that may have influenced subjects' ratings was the information provided about the defendant's past. Certain characteristics of the defendant, such as the presence of a prior criminal record, might differentially affect judgements of male and female defendants. For example, compared to a female defendant, a male with a prior record might be seen as more dangerous and more likely to commit future crimes. However, because the defendants in this scenario were described as having no prior record, the role of these mediators may have been minimized. Manipulation of variables relating to the existence of a defendant's children, the potential for future criminality, and the likelihood of successful rehabilitation might provide insights into the causes of sex-based differences in jurors' decisions.

It is possible that the apparent failure to identify mediators of sex differences in sentencing lies not with the scenario, but with the way in which potential mediators were

measured. For example, in an attempt to measure the impact of chivalrous attitudes, or the notion that females should be protected from the physical and emotional stresses of a court trial and a prison term, subjects were asked to indicate the extent to which such concerns influenced their decisions. A better way of measuring the impact of this variable may be to ask subjects a direct question such as, "Do you think that this person would suffer physically and/or emotionally if they received a long prison sentence?" Further, in order to measure the impact of amenability to rehabilitation, subjects were asked to indicate the extent to which a prison sentence would be good for, or would help to rehabilitate the defendant. This question is somewhat ambiguous because two different lines of reasoning could result in the same rating. For example, if a person believed that female offenders can be more easily rehabilitated than male offenders, they may be inclined to agree that a prison sentence, regardless of whether or not it is the best method of rehabilitation, would help to rehabilitate a female defendant. On the other hand, if a person believed that it is difficult to rehabilitate male offenders, they may be inclined to agree that a prison sentence would be good for a male defendant because other means of rehabilitation are inappropriate. Alternatively, if a subject believed that female defendants are not in need of rehabilitation because they are not in control of, or are not responsible for their criminal actions, they may agree that a prison sentence would not benefit a female defendant. Similarly, if male

defendants are perceived as being beyond help, it would follow that a prison sentence would not contribute to their rehabilitation. A better way to assess these kinds of influences might be to separately measure the extent to which the defendant is in need of rehabilitation, the extent to which the defendant is capable of being rehabilitated, and the extent to which a prison sentence is necessary for rehabilitation to occur.

One of the more interesting findings of this study was that, contrary to expectations, there were no differences in verdicts for male and female defendants. This would suggest that the sex of the defendant did not influence subjects' interpretation of the evidence regarding the actions and motivations of the defendant. Apparently, the sex of the defendant only became important when decisions about punishment were being made. Nevertheless, this finding suggests that some of the potential mediators are less plausible explanations of differences in sentencing. For example, if defendant responsibility or intentionality had influenced subjects' decisions, this influence should have been reflected in verdicts as well as sentences. It is also possible that a "ceiling effect" on verdicts concealed a potential sex-of-defendant effect. Overall, despite the fact that the transcript was designed to be ambiguous about the details of the case and the legal implications of reasonable doubt were clearly explained, subjects seemed to be "conviction prone" in that there were many more guilty than not guilty verdicts, and many more verdicts finding the defendant guilty of more serious than less serious



charges. Perhaps because subjects were only role-playing, and were not actually responsible for the fate of a defendant, they were more inclined to return guilty verdicts. If verdicts were more evenly distributed, the detection of an effect due to sex of defendant might be more likely.

Contrary to expectations, the sex of the victim had no influence on verdicts or sentences. In addition, the female victim was seen as no less responsible, provoking, or deserving of her fate. The lack of a sex-of-victim effect is particularly surprising because the scenario contained ambiguous information about the victim's responsibility for the long-standing dispute that preceded his or her death, and results confirmed that the victim was seen as moderately responsible for the events described in the scenario (overall mean = 3.90), and as having provoked the actions of the defendant to some degree (overall mean = 5.35). Previous research had revealed an effect of only small magnitude for sex of the victim. Perhaps effects due to the sex of the victim occur only in very limited circumstances that were not captured in the scenario. Nevertheless, the results of this study cast doubt on the idea that sex of the victim affects treatment of the defendant in criminal trials.

In conclusion, this experiment yielded convincing evidence in support of the notion that female defendants are treated more leniently, at least in terms of sentences, than male defendants. This confirms the results of previous archival and experimental research. In addition, the results of this study have provided

valuable clues as to how to go about identifying mediators of this effect.

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## Appendix A

Court Transcript

In order to help you understand the essential elements of a legal trial, please read the following summary, prepared by the Canadian Law Reform Commission:

A -- The burden of proving guilt is on the prosecution throughout the trial. The prosecution must prove the defendant's guilt beyond a reasonable doubt on each and every essential ingredient of the case.

B -- Throughout the judicial process, a person accused of a crime is presumed innocent. He or she may remain silent and so require guilt to be proven without his or her assistance. This does not, of course, mean that the police may not question the accused, nor does it mean that they cannot offer in evidence a confession he or she may voluntarily make. If the accused chooses to testify, the credibility of the testimony may be challenged by the prosecution.

C -- At the conclusion of the prosecution's case, the accused has the right to point to the absence of any evidence on any issue that is essential to guilt, or in the case of jury trials, to point to inadequate circumstantial evidence, and thereby be acquitted.

D -- Or at the end of the prosecution's case, having elected not to call any evidence, the accused has the right to raise as a primary defense the weakness of the evidence for the prosecution and the existence of a reasonable doubt.

E -- At any time up until conviction, the accused has the right to offer a full answer and defense.

Transcript of the Province of Nova Scotia vs. Jenkins

The trial commenced on November 3, 1989 and lasted for 3 days. The Clerk of the Court, Brendan Clarke, read the charge to the jury:

"Members of the jury, the accused, Denise Lynne Jenkins, stands charged before you that she on or about the 17th day of October 1988 at the city of Halifax in the said Judicial District did unlawfully kill and slay Jeffery Dean Hendrick thereby committing second-degree murder, contrary to the provisions of the criminal code. Upon this charge she has been arraigned, upon her arraignment she has pleaded not



guilty. Your duty, therefore, is to enquire whether she be guilty or not guilty of the offense charged, and harken to the evidence."

The presiding judge, Chief Justice Anthony Olford, spoke to the jury before the prosecutor and defense lawyer made their opening statements:

"Members of the jury, I am going to tell you a few simple things at this time. Under the law in this land, you twelve people and I comprise a single court, and it is our duty, between us, to listen to the evidence that is produced in this courtroom, and at the end of it I will instruct you on the law that you must apply in assessing the evidence, and it is you and you alone who have the responsibility of determining what facts have been established by the Crown beyond a reasonable doubt before a conclusion of guilt can be reached.

