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Jurors' Perceptions of Gender Differences in Expert Witness Testimony

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JURORS' PERCEPTIONS OF GENDER DIFFERENCES IN EXPERT WITNESS TESTIMONY

by

Mark Rodlund, M.A.
Master of Arts, University of North Dakota, 1992

A Dissertation
Submitted to the Graduate Faculty
of the
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for the degree of

Doctor of Philosophy

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This dissertation, submitted by Mark Rodlund in partial fulfillment of the requirements for the Degree of Doctor of Philosophy from the University of North Dakota, has been read by the Faculty Advisory Committee under whom the work has been done and is hereby approved.

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This dissertation meets the standards for appearance and conforms to the style and format requirements of the Graduate School of the University of North Dakota, and is hereby approved.

Dean of the Graduate School
7-6-92
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Department Psychology

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ABSTRACT

Recently, there have been clinical psychologists appearing in court to testify as expert witnesses. However, the use of psychology in the legal system has a history dating back to Thucydides in the fifth century B.C. The early focus of psychology was on the determination of insanity. Later, eye witness testimony (especially of children as witnesses) was challenged in the courtroom using psychological principles. Children are increasingly used to testify as alleged abuse victims. This can result in a conflict between the accused person’s right to view all witnesses testifying and the potential that the child would be further victimized by testifying.

All experts are supposed to provide the court with specialized knowledge. However, past research has suggested that a female expert’s opinion may be accorded more weight than a male’s, due to gender bias. The present study was designed to investigate this issue. Attribution theory was explored to provide tentative hypotheses.

One hundred sixty-five subjects participated in the study. Twenty-four were not university students and also served to provide information as to external validity.
Subjects were randomly assigned to two groups, differing as to which of two videotaped trials they were exposed. In both trials a man was being tried on the charges of physically abusing a boy. The tapes differed only by gender of the expert witness. The testimony of the experts was similar in content and presentation. After the trial the subjects were asked to answer a questionnaire, deliberate and then finish the questionnaire.

The study had only partial external validity. There were discrepancies between the student and non-student populations on a large number of variables, including age, number of children and level of education. However, educational achievement was similar. There was a significant difference between the sex of the expert witness and the verdict reached. None of the juries exposed to the female expert's testimony could reach a verdict. Juries exposed to the male expert's testimony were variable in their verdicts. Both experts' testimony was rated convincing. Female subjects were more extreme in rating the performances of the experts and attorneys. One's adherence to traditional gender roles did not affect one's final verdict.
INTRODUCTION

Within the past thirty years, clinical psychologists have been appearing in court to testify as expert witnesses. While the legal system assumes that all expert witnesses are equally credible, this may not be the case. Male and female experts may be seen by jurors as being different in terms of credibility because of stereotyped gender attributes. The present study attempts to examine the issues behind this question of credibility and tries to propose a method to see if a difference in credibility truly does exist.

A Brief Review of Psychologists in Legal Proceedings

Psychology and psychiatry have been intertwined with the legislative and judiciary systems for centuries. Thucydides, a Greek historiographer living in the fifth century B.C., discussed the inherent difficulties of eyewitness testimony. He noted that there was a "want of coincidence between accounts of the same occurrences by different eye witnesses {sic}, arising sometimes from imperfect memory, sometimes from undue partiality for one
side or the other" (quoted by Levine and Tapp, 1973, p. 1088).

However, the relationship between social scientists and the legal professions has not always been a friendly one. When Johan Weyer, a physician, wanted to change the existing laws regarding mental illness, the Saxon Code of 1572 noted that, since he was not a lawyer, his ideas about the relationship between mental illness and violation of the law were unimportant (Resnick, 1986).

Although the 1723 trial of Ned Arnold is one of the earliest recorded attempts to use an insanity defense, the first recorded trial using psychiatric testimony as an aid in resolving a question of insanity was the 1760 Ferrers trial (Walker, 1968). A physician, Dr. Monro, testified not on the mental state of the defendant specifically, but on the general issue of lunacy. Although Dr. Monro may have been an expert on the subject of mental illness at that time, he apparently did not believe in sharing his knowledge with others of his profession. In 1758 he was criticized for charging the general public an admission fee to Bethlam Hospital to view the patients there but not allowing in medical students.

In 1843 Daniel McNaughten shot and killed Edward Drummond in an attempt to murder Sir Robert Peel. The resulting trial produced arguments centered on the idea of insanity reminiscent of those heard today. The prosecutor,
Follet, argued that, since McNaughten could attend class, travel, dress, talk with others and buy a gun, he was not "totally insane" and therefore was responsible for Drummond's death. Cockburn, the defense attorney, stated that the standard of total insanity was a distortion of its original English meaning. He pointed out that Matthew Hale, when writing about total insanity in the 17th century, referred to anyone who was found to be functioning at a level below the average 14 year old as "insane." This was in sharp contrast to the prosecution's concept of an insane person as a raving maniac or as having the reasoning of a two year old. Lord Chief Justice Tindal instructed the jury to decide if McNaughten had sufficient reasoning to recognize that he had committed a wrongful act. The verdict was not guilty. The public outrage was so great that the House of Lords assembled the 15 Judges of the Queen's Bench to devise a formula to be used in future insanity cases. This formula is now called the McNaughten Rule.

The McNaughten Rule is a two-pronged test of mental competency. It holds that a person cannot be held responsible if that person did not know what he/she was doing or whether or not such an act was wrong. The establishment of the McNaughten Rule was important as it was the first time psychiatrists were accorded a special
status in the courtroom: that of an expert witness (Reisner, 1985).

In 1924 Clarence Darrow was the defense attorney for Leopold and Loeb. They were accused of kidnapping and murdering a 12 year old boy. In an attempt to avoid the death penalty he hired psychiatrists to testify on their behalf. Freud declined a fee greater than $25,000 to psychoanalyze the defendants. He argued that psychoanalysis should not be used for judicial purposes (Resnick, 1986).

Eyewitness Testimony

The first examination of psychological issues as they apply to courtroom procedures was conducted by legal scholars in Germany in the early 19th century. These jurors were concerned about the sources of error present in testimony (e.g., poor lighting, fright, etc.) and they also theorized on why such errors occurred (e.g., substitution of inferences for perceptions). They also engaged in activities designed to establish criteria for the admissibility of various groups of people as appropriate witnesses. Some witness categories considered as possibly needing to be regulated included: age, sex, familial relationship, prison record, having previously testified against the defendant (thereby making the witness an enemy), being an adulteress or being Jewish (Sporer, 1982).
The appropriateness of these categories could only be debated until the advent of scientific psychology in the latter phase of that century. Cattel (1895) demonstrated to his students the unreliability of recall for casual events by asking them questions about recent occurrences and often performed behaviors. For example, he had his students write about the weather conditions one week prior and their confidence in their recollections. Their memories were, at best, poor. Despite the obvious applicability of this information, apparently no one pursued the matter any further until recent times (Sporer, 1982). Binet (cited in Sporer, 1982) using school children as subjects, investigated the effects of different forms of questioning (e.g., leading and open-ended) upon suggestibility. As a result, he became convinced that questions and their resultant answers were indivisible. In addition he also studied the effects of peer pressure on testimony, finding results similar to Asch's conformity effects (Asch, 1956). These effects were that groups of people could exert pressure upon others to the point that they would agree to statement they knew to be incorrect.

Another psychologist who attempted to place psychology in the courtroom was Munsterberg (1908). However, instead of writing in scholarly journals and monographs, he wrote a series of popular magazine articles with the intent of making the populace force the judiciary to accept the
embryonic psychological ideas in toto. He attempted to force feed the judicial system the science of psychology through such pronouncements as: "...experimental psychology has reached a stage at which it seems natural and sound to give attention also to its possible service for the practical needs of life." (Munsterberg, 1908: pg. 8).