Anything that is said by counsel in their opening remarks or any remarks that they will make at the conclusion of the case must not be considered by you as being evidence. It is their sincere and honest effort to be of assistance in analyzing evidence, but what they say in those remarks is not evidence as such, you alone determine those matters.

In the same way, in the course of remarks that I may make to you and will make to you, you may feel that I have indicated some feeling with regard to a conclusion of fact, you are at liberty to disregard anything that I may say in that regard because it is you and not I who determine the facts.

The Crown will now open their case with a view to establishing their case, which they must do beyond a reasonable doubt to succeed."

John Quincy Harris, the Crown Prosecutor for Nova Scotia made the following opening statements to the jury:

"Members of the jury, during this trial you will hear evidence that on the 17th day of October, 1988 Denise Lynne Jenkins murdered Jeffery Dean Hendrick. The prosecution will present evidence pertaining to three key factors. First, evidence will be presented that demonstrates that Denise Jenkins had a motive to murder Jeffery Hendrick. This motive arises from a long-standing, publicly-known dispute between the defendant and the victim. You will hear about Denise Jenkins' feelings of bitterness, hostility, and anger toward the victim, Jeffery Hendrick. Second, evidence will be presented as to the defendant's state of mind on the evening of October 17th. Witnesses will testify that there was a loud and bitter dispute between the defendant and victim.

You will hear about her embarrassment and anger. Finally, you will hear that, in this state of rage, Denise Jenkins stormed out of the party at which she and Mr. Hendrick were in attendance, went to her vehicle, and waited in the dark for Jeffery Hendrick to appear. When he came out, she stepped on the gas and, using her van as a lethal weapon, ran Jeffery Hendrick down. I am sure that, when you have heard all of the evidence, and considered it carefully, a clear picture will emerge. A picture of a bitter person who, in a state of anger, murdered Jeffery Dean Hendrick."

Michael Wesley McGowen, the lawyer for the defense, made the following opening statements to the jury:

"My colleague, Mr. Harris, has just presented the prosecution's view of what transpired on the evening of October 17th, 1988. Indeed, the picture he has painted of my client, Denise Jenkins, is not a pretty one. But I believe, and I am sure you will come to believe, that such a description is inaccurate and unfair. You will hear about a long-standing dispute between Jeffery Hendrick and Denise Jenkins. But this dispute was largely the result of the attitudes and actions of Mr. Hendrick. He was the one who initiated a confrontation with Denise Jenkins. He was the one who behaved in a rude and obnoxious manner. Denise Jenkins, on the other hand, tried to avoid the confrontation, and eventually left, embarrassed and upset at being verbally assaulted by Jeffery Hendrick. You will hear testimony that, as she was trying to leave, Jeffery Hendrick came after her, and stepped in front of her vehicle. What ensued was a terrible, tragic accident. But it surely was an accident, an accident that was largely the responsibility of Mr. Hendrick himself. I am sure that when you have heard and considered all the evidence, this is the conclusion you will come to, and you will restore Denise Jenkins' freedom by finding her innocent."

Dr. William Jordon, attending physician, Emergency Ward, Queen Victoria Hospital, was the first to testify:

Dr. Jordon testified that an ambulance arrived at the Queen Victoria Hospital Emergency Room at approximately 11:10 p.m. on the evening of October 17, 1988. Dr. Jordon stated that he immediately examined a seriously-wounded unconscious male patient, later determined to be Jeffery Dean Hendrick, who appeared to be suffering from multiple fractures, including a fractured skull and broken vertebrae. He stated that bleeding from the nose, ear, and mouth was also discovered, indicating severe internal injuries. As the emergency room team began work to stop the internal

hemorrhaging and stabilize the neck injury, the pulse and respiration of the patient slowed. The medical team began immediate work to resuscitate the patient, but were unsuccessful in their efforts. Dr. Jordon stated that resuscitation efforts ceased at 11:43 p.m., and the patient was pronounced dead shortly thereafter.

Dr. Patricia Manfred, intern at Queen Victoria Hospital Emergency Ward, was the next to testify:

Dr. Manfred stated that she examined the defendant, Denise Lynne Jenkins, at approximately 11:25 p.m. on the evening of October 17, 1988. She stated that the patient had a laceration above her left eyebrow which required five stitches to close. The patient appeared obviously confused and initially said nothing. Dr. Manfred diagnosed a slight concussion and ordered that Jenkins be held for observation. Dr. Manfred testified that after some prompting, the patient was able to recall her name and address as well as some other personal information. The only reference that Denise Lynne Jenkins made to the events that had transpired that evening was to inquire "Is he dead?" Dr. Manfred, unaware of who "he" was, replied that she did not know.

The Chief Provincial Coroner for Nova Scotia, Dr. Neil R. Berenger, gave the following testimony:

Dr. Berenger testified that he performed an autopsy on the deceased, Jeffery Dean Hendrick, in the presence of Constable Wayne Pierce, on the morning of October 18, 1988. He stated that he examined the body of a white male, approximately 30 years of age. His height was 5' 10" and he weighed 185 lbs at the time of death. Dr. Berenger stated that the primary cause of death was a ruptured aorta, coupled with profuse internal hemorrhaging. When asked to describe the general state of the body at the time of examination, Dr. Berenger reported that there were fractures of both arms, the left leg, the ribs, and the skull. He also described various contusions and abrasions discovered on other parts of the body.

Constable Wayne Pierce, a member of the Halifax City Police Department, testified:

Constable Pierce stated that he and his partner, Constable John Cowley, received a call on their radio at approximately 10:20 p.m. on the evening of October 17, 1988, regarding an incident in the parking lot of the Chester Plains Country Club. Pierce described the road conditions

that night as slippery and wet due to the rain that had been occurring on and off throughout the day. Upon arriving at the scene, the officers first discovered a van that had collided with the large metal gate at the roadway entrance to the Chester Plains Country Club. While Constable Cowley got out of the car to investigate the van, Pierce moved on to where a crowd had gathered and was motioning to him. Constable Pierce stated that there he discovered the body of a seriously-injured unconscious male who was lying face up on the sidewalk that led to the entrance to the building. Pierce immediately radioed for an ambulance, and was informed that one had already been dispatched to that address. Constable Cowley then approached Pierce and informed him that the driver of the van was bleeding from the forehead and was not responding to his questions, so she should also be taken to the hospital. When the ambulance arrived, it was decided that Constable Cowley would accompany the injured parties to the hospital while Constable Pierce remained on the scene to investigate the incident.

Constable Pierce stated that at the scene he spoke to witnesses who identified the injured man as Jeffery Dean Hendrick and the driver of the van as Denise Lynne Jenkins. These people were gathered at the Chester Plains Country Club to attend a high school reunion. Constable Pierce said he spoke to two witnesses who saw the van, driven by Denise Lynne Jenkins, hit Jeffery Dean Hendrick and then proceed down the road until it collided with the metal gate at the entrance to the club. Other witnesses told Pierce about a loud argument between Jenkins and Hendrick that took place inside the building prior to the incident in the parking lot.

When questioned about the physical evidence on the scene, Constable Pierce stated that he found the distance between the place where Jeffery Hendrick's body lay and the van to measure 300 feet. Constable Pierce further testified that despite the rain, he found a small pool of blood on the pavement where the parking lot began, about 18 feet from the location of Jeffery Hendrick's body. He said that he also discovered some small pieces of broken glass that were later found to match the right headlight of Denise Jenkins' van. Constable Pierce surmised that this was the place where the collision had occurred, and that Jeffery Hendrick had been thrown 18 feet to where he was found. Pierce testified that the serious condition of Jeffery Hendrick and the great distance between his body and the vehicle that had hit him indicated that what happened may not have been a simple accident. The testimony of the witnesses at the scene added to his suspicions.

Constable Pierce stated that once he finished interviewing witnesses and examining the scene, he proceeded to Queen Victoria Hospital to confer with Constable Cowley and check on the conditions of Jeffery Hendrick and Denise Jenkins.

Constable John Cowley, a member of the Halifax City Police Department and partner of Constable Wayne Pierce, was the next to testify:

Constable Cowley testified that he rode in the ambulance to Queen Victoria Hospital with Jeffery Dean Hendrick and the defendant, Denise Lynne Jenkins, on the evening of October 17, 1988. Cowley stated that Denise Jenkins was bleeding from the forehead and was shaken and confused "as if in shock." She said nothing and did not respond to prompting by himself or the paramedics. Jeffery Hendrick was unconscious, and upon arriving at the hospital, Constable Cowley remained with him in case he awoke and spoke of the incident. Jeffery Hendrick never regained consciousness, and Cowley stated that he was present when Dr. William Jordon pronounced Mr. Hendrick dead. Constable Cowley stated that he was informed by Dr. Manfred of the condition of Denise Jenkins and of what she had said. He was told that Jenkins was being held for observation, so he waited for the return of his partner. During that time, Constable Cowley requested that blood samples be taken from both Jenkins and Hendrick to determine if alcohol had been a factor in the incident. Both tests were negative; apparently neither Denise Jenkins nor Jeffery Hendrick had been consuming alcoholic beverages that night.

Cowley stated that Constable Pierce arrived at the hospital about an hour later, was informed that Hendrick had died, and described the evidence he had found at the scene to Cowley. "Once we put all the pieces together, it appeared that we might have a murder on our hands," Cowley testified. Constable Cowley stated that he and his partner remained at the hospital where they consulted by telephone with the Chief of the Halifax City Police Department and the Crown Prosecutor for Halifax. The Crown Prosecutor agreed with the police that the evidence pointed to foul play, and it was decided that an arrest should be made. Constable Cowley stated that he took Denise Lynne Jenkins into custody at 9:20 a.m. on October 18, 1988. He read Jenkins her rights and remained with her as the doctor did some final tests before she could leave. All tests were normal and Denise Jenkins was released from the hospital. Next, Constables Cowley and Pierce escorted Jenkins to the police station for questioning. A stenographer, Terry Guilquist, was present throughout the questioning which took place at 10:35 a.m.. Cowley again informed Jenkins of her rights and proceeded with the questioning. Constable Cowley related Denise Jenkins' account of the events as follows:

Denise Jenkins said that she was at the Chester Plains Country Club in order to attend a high school reunion. She said that she had arrived there at about 8:30 p.m. and was having an enjoyable time visiting with old friends, "when the next thing I knew Jeffery was

there, telling everyone how I ruined his business." Jenkins said that this referred to a business venture they had entered into together that failed. She said that at first she tried to ignore him, but as he continued she decided to approach him and "discuss the situation." Denise Jenkins stated that after a lengthy "disagreement" she became angry, upset, and embarrassed, and decided that it would be best if she left. When questioned as to what the disagreement was about, she said that about five years ago she and Jeffery Hendrick entered into a business together. She said that the business failed and that they both lost all of their investments, including several thousand dollars that "mysteriously" disappeared. Jeffery Hendrick blamed her for the failure and accused her of stealing the money. Jenkins denied these accusations. She said that on the night in question, she left the party sometime before 10:30 p.m., got into her van, started the engine, and went to leave the country club. "After that everything is such a blur," she said. Jenkins said that she was leaving the parking lot when all of a sudden someone was in front of her. She swerved to miss them, and the next thing she knew she was sitting in the van with blood dripping down her face. When questioned as to how fast she was driving, Jenkins said "I don't know, but it wasn't very fast." In response to questioning about her relationship with Jeffery Dean Hendrick, Denise Jenkins replied that since the business failed, they didn't like each other, rarely saw one another, and "had no use for each other." "I didn't like him but I would never do anything to hurt him," she said.

When questioned as to Denise Jenkins' emotional state at the time of questioning, Constable Cowley said that she was calm throughout the interview and answered all questions willingly and thoughtfully. He said that it was only after the interview was over and he informed Jenkins that Jeffery Hendrick was dead that she became very upset.