It is not known whether this method would have worked because Munsterburg underestimated the power of professional pride and insulted lawyers for being "slow to learn" in these papers. The combination of his pronouncements and attacks alienated the legal profession. His critics argued that he did not understand the complexities of courtroom battles, and that the specialized knowledge of a white-tower Harvard professor could not compete with years of experience in jurisprudence (Kargon, 1986). As a result, while in Central Europe psychology had become entwined in the legal system in the area of eyewitness testimony, only within the past decade have psychologists been able to demonstrate their knowledge in this area on a witness stand in the United States. The emphasis in this country has centered on psychiatric/psychological issues such as insanity and competency.

Eyewitness testimony has a history as an issue in the court system also. Sporer (1982) argued that the current psychology of testimony represents a renaissance of the
"Psychologie der Aussage" that was popular during the beginning of this century. Stern (cited in Sporer, 1982) coined this term in reference to a psychology of verbal report which also entailed an experimental study of memory. This research led Stern to the conclusion that regardless of the intentions of the witness, it is doubtful that he/she would be able to provide accurate recollection of past events. As a result, he proposed that all witnesses be tested to classify their recollection abilities as an aid to determine how much weight should be given to their testimony.

Use of Children as Witnesses

Many states have laws which require competency examinations for children to certify their abilities to testify as an eyewitness. These usually consist of an interview by the judge and/or attorneys to determine the child’s intelligence, ability to distinguish the difference between a truth and a falsehood, and the need to speak the truth. Regardless of the participation of the attorneys, competency is determined by the judge (Goodman and Reed, 1986). Recently, there has been a trend to liberalize these laws. The current Federal Rules of Evidence (Rule 601) have eliminated a need for competency tests in federal courts; 13 states have passed laws to agree with these
Rules (Bulkley, 1982). Other states require an examination only for certain crimes (Bulkley, 1983).

There has been an increasing tendency to use children as witnesses for court testimony (Higgins, 1988). This is largely due to the recent attention by mental health care specialists to the scope of abuse, both physical and sexual, perpetrated upon children (McCord, 1986). Because of the understandable paucity of witnesses in these cases, usually the child must take the witness stand or it is unlikely the accused will be tried. This relaxation of the requirements for competency examinations and increasing trend to place children on the witness stand may be a mistake, especially for very young children. Children's early mental organizations are made around familiar real-life events. As such, memories which can be classified within the realm of ordinary events and understanding should be remembered as well as in adults. However, novel events, which can not be related to previous experiences, may produce errors in memory. Age differences should appear especially when deeper cognitive processes are involved, such as free recall (Perlmutter, 1984). This is due to the development of learning strategies which begins in preschool aged children.

Marin, Holmes, Guth, and Kovac (1979) have shown that memory in children and adults can at times be equivalent. After watching a brief (15 second) argument between the
experimenter and a confederate, five year old children could perform as well as adults on certain tests of memory. The tests were conducted 10 and 30 minutes after the incident and consisted of objective and leading questions, picking out pictures from a line-up and free recall. An example of an objective question is: "Was the man wearing brown pants?" One leading question was: "Did the man slam the door as he closed it?" Only in the free recall condition were the children's responses less adequate than those of adults. However, in the Cohen and Harnick (1980) study, more differences in memory were found. Ability to produce accurate information from an eyewitness account improved for adults and children were shown to be more suggestible.

Goodman and Reed (1986) investigated memory differences in people of different ages (three, six and adult) involving interactions with a stranger after time intervals ranging from five minutes to four or five days later. This research was conducted to simulate conditions in which children are likely to testify, e.g., sexual assault and kidnapping. They found that if six year olds are questioned in a nonsuggestive manner, they can provide information as accurately as adults. However, they were also more suggestible. In free recall, these children produced less information than the adults, but there was little occurrence of suggestible information. Consistent
with Nelson (1983), three year olds demonstrated inferior abilities to both six year olds and adults in both objective and suggestible questioning.

While these deficits in children's memory have only recently been shown to exist in the laboratory, this phenomenon appears to be part of our common knowledge. In a series of three experiments, Goodman, Golding, Helgeson, Haith, and Michelli (1987) showed that potential jurors attached less credence to the testimony of children age six or ten as opposed to adults age 30. However, while the testimony may not have been viewed as having the same effect, it did not result in differences in jurors' perceptions of the perceived guilt or innocence of the defendant. This disparity implies that although jurors are cognitively suspicious of the potential inadequacies of children's testimony, they are apt to ignore their suspicions in deliberation. Thus, there is an overall effect of a child's testimony being the equivalent of an adult's.

Child Abuse

The increasing tendency to use children as witnesses in court is due in a large degree to the current awareness of the prevalence of child abuse. Child abuse itself is not a recent phenomena. The Spartans of Ancient Greece would place newborn infants out in the wilderness to die if
they were judged to be not sufficiently healthy. In the Middle Ages it was a common practice to play catch with young children by tossing them from one window to another. An heir to the throne of France died a premature death from this game when he was dropped.

The mental health profession has been slow to recognize the extent of child abuse and its effects upon its victims. Sigmund Freud, founder of psychoanalysis, was also possibly the first therapist to have had a chance to work with abuse victims. Instead of viewing them as victims, he decided that the stories related to him by his patients were the product of fantasy and thus he formulated his theories. It was not until the mid-1970's that mental health professionals began to realize the extent of this problem (McCord, 1986).

The exact amount of abuse that occurs in this country is unknown, but all estimates are high. The National Center on Child Abuse and Neglect (1981) estimated that 351,100 children are physically, sexually or emotionally abused by their caregivers each year. Rodgers (1982) estimated that there are 400,000 or more children sexually victimized annually. Straus, Gelles, and Steinmetz (1980), using 1975 U. S. Bureau of Census data, wrote that between 3.1 million and 4 million children had been severely physically assaulted at some time in their lives by a parent. In the United Kingdom, things do not appear to be
much better. Nonaccidental injury to children before age six is the fourth most common means of death (cited in Standing Senate Committee on Health, Welfare, & Science, 1976).

When analyzed on an immediate level, child abuse is a serious problem. Additionally, the effects of abuse are long lasting and can affect the victim in many different ways (Martin and Beezeley, 1976). Neurological and brain tissue damage can be sequelae of severe abuse and thus cause permanent damage (Birrell and Birrell, 1968). Using the Bayley Scales of Infant Development and The Denver Developmental Screening Test, Appelbaum (1980) found abused children as young as four months of age to be developmentally delayed in language and motor skills when compared to matched controls. Martin and Rodeheffer (1976) wrote that these children are more likely to possess learning disorders and an inability to perceive adequately and act on their environment in a manner that demonstrates a pursuit of its mastery. In addition, language abilities are delayed (Kent, 1976).

It is not difficult to imagine that these cognitive deficits, besides the emotions the abuse itself would generate, could result in emotional problems. Indeed, Kinard (1980) found that these children have lower self-concepts which are harder to dispel than in other children. Abused infants have a significantly larger
proportion of insecure attachments to their mothers (George and Main, 1979) and older children have shown a reduced investment in others (Kinard, 1978).

Abuse also affects children's social development. Abused children have been noted to be more verbally and physically aggressive than their peers (George and Main, 1979; Kent, 1976; and Reidy, 1977). It is likely that this aggression produces their inferior peer relationships, greater behavior problems in school (Morse, Sahler and Friedman, 1970) and more frequently used aggressive verbal and nonverbal behaviors towards their caregivers (George and Main, 1979). Martin and Rodeheffer (1980) have noted that abused children display a marked hypervigilance and have learned to observe and be highly sensitive to sudden environmental changes.