Gregory Cantor, former high school classmate of Jeffery Dean Hendrick and Denise Lynne Jenkins, gave the following testimony:

Gregory Cantor stated that he was present at the Chester Plains Country Club on the evening of October 17, 1988 in order to attend a 12 year high school reunion. Mr. Cantor said that at around 10:00 p.m. he decided to go outside to cool off and have a cigarette. He said that he was joined by an old friend, Tamara Olson, and since it was raining they stood under the awning near the entrance to the building. Mr. Cantor stated that after they had been outside for a few minutes, he saw Denise Lynne Jenkins rush out of the building

and disappear into the parking lot. Cantor said that a few minutes later, he saw Jeffery Hendrick exit the building. When asked to remember more precisely the amount of time that passed between the point at which Denise Jenkins left the building and the point at which Jeffery Hendrick left, Mr. Cantor stated that he couldn't be sure exactly; "it was about five minutes, I guess." He said that Jeffery Hendrick paused for a moment as he searched for his keys, and then proceeded down the sidewalk away from the entrance of the building and turned right on the sidewalk that surrounded the building. As Jeffery Hendrick was crossing the grassy area between the sidewalk and the parking lot, a van came out from a far right parking aisle. Gregory Cantor testified that he saw Jeffery Hendrick look toward the van and yell something, but he wasn't sure what it was that Jeffery had said. He said that next he saw the van hit Jeffery Hendrick, and he saw Hendrick's body being thrown to the sidewalk leading to the entrance of the building. Cantor testified that the van did not stop after hitting Hendrick; it "sped off" down to the end of the driveway of the parking lot where it collided with a large metal gate. When asked exactly where it was that Jeffery Hendrick was hit, Cantor stated that it was right at the edge of the pavement where the parking lot began. When asked if the van had veered toward Hendrick or if it was travelling in a straight path, he replied that because it was dark and he was quite startled, he couldn't really be sure. When questioned as to how fast the van was going, Cantor replied: "I cannot guess at the speed that the van was travelling; I only know that it was going much faster than it should have been in a parking lot." Cantor testified that while Tamara Olson went to call for help, he checked the condition of Hendrick. He decided that nothing could be done until an ambulance came, and he waited outside for its arrival.

When asked about his relationship with Jeffery Dean Hendrick and Denise Lynne Jenkins, Gregory Cantor stated that he knew both of them as acquaintances in high school, but had seen little of them since. He testified further that he had no personal knowledge of the relationship between them. When asked if he had heard any sort of discussion going on between them on the evening of the reunion, Cantor replied that he was aware of some sort of commotion, "but I don't like to get messed up in anyone else's business, so I ignored it."

Tamara Olson, former high school classmate of Jeffery Dean Hendrick and Denise Lynne Jenkins, testified:

Tamara Olson stated that at approximately 10:00 p.m. on the evening of their high school reunion she accompanied Gregory Cantor outside the Chester Plains Country Club for fresh air and a chat. She testified that she and Mr. Cantor

had been standing outside for approximately five minutes when she saw Denise Lynne Jenkins exit the building and head to the parking lot. "I waved to her but she didn't wave back," Olson said. "She looked pretty angry." Ms. Olson testified that some time later, "probably about five or six minutes," she noticed Jeffery Dean Hendrick also leave the party. She stated that she was talking to Gregory Cantor with her back facing the parking lot. Tamara Olson did not notice anything unusual until she heard someone yell something that she couldn't make out, and she saw Gregory Cantor gasp and step backwards. Olson turned just in time to see Jeffery Hendrick being thrown through the air and land on the sidewalk. Tamara Olson stated that the van did not stop after hitting Hendrick; it continued to travel down the driveway to where it smashed into a gate. When asked how fast the van was travelling after it hit Hendrick, Olson replied: "I'm not really sure ... things happened so quickly. It was going pretty fast, I guess." Olson said that she was quite stunned and frightened, but Gregory Cantor managed to persuade her to go into the building and call for an ambulance and the police. Olson stated that she was too upset to return outside, so she remained in the building until the police arrived.

In response to questioning about her relationship with Jeffery Dean Hendrick and Denise Lynne Jenkins, Tamara Olson said that she never really knew Jeffery that well, "but he seemed like a nice guy." She was, however, quite close to Denise for a period during high school, and they kept in touch periodically ever since. Regarding the character of Denise Jenkins, Tamara Olson said: "Denise is a really nice person. We always got along quite well. She never seemed to be the type of person who would want to harm anyone." Of the relationship between Denise Jenkins and Jeffery Hendrick, Olson stated that they had been casual friends in high school and then several years later they formed some sort of a business together. She said: "I'm not really sure of the details, but I know their business fell apart and they were no longer friends after that. I think they tried to avoid each other for the most part, but I've seen them be quite nasty to each other on several occasions. I even heard Jeffery threaten to sue Denise once. He said he'd get the evidence and then she'd be sorry." When asked if there was any sort of disagreement between them on the night of the reunion, Tamara Olson said that she didn't see the start of it, but she did see them arguing "about the same old thing" for a short period during the evening.

Thomas Bennett, former high school classmate of Jeffery Dean Hendrick and Denise Lynne Jenkins, gave the following testimony:

Thomas Bennett stated that he was happy to be at his



high school reunion, and was pleased to meet up with his old friend Jeffery Hendrick, whom he hadn't seen in several years. Bennett said that the two of them chatted for a while about old times and what was new, when he remembered that Jeffery had gone into business for himself a few years ago. "As soon as I asked him about it he became angry and defensive," testified Bennett. Bennett stated that Hendrick described a retail sales venture that he had entered into, but the business never really got off the ground. Hendrick told Bennett that he lost everything he invested and more; he was completely broke with a poor credit rating after the demise of the business. Thomas Bennett said that the more Jeffery talked about it, the angrier he got. Bennett stated that Jeffery Hendrick was soon "complaining loudly about a stupid, crooked business partner he had who stole several thousand dollars from the business and ultimately caused its failure." Bennett said that Jeffery was speaking quite loudly at this point, and that others could definitely overhear them. Bennett testified: "When I asked Jeffery if I would know the person who was his partner, he looked around and pointed to Denise Jenkins. At that point, Denise came over, said hello to me, and coldly told Jeffery that he was embarrassing himself and everyone else. Jeffery told her that his conversations were none of her business. Denise became upset at that point, and there were some harsh words and name-calling." Thomas Bennett said that people around them were becoming embarrassed and started to move away. He stated that he heard Denise say "I didn't take that damn money ... I lost just as much as you!" Bennett testified that he was becoming quite uncomfortable with the situation, and as he was trying to move away from the scene he heard Jeffery Hendrick say "Someday you'll pay for what you did, you bitch!" Thomas Bennett said that at that point he and some others moved to the food table across the room, and that he didn't see either Jeffery or Denise again until he heard of the incident in the parking lot.

The defendant, Denise Lynne Jenkins, was the last to take the stand:

Denise Lynne Jenkins testified, in response to questioning, that she was unmarried, had no children, and had been employed as an assistant manager of a department store for the last three years. Jenkins testified that she had been looking forward to attending her high school reunion. She said that she was in a good mood when she arrived at the Chester Plains Country Club at around 8:30 p.m. on October 17, 1988. She said that the evening started out pleasantly and she was having a good time talking and laughing with old friends. When questioned as to when she first noticed that Jeffery Dean Hendrick was also in attendance at the party,

Denise Jenkins stated that she saw him conversing with people near the buffet table about half an hour after she arrived. She said: "As soon as I saw him I became uncomfortable. Then I thought 'why should I let him bother me?' I decided that the best thing to do was ignore him and try to have a good time." When asked why she would attend a function where she knew she may see someone she disliked so much, she replied: "Well, I was really looking forward to this party - seeing old friends and stuff like that. I wanted to go. Besides, I never thought that Jeffery would be there because I had heard that he moved to B.C." Denise Jenkins said that she was having a good evening until she overheard Jeffery Hendrick once again complaining about their failed business and blaming her for its demise. When asked to describe this business venture in more detail she said: "About five years ago Jeffery and I decided to go into business together. We were in a couple of marketing courses together and we were both interested in investing in something we could run ourselves so it made sense to pool our money and do it together. We rented space at a mall and opened a toy store. Business was bad because the economy slumped, and within a year we couldn't make our payments and we had to shut it down. We made some bad deals and the business went bankrupt. In addition, a large sum of money, around seventeen thousand dollars, went unaccounted for. Jeffery blamed me for ruining the business and taking the money. None of it was my fault and I didn't take that money. If anything it was his fault because he made a lot of the major decisions." When asked about her feelings toward Jeffery Hendrick, Denise Jenkins stated that since the business problem they could no longer get along and tended to avoid one another. When asked if they had had any major fights or arguments she said: "Yes, we sometimes had arguments. We had a big problem and it never really got resolved so we continued to dislike one another. He disliked me as much as I disliked him."

When questioned about the dispute on the night of the reunion, Denise Jenkins stated that she approached Jeffery Hendrick "only in order to ask him to stop slandering me in front of old friends." "Of course he didn't think he was doing anything wrong, and the whole thing started all over again. He accused me of the same old things and I argued back. I realized we were creating a scene but I couldn't just stand there and let him run me down like that." Denise Jenkins stated that after about ten minutes of fighting, she became very angry and embarrassed. She said it was at that point that she decided to leave the party. She stated that she went out to her van, started the engine, and went to leave the country club. When it was pointed out to her that two witnesses had testified that they saw her leave the party approximately five to six minutes before they saw her run over Jeffery Hendrick, Denise Jenkins stated that she does not remember being in her van for that long. "But I don't

know, maybe I was. I was very upset," she said. Denise Jenkins further testified: "What happened next is such a blur. I went to leave the parking lot and the next thing I knew I was sitting in the van with blood dripping down my face. I hardly remember hitting him. All of a sudden he was in front of me. It was as if he walked right in front of my path." When questioned as to how fast she was driving in the parking lot she said "I don't know, not very fast." When asked why she had been driving so close to the sidewalk area, Jenkins stated that she just wanted to get out of there and she really didn't think she was doing anything wrong. "It was an accident!" she said.

Michael Wesley McGowen, the lawyer for the defense made his final summation:

"Members of the jury, we have now reached the stage where this case will soon be in your hands. It is my duty to now summarize the facts of this case for you.

I want to start out by emphasizing what is probably the most important rule of our criminal justice system. This is a rule that you all know about, the rule of reasonable doubt. If, at the end of your deliberations, you do have a reasonable doubt about the guilt of this defendant, you must acquit Denise Lynne Jenkins. I must point out further that it is not for the accused to raise a doubt. Doubt can and often is found as a result of the evidence submitted by the Crown. In my experience, there is more doubt surrounding the events of the evening of October 17, 1988 than there is in most criminal court proceedings. Let's review those events.

Denise Jenkins went to her high school reunion. She was looking forward to seeing old friends, renewing old friendships, and having a good time. She had no idea that Jeffery Hendrick would be there. In fact, she thought that he had moved to another city.

But Jeffery Hendrick was there, and he was behaving in a loud, rude, hostile, and obnoxious manner. Even his old friend, Thomas Bennett, remarked that Hendrick was loud and upset, even before he saw Denise Jenkins. When Denise Jenkins tried to reason with him, he became even more abusive. He assaulted her verbally and even threatened her.

Of course Denise Jenkins became upset and embarrassed. Who wouldn't? But instead of prolonging this confrontation, she chose a reasonable course of action to defuse the situation. She decided to leave. She went out to her vehicle, still upset and embarrassed. Instead of driving in this condition, she wisely decided to take just a minute or two to regain her composure, then she started to leave. She had no way of knowing that Jeffery Hendrick would follow her out, perhaps seeking to continue his threats and harassment. Jeffery yelled at her and stepped onto the wet pavement in

front of her vehicle. It was dark, it had been raining, and the driveway was slippery. Denise Jenkins was unable to avoid the angry Hendrick, and a terrible accident occurred. Because of his own hostile actions, Jeffery Hendrick lost his life.

The fact that Denise Jenkins' van travelled another 300 feet is not an indication that she was trying to get away. Put yourself in her situation. She was upset, in a state of shock, and struggling to regain control of her vehicle. It was dark and rainy. Three hundred feet goes by pretty quickly under these circumstances. She eventually collided with a gate and was injured. Still dazed and in a state of shock she was taken to the hospital. The next day she learned of the death of Jeffery Hendrick and her life became a terrible nightmare from which she still hasn't recovered.

It is important for you to know what kind of a person Denise Jenkins is. She is a hard-working and conscientious person whose career requires her to handle considerable responsibility. She has been struggling to recover from her financial ruin. Tamara Olson testified that Denise Jenkins is a nice person who would never do anything to hurt anyone. She has no record of ever having committed a criminal offense. This is hardly the picture of a cold-blooded killer.

I believe that, upon reflection about the events of this tragic evening, upon consideration of the confusing and unfortunate series of circumstances, that you will conclude that Denise Jenkins deserves the benefit of reasonable doubt in this case. It is time for Denise Jenkins to put this behind her, to recover from the turmoil and tragedy of that evening, and to start rebuilding her life. You can help her start on this path with a verdict of not guilty."

John Quincy Harris, the Crown Prosecutor for Nova Scotia, then made his final summation:

"Members of the jury, I first wish to thank you for your patience and close attention to the testimony presented during this trial. It is my duty now to summarize the case against the defendant, Denise Lynne Jenkins. I will do this by addressing three issues: first, the defendant's motive to kill the victim; second, the defendant's state of mind on the night in question; and third, the events that occurred on the night that Jeffery Hendrick's life was tragically taken from him.