Research on Gender Differences in Expert Witness Testimony

The legal system has prescribed procedures for establishing the credibility of an expert witness. They include questioning the expert on his or her educational background, work experience and professional licenses. Once the expert has been questioned on these topics it is within the discretion of the presiding judge to allow the witness to testify as an "expert witness." Jurors or judges are believed to have an ordinary common sense which is sufficient to regard evidence presented at a trial and
render a verdict. An expert witness is regarded as being someone having specialized knowledge beyond this common sense. As such, jurors are instructed before deliberations to consider this testimony as such and to give it special weight if they feel it is warranted, but are also instructed to ignore this testimony if they feel it does not merit special weight. Once a witness is admitted as an expert, the legal system generally assumes that his or her credibility is the same as any other expert's.

This assumption may be flawed. Women generally have been stereotyped as being less competent in professional areas (O'Leary, 1974; Shepelak, Ogden, and Tobin-Bennet, 1984) than men. This evidence leads to the conclusion that both men and women devalue the achievements of women relative to males' achievements. Thus, women are praised less for their work, are given less financial remuneration and are promoted less often (Hartnett and Secord, 1985). Gerdes and Garber (1983) found that a woman was less likely to be hired as an engineer even if she had the same qualifications as a male applicant. In the courtroom it appears that female attorneys and witnesses are often the victim of a "Virgin Mary/seductive temptress" dichotomy by male judges (Schafran, 1985). However, there does appear to be some indication that this erroneous assumption is disappearing.
Swenson, Nash and Roos (1984) investigated the perceived expertise of testimony given by various sources in a trial. The researchers played one of two 10 minute audiotapes which contained questions from a lawyer and replies from a witness. The testimony addressed the witness's opinion about the parents in a child custody case. Contents of the audiotapes were identical except for a variation of sex of the witness. Subjects were university students who listened to either of the tapes in groups of ten to 24. Results showed that female expert witnesses were perceived as more expert in giving testimony than male expert witnesses. According to the researchers the results were an affirmation of the traditional stereotypes since they felt the subjects viewed women as being more aware of a child's needs than are men. It may also be possible that the researchers themselves, who were all male, were blind to their own stereotypical prejudices in not taking the results at face value. The subjects may have perceived the women experts as more competent in other areas of testimony as well, e.g., determination of insanity.

Wood and Karten (1986) studied male and female styles of interaction while they worked in four-person, mixed-sex groups. At the start of the study all subjects were placed into groups and asked to complete a bogus questionnaire which supposedly measured their intelligence and maturity.
Conditions varied so that subjects were either not provided information as to their performance or given false feedback as to their own scores and scores of the other group members. When group members knew each other only by name and gender, men were perceived to be more competent than women and to engage in a greater amount of active task behavior than women. Women were perceived as exhibiting a greater amount of pro-social behavior than men. However, when provided with data that indicated that one male and one female did significantly better than the rest (high-status), group and individual behavior changed. High-status members, regardless of sex, were perceived as more competent, and men and women of the same status were perceived as equally competent. High status women were seen as being equal to high status men in exhibiting active task and pro-social behavior.

It appears from the above two studies by Swenson et. al. (1984) and Wood and Karten (1986) that sex role stereotyping still influences the perception of competency of another's abilities. On the other hand it also appears that people are more willing to temper or even dismiss these stereotypes if given information contradictory to them, e.g., that the female is an expert in her field.
The Use of Videotaped Testimony in the Study of Courtroom Procedures

Recently, attacks have been made on the methods used in studying courtroom procedures as such methods were perceived as being flawed. One attack (Konecni & Ebbesen, 1979) holds that different and conflicting information may be obtained as a result of different investigatory methods. Another attack asserts there is a lack of external validity in researchers' laboratory experiments (Weitan and Diamond, 1979). External validity can be defined as the relationship of laboratory results to real life situations. If there is little external validity, then any data generated are a product of contrived conditions which do not occur in everyday experience and therefore have little, if any, value.

One type of investigatory method used is the videotaped (mock) trial. In this form of research, a legal trial is staged in front of a video camera and later shown to a jury of volunteers who are then questioned on various aspects of the trial or asked to draw conclusions made from the evidence presented. Miller, Bender, Florence and Nicholson (1974) showed that a videotaped trial probably has external validity in that a juror's responses to videotaped testimony before deliberation were not significantly different compared to responses made when testimony was presented "live."
The researchers selected a previously tried automobile injury case as the trial to be used in the study. The reasons for this choice were the commonality of this type of case, the length of trial would be less than four hours, the merits of each side could be assumed to be roughly equivalent and the abilities of the opposing counsels could also be assumed to be roughly equal. Trial transcripts were obtained and the roles of all parties involved except the bailiff and judge in the trial were performed by professional actors. The transcripts were edited so that each side would have the same number of objections sustained and overruled.

The live trial was performed in front of all 52 jurors on the local county jury panel. They were instructed that the jury was to be an abnormally large size as a result of a study on jury size. The videocameras were similarly explained. **Voir dire**, a procedure to screen out jurors who may be unsuitable to try the case, was conducted by questionnaire and resulted in the dismissal of four people. Following the trial a questionnaire concerning the case was administered to each juror. Jurors did not deliberate and members of the jury did not question this unorthodox procedure. The researchers felt that the absence of queries among the members of the jury about the unusual trial procedures was a consequence of the proceedings having been explained by an actual judge.
The videotaped condition used 45 jurors. These people were admonished by the same judge that, although the testimony would be presented via television, they would need to treat it as similar to any other trial. Six televisions were used. Again, little mention of the artificiality of the trial was made either verbally by the jurors or on the questionnaires.

Results of the study appear to have shown that there is little difference between "live" and "videotaped" trials as measured by jurors' reaction to them. The mode of presentation did not significantly affect the amount of award given by the jurors who found for the plaintiff. Perceptions of credibility did not differ between treatments. Retention of trial information was not influenced by presentation medium. Juror interest and motivation also remained the same.

While it appears that the mock trial is an effective investigatory tool, videotaping for the courtroom itself has come under debate. There are two general reasons for the legal system to employ videotaping: convenience and cost. The ability to tape portions of testimony (depositions) in advance frees the witnesses from the necessity of appearing for a trial at a prescribed date or dates without knowing at what specific time or for how long their services would be needed. A deposition itself is highly similar to an actual courtroom testimony. The
witnesses and attorneys gather together along with the parties involved if they so desire. A judge is not required to be present. The order of questioning remains the same: direct examination, cross examination, redirect, and recross. Attorneys are allowed to object to testimony, and the location of the objection on the tape is noted by the cameraman. The witness may or may not answer the question. When all testimony is gathered, the opposing attorneys discuss the admissibility of disputed evidence. If the objection is sustained, the question, objection and refusal to answer are later edited out of the videotape for courtroom viewing. If the objection is not sustained, a judge must make a ruling via a telephone, if the deposition is not made at the courthouse, or is made in a separate room from where the testimony is being taken.

Arguments against videotaping evidence include the assertion that doing so leads to evidentiary abuses by some attorneys and loss of evidence due to mechanical failure of the equipment (Stiver, 1974). Also, videotaping may result in a loss of evidence because a videotaped version of an occurrence is more limited than a live presentation (Armstrong, 1976). The hypothesized abuses by attorneys include covering up testimony that was damaging by making extraneous noises such as knocking on wood or by alteration of the videotape itself. However, recording testimony directly into the videotape via a microphone would minimize
the danger of loss of evidence as would asking the witness to repeat his answer. As to alteration of the tape, splicing is readily detectable. Miller, et. al. (1974) have shown that, if proper procedures are used, videotaping does not result in a significant loss of perceptions necessary to try a case. Mechanical failure can be prevented by using two sets of recording equipment, one powered by an AC outlet and the other by batteries.