The testimony presented these past few days has conclusively established that there was a long history of bitterness and animosity between the defendant and the victim. An unsuccessful business venture caused them to lose their savings, and feelings of resentment and hostility resulted and occasionally boiled over into public accusations

and threats. Denise Jenkins admitted to having hostile feelings toward Jeffery Hendrick, to being very angry at him, and to 'having no use for him.' There were even threats of a lawsuit, something that Denise Jenkins could avoid if Jeffery Hendrick were no longer around.

Denise Jenkins carried these feelings of hostility and resentment with her when she went to her high school reunion on that night in October. The sight and sound of Jeffery Hendrick revived the bitterness she felt. Tamara Olson testified that she behaved in an 'angry' manner. Denise Jenkins herself admitted that she became angry during her dispute with Jeffery Hendrick. Instead of avoiding Hendrick, who was obviously upset, she confronted him and made a bad situation even worse. According to witnesses, there were harsh words and name-calling. Finally, Denise Jenkins left the party. In a state of anger she stormed out of the building, failing even to acknowledge Tamara Olson's friendly wave. What she did next is perhaps the most incriminating piece of evidence against her.

Instead of leaving immediately, Denise Lynne Jenkins sat in her van, angry and fuming, and waited until Jeffery Hendrick came out of the building. When he appeared, she immediately stepped on the gas, sped toward him, and hit him with such force that his body was thrown 18 feet to where he lay wounded and dying on the sidewalk. Gregory Cantor testified that her vehicle was travelling much faster than one would ordinarily drive in a parking lot. The evidence also suggests that Jeffery Hendrick was hit while still at the side of the road, right next to the sidewalk. The clear indication is that Denise Jenkins gunned the engine of her van, aimed at Jeffery Hendrick, and struck him down. The result was that Jeffery Hendrick suffered catastrophic injuries, and he died that same evening.

What did Denise Jenkins do after running someone over with her van? She tried to escape. Instead of stopping to see if Hendrick was injured, as you would expect if this were really an accident, in the words of Gregory Cantor and Tamara Olson, Denise Jenkins sped off down the driveway toward the highway. She would have gotten away if she hadn't lost control of her van and smashed into a gate, a full 300 feet away.

Consider also Denise Jenkins' subsequent reactions. In the hospital she did not seem upset or remorseful. In fact, during her testimony in this courtroom she did not express regret over the death of Jeffery Hendrick. Instead, she still expressed anger and bitterness toward him.

In a few minutes Justice Olford will tell you that, if you are to reach a verdict of guilty in this case, you must be convinced beyond a reasonable doubt. I want to stress that a reasonable doubt is not 'no doubt.' We, as humans, have doubts about nearly everything. The key word here is 'reasonable,' and if you don't have a reasonable doubt then

it is your duty to convict the accused according to the evidence. I think, when you consider all of the evidence taken together, that a clear picture emerges. A picture of someone who had long-term hostile feelings toward Jeffery Hendrick, and who engaged in an angry confrontation with him. Someone who, instead of leaving the party immediately, waited in her van for him to emerge and then struck him down in cold blood. Someone who, even now, seems not to regret her actions. This is a picture of guilt. Thank you."

The presiding judge, Chief Justice Olford, gave the final direction to the jury:

"Members of the jury, we are close to the end of this trial, and I must now instruct you as to the law applicable to this case and make some comments upon the evidence.

I am sure that I don't need to remind you that in acting as a jury you are fulfilling an extremely important function in our present society. Because, deep rooted in our system of law, there is the concept that the jury system is available to all accused persons charged with a crime, should they so desire. No one shall be convicted of a crime unless and until a jury of 12 are satisfied beyond a reasonable doubt that guilt does exist.

It is my duty as Judge to instruct you as to the law, and in that regard you must accept my instructions and definitions on the law whether you happen to think that I am right or not. At the same time, you alone are the sole judges of the facts in this case, and if during the course of my forthcoming remarks I should appear to indicate any view with respect to the facts, and you differ with my view, it is not only your right but your duty to follow your own inclinations.

This is also true with respect to the weight that shall be placed on evidence that you heard and to the acceptability of the evidence of any witnesses. It is you and you alone who will determine whether you believe the whole or only parts of any witness' evidence. Nothing that I say should influence your assessment of the evidence given by a witness or the force or reliability that you assign to it.

Now, before I deal with the law which applies to the particular charge in this case, I should like to outline certain basic conceptions of the law that are observed in all criminal cases, no matter what the charge might be.

The first of those principles is that every accused person is presumed to be innocent until the evidence presented by the Crown satisfies a jury beyond a reasonable doubt that the accused is guilty. The second is that the onus of proof rests upon the Crown from the beginning to the end of the case, and by that I mean that it is their responsibility to prove that the defendant is guilty. If the

Crown has not established the defendant's guilt beyond a reasonable doubt, then they have failed and the accused should then be acquitted.

Now, coming to the more particular law that deals with this case, we find we start off with a charge against the accused, Denise Lynne Jenkins. It is charged that she, on or about the 17th day of October 1988, at the City of Halifax, did unlawfully kill and slay Jeffery Dean Hendrick, thereby committing second-degree murder contrary to the provisions of the Criminal Code.

Murder is defined by the Criminal Code, Section 212 and, so far as it is relevant to this case, that Section says this: Culpable homicide is murder in cases where the person who causes the death of a human being: (1) means to cause his death, or (2) means to cause him bodily harm that he knows is likely to cause his death and is reckless, whether death ensues or not. In this case the charge is second-degree murder. First-degree murder is that which is planned and premeditated. Second-degree murder is that which is not premeditated. Denise Lynne Jenkins is charged with second-degree murder.

In order to make your decision in this case, you must make some judgments about the circumstances surrounding Jeffery Hendrick's death. Included in your judgements will be: the possible motive that the defendant had for her actions; the state of mind of the defendant on the night in question; evidence from various eyewitnesses as to the manner in which events unfolded; the testimony of the law-enforcement officers as to the events at the scene and statements made by the eyewitnesses and by the defendant; and finally, the testimony of the defendant.