Armstrong (1976) wrote that the use of videotaping raises some other, constitutional, questions. These are the rights of the accused to be present during all phases of the trial and the right to a public trial. While at this time the United States Supreme Court has not ruled upon these questions of constitutionality, one can explore reasons for and against them.

In regard to the first violation, this would be a problem only if the accused is not allowed to be present during the videotaping itself. The right of presence can be called into question if the defendant cannot aid in the conduction of his/her defense, make certain his/her lawyer is doing an effective job or gather knowledge for a personal appeal. The problem of constitutionality may not be present if the defendant waives this right (as is allowed in most states) or if the testimony is allowed to be televised into another location for the express purpose of the accused's viewing.
The state of Missouri apparently believes that the protection some child witnesses gain by not having to repeat how they were abused in front of their abusers more than adequately compensates for this potential violation of rights (Frissel-Durley, 1986). Utah, however, holds that people accused of a felony do not have the right to waive their presence during the trial phase of a case.

The right to a public trial has few exceptions. These exceptions are protection of the witness or presentation of subject matter exceptionally morbid or lascivious in nature. In the instance in which this investigation is concerned, child physical abuse, the former exception may be ruled to be applicable in all states, and it does apply specifically in the state of Missouri at the present (Frissel-Durley, 1986).

Attribution Theory

Attribution theory is concerned with the question of how people perceive and organize information from their environment. It assumes that people want to seek meaning both in their own behavior and in events which occur in their environment. We attribute motivations and meanings to actions in an attempt to maintain control in an unstable and unpredictable world. When an observer chooses or is required to attribute the behavior of an actor to certain causes, two general types of information are required to
form an opinion. The first is concerned with what the actual behavior was. This is then combined with the second; what expectancies the observer had for that behavior and the individual. Causal attributions are a function of the congruence or disparity of these two sets of information.

The expectancies the observer holds for the actor can derive from different sources. These can be: prior observations of the actor, information provided by an experimenter or assumptions made from the fact that the actor is a member of a categorical group. Jones and Davis (1976) emphasized the difference between the former two (target based expectancies) and the latter (category-based expectancies). Category-based expectancies are most important in understanding the function of sex as a variable in the attributional process (Deaux, 1976). This is a result of stereotyping which automatically occurs in the absence or paucity of information the observer has about the actor.

Broverman, in a series of studies (Broverman, Vogel, Broverman, Clarkson, & Rosenkrantz, 1972; Rosenkrantz, Vogel, Bee, Broverman, & Broverman, 1968) has delineated two distinct clusters of characteristics which appear to differentiate men from women. Men are viewed as competent as seen in the following adjectives: independent, competitive, objective, dominant, active, logical,
ambitious and self-confident. Adjectives used for describing women are opposite. Women are also characterized as being gentle, tactful, aware of the feelings of others and emotionally expressive. This socially oriented constellation is the opposite of the males' perceived cluster.

Weiner (1974) proposed that causal attributions for behavior can be simplistically categorized using a 2 X 2 matrix: temporary-stable and internal-external. For example, performance on a task could be because of luck (temporary and external), ability (stable and internal), effort (temporary and internal) or task difficulty (stable and external). When a person is asked to characterize causal attributions as either a success or failure, information about the actor (either specific to the actor or as a result of stereotyping) is matched to expectancies for the behavior. As a result, a successful performance which matches expectancies for the actor will be attributed to stable causes, usually ability. Those behaviors which do not meet expectancies are attributed to the temporary conditions, luck or effort (Deuax, 1976). Feldman-Summers and Kiesler (1974) investigated causal attributions people make for a successful medical career. Male subjects showed a pattern of greater ability attribution for the male physician but they attributed the female physicians' performance to a combination of greater effort and easier
task. Female subjects did not attribute greater ability to the male physician, but they also saw that a greater effort in the female doctor resulted in her attaining a successful career. Both male and female subjects felt that a male physician exerted less effort than a female in the attainment of the career. Task difficulty and luck was used far less often than either effort or ability as causal attributions.

The Present Study

Feldman-Summers and Kesler's (1974) study provides a clue as to the possible results of the present study. Both medical physicians and clinical psychologists occupy skilled positions in our society. These are the result of extensive study and supervised practical experiences. Since the external attributes of task difficulty and luck were rarely called upon in the Feldman-Summers and Kiesler (1974) study to account for the performance of the physicians of either sex, one might assume the same would apply for clinical psychologists. Both male and female psychologists should be seen as competent, although possibly as a result of different internal attributes. These different attributes could produce a sex of subject by sex of expert interaction. This interaction would be that female subjects would attribute the performance of the female expert witness to the production of more effort than
the male expert. Male subjects would judge the male expert as having more ability to perform the task requirements.

Regardless of whether this hypothesis is correct, the findings of the present study could have important implications. In our litigious and highly competitive society it is important for both counsels in a trial to present the best case possible. Given the opportunity to present psychological testimony favoring his or her side, an attorney will want the jury to give as much credibility to it as possible. If this credibility can be altered simply by hiring an expert witness of a given sex, then the attorney would want to take advantage of this opportunity. However, if no difference in witness credibility can be found, the attorney is then allowed the freedom to hire a psychological expert witness on less gender-biased grounds.

The purpose of the present study is to investigate the effect of gender on the credibility of an expert witness. Given past research (Swenson, et. al., 1984), it would appear that testimony offered in a child abuse case by a female psychologist may be given more weight during deliberation than testimony presented by a male. Schafran (1985), who wrote that judges treat women in the courtroom in a highly sexist manner, would certainly doubt Swenson, et. al.'s (1984) conclusion.

The trial used in the present study is one involving child physical abuse. Given this, it seems most logical
that the testimony from the female psychologist would have the greatest ability to influence a jury. This would be due to sexual biases that assume that women are somehow more suited to have knowledge about, and therefore testify on, children and issues concerning them than are men. A questionnaire, The Attitudes Towards Women Survey, was administered to test this assumption.

In this study the effect of jurors' perceptions of gender differences among expert witnesses on the credibility of their testimony was investigated. Mock jurors viewed one of two similar videotapes, differing only in the sex of the expert witness. The dependent variables in this study were the responses the subjects provided after watching the tape for their respective condition and the verdict following deliberation. If the hypotheses derived from attributional theory prove to be correct, there should be a sex of subject by sex of expert interaction. This interaction would be that female subjects would attribute the performance of the female expert witness to effort. Male subjects would judge the male expert as having more ability to perform the task requirements.

Volunteers from the University of North Dakota were used as subjects in this study. In an attempt to give this study greater external validity, two juries consisting of non-student, North Dakota residents eligible to serve on a
jury were run using the same procedure as used for the university subjects.
METHOD

Subjects

A total of one hundred and sixty-five male and female subjects served as voluntary participants in this study. All but 24 subjects were students at the University of North Dakota participating in exchange for extra credit applicable towards a psychology course. The remaining 24 were North Dakota citizens eligible to serve on a jury. These people were self-referred participants. They volunteered for the research project in response to newspaper and verbal solicitations. All people were contacted and asked if they would volunteer for a research study investigating courtroom procedures.

Materials

A simulated child abuse case held in the Baker Moot Court of the University of North Dakota Law School as part of a Trial Advocacy class was used for this study. This is the same trial videotaped by Sharon Hagen for use in another study (Hagen, 1989). In this case all witnesses were sworn in by a bailiff, and all trial testimony, defense and prosecution summaries and judge’s instructions
to the jury were filmed. The trial was recorded on three-quarter inch videotape, which maintains a high quality picture after editing and multiple viewings.

For investigation purposes, two different videotapes were shown. The first was the original moot trial, filmed with a female clinical psychology graduate student providing expert testimony in the guise of a licensed Ph.D.-level clinical psychologist. The second videotape was identical to the first except that all psychological testimony was given by a professional male actor of approximately the same age. This age was approximately 27. Both "expert witnesses" wore conservative business suits, did not wear glasses and had the same hair color. The actor watched the original videotape to aid himself in duplicating the female "expert's" inflections and hand gestures. He was required to memorize the testimony previously given which was transcribed from the original videotape. In addition, a script of the original trial was used to verify that the testimony was duplicated during the filming of the actor's testimony. The subjects viewed the trial on a twenty-five inch color monitor. Presentation of the videotapes to different juries was on a random basis.

The expert witness's testimony centered on the Battered Child Syndrome. First, the expert needed to be qualified as such. This entailed a review of education, honors earned, professional memberships and work
experience. Once qualified, he or she reviewed the origin of the syndrome's conceptualization, characteristics common to abused children and characteristics common to abusers. The expert also discussed the evaluation procedures performed on the accused's victim, John Snider, and his mother, Betty Snider, and the evaluations' results. A verbatim transcript of the testimony can be seen in Appendix A. A summary of the other witnesses' testimony, in the order in which they appeared, can be seen in Appendix B.

After the jurors viewed the trial, but prior to deliberation, they were each given a questionnaire, which consisted of 28 questions. A copy of this questionnaire can be seen in Appendix C. This questionnaire explored demographic data and information concerning the jurors' perceptions of the trial. Twenty-two questions used a nine-point Likert scale to assess information concerning believability of the witnesses and whether or not the witnesses would have had more or less influence if they had been members of the opposite gender. A portion of the questionnaire consisted of a modified version of the Rape Empathy Scale (Deitz, Blackwell, Daley, and Bentley, 1982). The modifications were made to be congruent with the study of child physical abuse as opposed to the rape of a female adult. In addition, one other scale was administered, a modified version of the Attitudes Towards Women Scale
(Spence, Helmreich, and Stapp, 1973). This questionnaire was given to further test the congruence between student subjects and juror-eligible subjects.

**Procedure**

All subjects viewed a videotaped recording of a child abuse case tried in the Baker Moot Court of the University of North Dakota School of Law. Subjects were randomly assigned to one of two conditions regarding the sex of the expert psychological witness. The subjects were randomly divided into juries for viewing either of the experimental conditions. Every effort to use 12 jurors per trial was made, as this is the most common size of jury. However, due to difficulties in scheduling potential jurors, occasionally smaller juries were used. In no trial were there fewer than six jurors, a jury size now seen in some states. This jury size is a minimum set by the U. S. Supreme Court (*Williams v. Florida*, 1969). Students and non-students tried the case in separate groups, i.e., they were not mixed together.

If more than twelve subjects arrived to participate, a modified procedure was used. All subjects were allowed to view the trial and also received similar instructions. However, before deliberation, subjects were randomly selected out to reduce the jury size to twelve. The participants which were selected out were told to not
participate in the deliberation but to listen to the other jurors debate the evidence. This non-participation was to minimize the risk of their influencing the deliberation. When the deliberation was finished, all were then asked to finish the questionnaire.

Prior to viewing the videotape, all participants were briefed on the importance of the potential effect of the research project on judicial procedures. A ten minute break was provided approximately half-way through the trial. This is in accord with the typical break that would be given to a jury viewing a case of this length (approximately 3 hours 15 minutes). Another break was provided if requested by any juror. To more effectively simulate an actual jury experience, deliberation occurred following the trial in a room different from the one in which the trial was presented. Before deliberations occurred, subjects were presented with the questionnaire.

If the jurors could not decide on a unanimous verdict within one hour, they were considered to be a "hung jury" and as such were thanked and dismissed.

All jurors were notified of the opportunity to discuss any unpleasant emotions or cognitions arising from viewing the videotape of child physical abuse.
RESULTS

Demographics

A total of one hundred and sixty-five male and female subjects served as voluntary participants in this study. Eighty-six of the volunteers were female and 79 male. Seventy-one were exposed to the female expert witness condition and 94 were exposed to the male expert witness condition. One hundred forty-one subjects were students at the University of North Dakota while only 24 were non-students. Their ages ranged from 17 to 78. The majority of the respondents were either 18, 19, 20 or 21; reflecting the high proportion of University students.

The majority (75%) of the subjects were single. Again, this is likely because of the number of students participating. Thirty-three were married and only seven divorced. Thirty-seven participants acknowledged having children. Eight of these had only one child; 20 had two children; six subjects had three; none had four; only one person responded as having five; and two people said they had six children. The ages of their youngest children ranged from one year to 44. Not surprisingly, the modal age was two years with seven volunteers stating their youngest children were that old. Six people gave one year
as the age of their youngest child. All subjects attained at least a high school education, and 38% responded that 12th grade was the last grade he or she completed. All subjects provided information as to their grade point average in school. Only one stated that it was less than 2.00. Twenty responded that their grades were between 2.00 and 2.50; 66 were between 2.51 and 3.00; 39 volunteers had G.P.A.'s between 3.01 and 3.50; and 39 subjects stated their G.P.A.'s were between 3.51 and 4.00. All ranges are inclusive.

The racial make-up of the subject pool was similar to the overall population of North Dakota. The vast majority were Caucasian, 157. There were three Native Americans who volunteered, two Asians and three who marked "Other".

**External Validity**

In order to ascertain whether the responses of the students could be generalized to a more "normal" population (i.e., those people more likely to serve on a jury), various analyses were performed. These consisted of comparing different independent variables from the student and non-student populations. Of course, some independent variables would be expected to differ between the two populations, such as age ($F = 34.766, \ df = 1, 35, p < .001$), number of children ($F = 6.287, \ df = 1, 35, p = .017$) and age of the youngest child of the subject ($F = 17.224,$
There were other independent variables upon which the student and non-student populations differed. These were marital status \( (x^2 = 41.24, \text{df} = 2, p < .001) \) and major area of collegiate study \( (x^2 = 28.76, \text{df} = 6, p < .001) \). As would be expected, with the younger age of the students, they tended to be single \( (N = 119) \) rather than married \( (N = 17) \) or divorced \( (N = 5) \). The other volunteers were more often married \( (N = 16) \) than single \( (N = 6) \) or divorced \( (N = 2) \). The majority of the students classified themselves as concentrating on studying health related fields \( (N = 46) \). There were smaller numbers in natural sciences \( (N = 30) \), social sciences \( (N = 28) \), business \( (N = 19) \), humanities \( (N = 5) \) and languages \( (N = 21) \). The vast majority of non-students majored in social sciences \( (N = 15) \). There was one person in each of the following categories of non-students: natural science, business, languages and humanities. Of those of who did not declare a major area of study or go to college, there were 11 and five, respectively.

The populations differed on one important independent variable, level of education \( (F = 14.465, \text{df} = 1, 35, p = .001) \). The average grade completed for those participants who were still students was 13.17 years \( (SD = 1.28) \) as compared to 16.29 years \( (SD = 2.54) \) for non-students. This
suggests that the information obtained from the university students may not be completely generalizable to a more diversified population.

Two-way analyses of variance based on student versus non-student status did not reveal significant differences between the subject populations for one independent variable. Grade point average was similar with a mean of 3.09 for students and 3.29 for non-students (F = 1.946, df = 1, 35, p = .172). This similarity in grades somewhat mitigate the argument that any differences in reaching a verdict were due to the non-students being more educated or intelligent. In fact, G. P. A. was not significantly related to one's determination of a verdict (x² = 67.461, df = 78, p = .707).