Finally, I will outline the options you have when arriving at a verdict:

You may find Ms. Jenkins guilty of second-degree murder. She is guilty of second-degree murder if, in your opinion, she caused the death of Mr. Hendrick in either of the following circumstances: (a.) she meant to cause the death of Jeffery Dean Hendrick, or (b.) she meant to cause bodily harm that she ought to have known was likely to cause the death of Mr. Hendrick, even if she didn't intend to cause his death. Second-degree murder is different from first-degree murder in that first-degree murder is planned and deliberate, second-degree murder is not.

You may find Ms. Jenkins guilty of the lesser charge of manslaughter. The charge of murder may be reduced to manslaughter if the person who committed it did so in the heat of passion caused by sudden provocation. Ms. Jenkins is guilty of manslaughter and not murder if, in your opinion, Jeffery Dean Hendrick provoked Ms. Jenkins in a manner which was sufficient to cause her to lose her self-control, and if Ms. Jenkins acted suddenly and before there was time for her passion to cool.

You may find Ms. Jenkins guilty of the lesser charge of criminal negligence. Denise Jenkins is guilty of causing death by criminal negligence if, in your opinion, she caused the death of Jeffery Dean Hendrick by acting in a manner which showed a wanton or reckless disregard for the life and safety of Mr. Hendrick.

You may find Ms. Jenkins guilty of the lesser charge of aggravated assault. A person commits assault when he or she applies force intentionally to that other person. Aggravated assault is assault in which a person wounds, maims, disfigures, or endangers the life of another person. Ms. Jenkins is guilty of aggravated assault if, in your opinion, she was responsible for causing the death of Jeffery Dean Hendrick, but did not do so in a manner which warrants any of the other three more serious verdicts, murder, manslaughter, or criminal negligence.

Finally, you may find Ms. Jenkins not guilty. The defendant is not guilty if the Crown has failed to establish her guilt beyond a reasonable doubt. In other words, Denise Jenkins is not guilty if her actions have not been proven to be in accordance with those required by the definitions of second-degree murder, manslaughter, criminal negligence causing death, or aggravated assault.

I don't think I am going to say anything further to you. It is time for you to retire to consider your verdict."



## Appendix B

Verdict Measure

The trial is over. It is now time for you, as a juror in this case, to reach a verdict regarding the guilt or innocence of the defendant, Denise Lynne Jenkins. You have a number of different verdicts you could reach, from guilty of second-degree murder, to guilty of a lesser charge, to innocent. Listed below is a Verdict-Guidelines Summary which details the specific legal criteria for each of the possible verdicts: guilty of second-degree murder; guilty of manslaughter; guilty of criminal negligence causing death; guilty of aggravated assault; and not guilty. Please note that the verdicts are listed in DESCENDING order of severity (for example, manslaughter is a "lesser" charge than second-degree murder; criminal negligence is a "lesser" charge than manslaughter; etc.). On the next page you will be asked to indicate which verdict you have reached in this case.

## Verdict-Guidelines Summary

- 1.) GUILTY OF SECOND-DEGREE MURDER. The defendant is guilty of second-degree murder if s/he meant to cause the death of the victim OR meant to cause bodily harm that s/he ought to have known was likely to cause the death of the victim (even if s/he didn't intend to cause the death of the victim). Second-degree murder is murder that is not planned or premeditated.
- 2.) GUILTY OF MANSLAUGHTER. Manslaughter is murder committed in the "heat of passion" IF the victim provoked the defendant in a manner which was sufficient to cause him/her to lose self-control AND if the defendant acted before there was time for his/her passion to cool.
- 3.) GUILTY OF CRIMINAL NEGLIGENCE CAUSING DEATH. The defendant is guilty of causing death by criminal negligence if s/he caused the death of the victim by acting in a manner which showed a "wanton or reckless disregard" for the life and safety of the victim.
- 4.) GUILTY OF AGGRAVATED ASSAULT. The defendant is guilty of aggravated assault if s/he was responsible for causing the death of the victim, but did so in a manner which does not warrant conviction on any of the above more serious charges.
- 5.) NOT GUILTY

Please indicate below which verdict you have reached in the case of Nova Scotia vs. Denise Lynne Jenkins. Please DO NOT refer back to the court transcript in order to make your decision. Indicate your verdict by circling one of the following options:

- 1 = Guilty of Second-Degree Murder
- 2 = Guilty of Manslaughter
- 3 = Guilty of Criminal Negligence Causing Death
- 4 = Guilty of Aggravated Assault
- 5 = Not Guilty

## Appendix C

Sentencing Measure

Now suppose that you are the judge in this case and that the jury, having considered the same evidence that you have just read, found the defendant, Denise Lynne Jenkins, GUILTY OF MANSLAUGHTER. You must now sentence the defendant. Your sentence for the defendant may vary from no time in prison (probation only) to 25 years in prison (maximum prison term). As the judge, you must carefully consider your own opinions about the facts of the case when you assign a sentence. You can assign any sentence that you feel is most appropriate from 0 to 25 years. Any number of years within this range is a possible sentence for the defendant. Indicate below what your sentence would be, from 0 to 25 years.

My sentence for the defendant, Denise Lynne Jenkins, would be  
\_\_\_\_\_ years.

## Appendix D

### Paternalism Measures

Now you will answer some questions, from the perspective of a juror, that are relevant to the judicial deliberation process. For each question, please circle a number on the scale (from 1 to 7) that best reflects your answer.

To what extent did concern for the physical and emotional well-being of the defendant, Denise Jenkins, affect your verdict decision?

not at all 1 2 3 4 5 6 7 very much

To what extent did concern for the physical and emotional well-being of the defendant affect your sentencing decision?

not at all    1    2    3    4    5    6    7    very much

How responsible do you think the defendant, Denise Jenkins, was for the death of the Jeffery Hendrick?

not at all    1   2   3   4   5   6   7   very much  
responsible                 responsible

To what extent did concern for the family of the defendant affect your verdict decision?

not at all 1 2 3 4 5 6 7 very much

To what extent did concern for the family of the defendant affect your sentencing decision?

not at all    1    2    3    4    5    6    7    very much

## Appendix E

### Impulsivity Measure

To what extent do you think the actions of the defendant, Denise Jenkins, on the night of the incident were:

impulsive and unplanned	1	2	3	4	5	6	7	premeditated and planned
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## Appendix F

Beliefs About Future Criminality Measures

To what extent do you think a prison sentence would be good for the defendant, Denise Jenkins, and would help to rehabilitate her?

not at all   1   2   3   4   5   6   7   very much

How likely do you think it is that the defendant will commit a crime of a similar nature in the future?