Analysis of Subjects' Responses

The most interesting finding, and the one this study was designed to investigate, is that there was a significant difference between the sex of the expert witness and the verdict reached by separate juries (x² = 43.546, df = 2, p < .001). As seen in Table 2, all but one subject (out of a total of 71) that witnessed the female expert condition rendered a "hung jury" verdict following deliberation. This lone opinion can be attributed to subject inattentiveness, as the questionnaire instructions were worded to insure consistency within each jury (this
can be seen in Appendix C). For those who witnessed the male expert condition, 26 voted "guilty", 19 voted "not guilty" and 49 jury members could not reach a verdict within one hour.

There was a significant relationship between the verdict that a person reached and in how convincing he or she rated the expert witness ($x^2 = 32.022$, df = 18, $p = .022$). The sex of the subject did not affect a subject's decision-making before deliberation ($x^2 = 2.406$, df = 1, $p = .121$) or after ($x^2 = 3.045$, df = 2, $p = .218$). Twenty percent of the women felt the defendant was guilty versus 11 percent of the men. Nine percent of the women thought he was not guilty as opposed to 15 percent of the men. As noted above most people were generally undecided after deliberation (71 percent of the women as compared to 73 percent of the men).

Overall, the testimony of the expert witnesses appeared to be convincing ($x^2 = 32.021$, df = 18, $p = .022$). Most (69%) of the subjects rated the experts as a "six" or greater on a Likert scale. On this scale a one was seen as "not at all" convincing and a nine was "very convincing". The mean rating was 6.27 and the standard deviation was 2.28. There was no significant difference between expert witnesses as to how convincing their testimony was ($F = 2.452$, df = 1, 163, $p = .119$). Both students and non-students rated the experts as being equally convincing.
In addition, subjects did not think their opinions of the expert regarding his or her ability to be convincing would have changed if his or her sex was different \( (F = .102, df = 1, 163, p = .75) \). This was consistent between student and non-student populations \( (F = 1.115, df = 1, 163, p = .293) \).

The marital status of the volunteers did not affect their rendering of a verdict \( (x^2 = 3.152, df = 4, p = .532) \). The same is true for the number of children the subjects had \( (x^2 = 15.210, df = 10, p = .125) \). Educational level of the volunteers did not influence a person's final decision \( (x^2 = 9.224, df = 18, p = .954) \).

There was a significant effect of student versus non-student status regarding rendered verdict \( (x^2 = 14.967, p < .001) \) (see Table 1). This is due in most part to the fact that none of the non-student juries reached a guilty verdict, whereas 26 student volunteers were on a jury rendered a guilty verdict.

The Attitudes Towards Women Scale was analyzed to determine external validity of the research. As seen in Table 3, sex of the volunteer did not significantly affect one's total score on these items \( (x^2 = 33.760, df = 25, p = .113) \). Likewise, consistent with the above findings, one's adherence to traditional gender roles did not significantly affect one's final verdict \( (x^2 = 60.610, df = 50, p = .145) \). While there was a trend for non-students to have
more traditional values, this difference was not statistically significant ($x^2 = 36.691$, df = 25, $p = .062$).

It may have been possible for the performance of the student attorneys to affect the verdicts in the different trial. The null hypothesis is that they did not affect the trial at all by being equally effective in presenting evidence favorable to their case and refuting the testimony of their opponent. This appears to be the case. The state’s attorney was given a mean rating of 4.297 with a standard deviation of 2.330 on a Likert scale of one to nine. On a similar Likert scale, the defendant’s lawyer had a mean rating of 5.236 with a standard deviation of 2.225. The sex of subject had a significant relationship with both how convincing the expert was rated ($F = 5.058$, df = 1, 163, $p = .026$) and with how effective the defendant’s attorney was seen to be ($F = 3.973$, df = 1, 163, $p = .048$). Women tended to view both experts as more convincing than did men. At the same time, they saw the defendant’s attorney as doing a poorer job. The sex of the subject was not related to how effective the state’s attorney was seen to be ($F = .458$, df = 1, 163, $p = .50$). Regardless of how these people were perceived by the subjects, as noted above, one’s gender did not affect one’s verdict, both before and after deliberation.
DISCUSSION

The original hypothesis of this dissertation derived from attribution theory. This was that there would be a sex of subject by sex of expert interaction. Women were expected to judge female experts more favorably and men were expected to judge male experts more favorably. This hypothesis was found to be partially supported. While both genders rated the expert witnesses as convincing, women rated both expert witnesses as being more convincing than men rated them. However, in all trials in which the female expert testified, the jury was unable to render a decision within one hour. Juries were able to come to a decision when the actor portraying a psychologist was male. But, the verdict rendered was highly variable, with 49 jurors reaching no verdict, 26 deciding "guilty" and 19 "not guilty".

The trial evidence itself was predetermined. It consisted of a compilation of facts derived from many separate child abuse cases. The original purpose of the trial was to test the skills of law students. As such, the evidence which was given to each party was evenly balanced. If the student lawyers were equally adept in eliciting
evidence favorable to their case and in suppressing unfavorable evidence, the juries would always return without a verdict. Different verdicts could thus be due to different skills of the student attorneys, from internal dynamics within the jury members or from dynamics between jurors.

It would appear that the internal dynamics of the jurors contributed most to the variability in this study's findings. While the lawyers were rated differently as to competency (an opinion derived before deliberation and thus not subject to change from external pressures) the verdicts reached were not related to how competent they were seen to be. Likewise, one's verdict was not likely to change significantly as a result of the one hour deliberation process. The stability of one's determination of guilt further reinforces the importance of internal dynamics of the jurors.

In terms of attribution theory female subjects seemed to have used the internal and temporary characteristic of effort more than males in determining the competency of the expert witnesses. They appeared to use the category of ability less than males in their decision making. This provides an explanation as to why females subjects, as opposed to male subjects, tended to find both experts convincing. This could also explain why women were variable in rating the attorneys. Women seemed to judge
the experts more favorably overall but also to be more negatively critical. If women had used the stable characteristic of ability as much as men, they would not have demonstrated the variability shown. Their ratings would have generally remained stable. Using effort to determine competency would more easily allow a person to make variable ratings.

A question may then arise as to why female subjects ascribed effort more than males as a reason for competency. They may have been more cognizant that the fact the lawyers were students. Possible reasons for this could be due to more motivation to act like true jurors and thus be more critical of poor litigation skills or greater sensitivity to cues which reinforced the artificiality of the experimental situation. Regardless of the reason(s), their greater awareness would thus have the effect of female subjects attributing the student attorneys' performances to the internal but temporary reason of effort. Male subjects may have been more willing to attribute the lawyers' performance to the internal cause of ability.

One criticism of using university students for psychological research for the study population is a lack of external reliability. Responses from twenty-four non-students who volunteered for this experiment were examined to explore this area. On a large number of independent variables the two groups differed: age,
marital status, number of children, age of youngest child, level of education and grade point average. None of these variables were related to how subjects responded to the questionnaire. Evidence suggests that, for at least one variable, the non-student population was more representative of an actual jury. Knowles and Hickman (1984) surveyed the demographic composition of juries after being impaneled in Los Angeles County. They found that the majority (75%) had achieved at least some education. Many (36%), had finished college or had gone on to graduate school.

Few of the dependent variables from the questionnaire differed between these two groups. However, the most important variable of all, verdict, was found to be different between these two groups. This difference appeared to be related to the fact that in all cases the non-students did not reach a verdict in one hour, i.e., became a "hung jury." It is unknown whether this is a result of these subjects becoming more entrenched in their opinions or whether they took their duty as a mock juror more seriously than did the non-student jurors. This last explanation would imply they felt a stronger desire to weigh the evidence. This is a question which other research may answer.

One criticism of this study is that since it was a mock trial, the participants were not invested emotionally
in the outcome. Anecdotally, this would not appear to be true. The deliberation phase of the trial was always held in a room separately from the room in which the evidence was presented. It was in the trial room where the researcher would await the outcome of the deliberations. Frequently, the two rooms were separated by two closed doors and five to twenty feet of hallway. In all trials the yelling of the jurors could be clearly heard by the researcher. This yelling would ostensibly be done in attempts to prove a point more vociferously. Also, in spite of the fact that the jurors had been made aware of the origins of the trial, i.e., a mock trial, in every study trial somebody would request the "real verdict". These people appeared disappointed when they were told the trial used predetermined evidence and thus there was no "real verdict" outside their own.

Another possible criticism that this study lacks external validity is that full, twelve member, juries were not always run per trial. This criticism would appear to be a valid statement. This study was originally designed to examine only full 12 member juries. This proved to be an extremely ambitious project. Two years of soliciting volunteers was insufficient in recruiting enough subjects. This resulted in changing to a six member minimum jury rule. However, more and more states have been using reduced jury sizes, including North Dakota in some cases.
These cases are, however, restricted to civil suits in the state of ND. Other states (such as Florida), are using this reduced size for both civil and criminal cases. This appears to have been accepted by both jurists and the public. For example, the recent William Kennedy-Smith rape case was decided by six jurors.

One question that arises from this research study deals with attribution theory. It was found that women who participated in this project had different perceptions of competency of the experts and the defense attorney. However, as seen in Table 4, the distribution of the subjects was highly skewed. The vast majority (95.2%) were Caucasian. In addition, over 96 percent of the women were Caucasian. Of course, this is not even close to being congruent with the national racial distribution. 1990 U.S. Census data reveals that of the 127.5 million women in this country, 106.6 million, or 83.6%, are Caucasian. It is possible that the attribution of competency by females in this study would have been different had its racial distribution been more reflective of the national distribution.

As with most psychological studies, the present study had some limitations, most of which centered around the composition of the juries. All the non-student volunteers were ND residents. While the university students may not necessarily have all been from ND, it is likely most were
from the Upper Midwest. This leads to the question of
generalizability to the remainder of the U. S. population.
As stated earlier, Knowles and Hickman's (1984) study calls
into question the applicability of even using students in
jury research. Also, it is possible that those people who
had children, especially young children, affected the
deliberations of the jury to a larger extent than if they
were not parents. In a child abuse case an important
consideration of attorneys during *voir dire* would be if a
potential juror was a parent. This alone could easily get
someone removed from jury. Still another potential
criticism is the short deliberation time, one hour. It is
very likely that many of the "hung" juries would have come
to a verdict if they had more time to ponder the evidence.
Table 1

Differences Between Student and Non-student Groups

<table>
<thead>
<tr>
<th>VARIABLE COMPARED</th>
<th>STATISTIC</th>
<th>VALUE</th>
<th>D</th>
<th>F</th>
<th>p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>F</td>
<td>34.766</td>
<td>1,</td>
<td>35</td>
<td>.172</td>
</tr>
<tr>
<td>Sex</td>
<td>$x^2$</td>
<td>1.230</td>
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<td>.267</td>
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<td>Marital Status</td>
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<td>35</td>
<td>.215</td>
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<tr>
<td>Race</td>
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<td>2.080</td>
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<td>.556</td>
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<tr>
<td>Number of Children</td>
<td>F</td>
<td>6.287</td>
<td>1,</td>
<td>35</td>
<td>.017</td>
</tr>
<tr>
<td>Age of Youngest Child</td>
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<td>17.223</td>
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<tr>
<td>Educational Level</td>
<td>F</td>
<td>4.08</td>
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<td>35</td>
<td>.001</td>
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<tr>
<td>Major Area of Study</td>
<td>F</td>
<td>.718</td>
<td>1,</td>
<td>35</td>
<td>.403</td>
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<tr>
<td>Grade Point Average</td>
<td>F</td>
<td>35.341</td>
<td>39</td>
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<td>.638</td>
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<tr>
<td>Verdict</td>
<td>$x^2$</td>
<td>14.967</td>
<td>2</td>
<td></td>
<td>&lt;.001</td>
</tr>
<tr>
<td>Expert Witness As Convincing</td>
<td>F</td>
<td>1.99</td>
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<td>163</td>
<td>.160</td>
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<td>Effectiveness of State's Attorney</td>
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<td>1,</td>
<td>163</td>
<td>.110</td>
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<tr>
<td>Effectiveness of Defendant's</td>
<td>F</td>
<td>.214</td>
<td>1,</td>
<td>163</td>
<td>.644</td>
</tr>
<tr>
<td>Attitude Towards Women Survey</td>
<td>$x^2$</td>
<td>36.691</td>
<td>25</td>
<td></td>
<td>.062</td>
</tr>
</tbody>
</table>
Table 2

**Sex of Expert by Verdict Reached**

<table>
<thead>
<tr>
<th>Sex of Expert</th>
<th>Guilty</th>
<th>Not Guilty</th>
<th>Hung Jury</th>
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</thead>
<tbody>
<tr>
<td>Female</td>
<td>0</td>
<td>1</td>
<td>70</td>
</tr>
<tr>
<td>Male</td>
<td>26</td>
<td>19</td>
<td>49</td>
</tr>
</tbody>
</table>

Table 3

**Subject Comparisons by Attitudes Towards Women Survey**

<table>
<thead>
<tr>
<th>Comparison</th>
<th>$x^2$</th>
<th>df</th>
<th>p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male vs Female</td>
<td>33.76</td>
<td>25</td>
<td>.113</td>
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<tr>
<td>Verdict</td>
<td>60.61</td>
<td>50</td>
<td>.145</td>
</tr>
<tr>
<td>Student vs Non-student</td>
<td>36.69</td>
<td>25</td>
<td>.062</td>
</tr>
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</table>
Table 4

Comparisons Of Racial And Gender Distributions

<table>
<thead>
<tr>
<th>Race</th>
<th>1990 U.S. Census</th>
<th>Percent</th>
<th>Current Study</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>African American</td>
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APPENDICES
APPENDIX A
TESTIMONY OF EXPERT WITNESS

Question: Kathryn, could you please state your name.
Answer: Oh, yes, my name is Kathryn Hammes.

Question: And where do you live?
Answer: I live at 2350 South 34th Street in Grand Forks.

Question: Excuse me is that, do you prefer Miss, Mrs., Doctor?
Answer: Kathy's fine.

Answer: All right. What's your occupation?
Answer: I'm a licensed clinical psychologist.

Question: And how long have you done that?
Answer: I've been working as a Ph.D. licensed clinical psychologist for 3 years.

Question: Do you have an undergraduate degree?
Answer: Yes, I do.

Question: And where is that from?
Answer: The University of Wisconsin, Milwaukee.

Question: And do you have any post-graduate education?
Answer: Yes, I do. Um, I have both a Master's and a Ph.D. in clinical psychology.

Question: Where did you get these from?
Answer: The University of North Dakota

Question: And when did you receive those?

Answer: I received my Master's degree in 1981 and I received my Ph.D. in 1984.

Question: Does the ah, University of North Dakota have any ah, special accreditations in this area?

Answer: Yes, the University of North Dakota is ah, accredited by the American Psychological Association and is accredited in clinical psychology.