not at all likely   1   2   3   4   5   6   7   very likely

## Appendix G

### Danger and Fear Measures

How dangerous do you think the defendant, Denise Jenkins, is to family, friends, and the public at large?

not at all    1   2   3   4   5   6   7   very  
dangerous     dangerous

If you, or someone close to you, were to come into contact with the defendant, how fearful would you be?

not at all fearful    1   2   3   4   5   6   7   very fearful

## Appendix H

### Perceptions of the Victim

How responsible do you think that the deceased, Jeffery Hendrick, was for his own death?

not at all    1   2   3   4   5   6   7    completely responsible

To what extent do you think the actions of the deceased, Jeffery Hendrick, on the night of the incident provoked or caused the actions of the defendant, Denise Jenkins?

not at all    1    2    3    4    5    6    7    very much

To what extent do you think that the deceased, Jeffery Hendrick, deserved his fate?

did not at all      1   2   3   4   5   6   7      very much  
deserve what      deserved what  
happened      happened



## Appendix I

Open-Ended Question

Are there any other factors that were not mentioned in the previous questions that influenced your verdict and/or sentencing decisions? If so, please describe them in the space below.

## Appendix J

Suspicion Check

Do you have any questions or comments about your experience in this study?

In your own words, state what you believe is the purpose of this study.

Was there anything about the research procedure that puzzled you or seemed unusual to you?

## Appendix K

Experimenter's Script

Hello. My name is Shannon -- thanks for coming in. The purpose of the study you will be participating in today is to look at factors that play a role in jury decisions. As participants in this study, you will be role-playing as jury members. There is an introduction sheet on your desk that will explain the study in greater detail; please read it carefully, and then I will answer any questions that you might have.

Any questions??

You have been randomly assigned to the 'alone' condition, and this means that you will each work alone to reach a decision in this case. You will start by reading a transcript of the trial, which you can find in the envelope marked "Transcript." Please read it quickly BUT carefully. When you have finished reading, please put the transcript back in its envelope and open the envelope marked "Decision." In this envelope you will find some forms on which you will indicate your verdict and some other decisions.

When you make your decision regarding the guilt and sentencing of the defendant in this case, we are interested in your initial or 'gut' reaction. This is the initial decision or impression that you would have taken with you to deliberate with the rest of the jury if you had been assigned to the 'group' condition.

Please remember as you read the transcript: Do Not take notes; Do Not make any marks on the transcript, and Do Not go back and read over any section once you have finished reading it once.

Remember, when you have finished reading the transcript place it back in its envelope and open the envelope marked "Decision." Please complete the questions on these forms in order, and please answer every question. When you open the "Decision" envelope, you will find a Verdict-Guidelines Summary to help you answer the first question. This is the only information you can refer back to.

Once you have finished answering all of the questions, please place the pages back in the "Decision" envelope, and leave all of the materials on the desk. Before you leave, come see me and I will stamp your experimental credit card.

Any Questions??

Please open the envelope marked "Transcript" and begin reading.

## Appendix L

Introduction Sheet

The purpose of this experiment is to study several factors that affect jury decisions, such as the size and composition of the jury, and the type of decision required (majority vs. unanimous). Participants in this study will role-play as jurors. In some experimental sessions participants will deliberate in groups, while in other sessions participants will make their decisions alone. We will then compare the decisions made by groups to those made by individuals. The experimenter will tell you after you have read this introduction whether you have been randomly assigned to the "group" or "alone" condition.

As a participant in this study, you will read a transcript of an actual trial which was randomly selected from the non-capital murder trials which took place in Nova Scotia in the period between January and December 1988. The trial took place in the Supreme Court of Nova Scotia in the city of Halifax.

This transcript is an edited and summarized version of the trial. It includes all of the key witnesses and key testimony. Your role in this experiment is to act as a juror in this case and to reach a verdict and make a recommendation about a sentence (if any). You will also be asked to answer some other questions that are relevant to the judicial deliberation process.

Under Canadian Law, jurors are not permitted to take notes during the trial and must rely on their memories. Therefore, please do not make notes and do not go back over a section of the transcript after having done so once.

You are a juror in the case of the Province of Nova Scotia vs. Denise Lynne Jenkins for the next 50 minutes. If you have any questions, please ask the experimenter now. In accordance with the Department of Psychology regulations, remember that you are free to decline to participate in this study at any time.

## Appendix M

Debriefing Form

During the 1991/92 school year you participated in an experiment called Granboro. In that experiment you acted as a "juror" and read a transcript of a murder trial. We want to thank you for taking the time to participate in this research. At this time we want to tell you a little bit about the purpose and anticipated results of this experiment.

The purpose of this study was to discover whether the treatment of a defendant in a murder case would differ depending on the sex of the defendant, the sex of the victim, and/or the sex of the juror. Each participant in this study read one of four different transcripts. The four transcripts differed only in terms of sex of the defendant and sex of the victim (male defendant/male victim, male defendant/female victim, female defendant/male victim, female defendant/female victim).

Based on previous research in this area, it was hypothesized that female defendants would receive lesser verdicts and shorter sentences than male defendants, and that defendants who killed a male would receive lesser verdicts and shorter sentences than defendants who killed a female. Specifically, male defendants who killed a female were expected to receive the harshest treatment, whereas female defendants who killed a male were expected to receive the most lenient treatment. The data are currently being analyzed to test these hypotheses.

As a participant in this study, you also answered some other questions about the case after you made your verdict and sentencing decisions. These questions will allow us to assess the role that perceptions of the defendant and the victim play in influencing court trial outcomes.

You may remember that you were told that the purpose of this study was to study size and composition of juries, as well as the type of decision required (i.e., majority vs. unanimous). You were told that there were two different conditions: "alone" or "group" conditions which were randomly chosen. It was necessary to misinform you about the purpose of this experiment because if participants were aware that we were studying the effects of sex of defendant and victim on treatment of a defendant, their responses to the transcripts might have been affected by social desirability, i.e. by the desire to give a response that "looks good."

In conclusion, we would like to thank you once again for

agreeing to participate in this experiment and for allowing us to use your data. We would also like to remind you that your data will be held in the strictest of confidence and that your responses will only be used as part of the aggregate; you will never be personally identified as having participated in this experiment. Any questions you have will gladly be answered by Dr. G. Sande (office P507 Duff Roblin building), or Shannon Koshelanyk (office P419 Duff Roblin building).

Shannon Koshelanyk  
Dr. G. Sande  
Department of Psychology