Question: Um, in addition to this did you participate in any workshops, seminars, any special clinical training?

Answer: My clinical emphasis throughout my graduate career has been on child and family work. And special workshops -- I have attended several. Um, particularly children have been in the areas of child abuse, have been in the area of evidence testimony and also in certain pathological disorders for example neurological disorders.

Question: You written any papers or conducted any research?

Answer: The main emphasis of my research including my dissertation research for my Ph.D. has been in the area of eyewitness testimony with children. Specifically, my dissertation research was on the impact of various, um, leading questions on children.
And what I looked at is specifically, um, what sorts of cognitive and personality characteristics includes why one child is more susceptible to leading question than others.

Question: Ah, do you belong to any professional associations?
Answer: Several, um, specifically I belong to the American Psychological Association Division 12, which is the Division on Clinical Psychology. I also belong to the Midwest Psychological Association and I also belong to the North Dakota Psychological Association.

Question: Have you received any rewards?
Answer: Um, yes I have received several rewards, um as a graduate student I received a couple of grants from the National Science foundation. Grants to work on my dissertation. I also am a member of Phi Beta Kappa. And, um, I also received several tuition waivers, scholarship waivers, as a graduate student.

Question: Are you licensed in the state of North Dakota?
Answer: Yes, I am.

Question: Are you licensed anywhere else?
Answer: I'm also licensed in the State of Minnesota.

Question: Since your, ah, education have you had any clinical experience?
Answer: I've several years of clinical experience. When I was go-getting my graduate work after my Master's in
1982 I worked as a part-time clinician as a staff psychologist at the Child Evaluation and Treatment Program which is part of the Rehab Hospital. Um, I also worked part-time the next year at the Psychological Services Center here at UND. And after that I did a year, um pre-doctoral internship at the Children's National Medical Center in Washington, DC. That was a full-time position. And then I've been working the last three years at the Northeast Human Services Center as a child and family psychologist.

Question: Um, so in your clinical experience you've had occasion to, ah, work with children who've been abused?

Answer: Yes, several.

Question: On approximately how many occasions?

Answer: Um, I'd say a couple of hundred at least.

Question: The State would like to offer Kathy Hammes as an expert in the area of child psychology.

Judge: Is there any objections?

Question: I have a limited cross-examination I'd like to do.

Judge: You may proceed.

Question: There is one thing I have to ask about qualifications.

Answer: Um, hm.
Question: All right. You say you have a Master's degree in clinical psychology,
Answer: Um hm.
Question: How much time did you spend with a child in that?
Answer: Pardon me?
Question: How much time did you spend with John Snider previous to that time today?
Answer: I spent approximately half hour doing an interview with John then I spent about two hours doing assessment work.
Question: Would you state that ah, there's generally more time spent with a subject previous to making an evaluation on one? Ah, so they could assess Battered Child Syndrome?
Answer: No, I would not. That's typical for what I spend, usually two hours. Then I spent approximately two hours with Mr. Snider doing some testing on her then also getting acquainted on where she comes from.
Question: After, the two hours and 1/2 hour with the child?
Answer: Um, hm.
Question: Did, did ah the patient positively sure where of whether the Battered Child Syndrome positively exist for certain?
Answer: Yes, I believe so. I not only did an interview but I also conducted testing.

Question: OK, we have no objections to this witness. We ask that she be admitted.

Judge: OK, you may proceed then. Miss Hammes will be qualified as an expert in the area of child psychology.

Question: You're familiar, ah, with ah, the psychology phenomena known as the Battered Child Syndrome?

Answer: Yes, I am.

Question: What is that?

Answer: The Battered Child Syndrome actually is a term coined by C. Henry Kemp. And the term was coined in 1962.

Question: Ah, what type of behavior does it describe?

Answer: Well, um, in order to explain the phenomena I think you have to look at it historically. What's happening is that Kemp is physish, Kemp was a, a physician who started to notice that children were coming into his office with certain sorts of injuries. For example a broken arm or a bruised hand. And the history provided by either the child or the parents was not consistent with the type of injury that was going on. Kemp then went ahead and coined the term the "Battered Child Syndrome" and since that time what has happened is, ah, all 50 states within five years after
Kemp had coined that term a developed mandatory reporting laws for different health professionals. Also, it has um, established all sorts of research and literature in the area. Prior to that there was no such thing really going on. And right now what we call the Battered Child Syndrome is more of what we think of in layday terms as child abuse.

Question: So are there subgroups to Battered Child Syndrome? Battered Child Syndrome is an overlying ...

Answer: Um hm

Question: ... description of several subgroups of psychological phenomena?

Answer: That’s exactly it. It’s a real general term and within that term researchers have shown different sorts of characteristics.

Question: Could you, ah, describe some of the characteristics?

Answer: OK, the research has been primarily within two areas that I’ve been interested in. First of all the research has looked at what sorts of characteristics are characteristic of a child that has been abused. And the research in this area, um, has shown such things as, um, child who have been abused usually have lower self-esteem than children who have not been abused, that is a control group. They also tend to have a great deal of difficulty trusting other people,
especially that, um, great difficulty trusting other adults. Um, they often times are depressed or anxious children. Um, often times their I.Q.'s are lower than other children. They really haven't had that background and therefore with their I.Q.'s also when they take tests it tends to be threatening to them and also would lower their IQ scores. Um ...

Question: What's the other perspective that we've mentioned. You've said there were two ...

Answer: Um hm.

Question: ... that you've looked at?

Answer: The other perspective of the research is focused on specifically what sorts of characteristics are there for the abuser. That is that is the person who abuses the child. Research in that area has shown that those people are often themselves have low self-esteem. Those people are often abused as a child. Um, those people often, ah, often at times will abuse such things -- substance abuse we call it and that's compounded with marijuana. Often times those people are what's termed narcissistic -- that is they have they think, think of themselves before they think of other people and put themselves before other people. Ah, oftentimes people have what's called poor impulse control. And as we all have impulses and their ability to control these to sit back on things. When
they feel like doing something their ability to hold back can not do it very good. It's not well developed. Um, there's also been research that also looks into specific statistics. For example, um, a man who abuses his wife; who hits his wife. The kid is more upset sort of thing, he's 100% more likely, over 100% more likely to abuse a child. Um, also in this area the, the more severe the wife beating the higher the percentage goes.

Question: Um, did you get a chance to talk with John Snider?

Answer: Yes, I did.

Question: How did you get involved with John?

Answer: It was reported to me, um, through ah, actually his district court need to see to for me to do an assessment of him and find out what sort of impact this whole thing has had on him.

Question: And, um, are you paid to do these assessments?

Answer: Yes I am.

Question: And what, what do you pay?

Answer: Usually my assessments run $150.

Question: Is that average for the industry?

Answer: Yes, it's actually a little bit lower I think.

Question: Ah, based on your experience as a licensed clinical psychologist, have you any ah, have you come to any conclusions about John Snider?
Answer: Yes, I do believe that John Snider has, um, suffered child abuse.

Question: And ah, as a licensed clinical psychologist did you come to any conclusions about who it was that was abusing John?

Answer: Specifically, I feel the person who did it was what he called Uncle Bert or Mrs. Schneider's, Snider's boyfriend, Bert Ewing.

Question: How did you come to this conclusion?

Answer: Well, I based my conclusion on several different variables. Ah, specifically I conducted an interview with John, three tests with him, conducted an interview with Mrs. Snider and a test with her.

Question: OK, ah, getting a little specific with some of these tests and ah I'm not very technical. So if you could put it as laymen's terms as you could ... 

Answer: Um hm.

Question: ... um, you said you conducted a Bergly fan. Could you explain a little what went on there?

Answer: Um hm. That was an interview that I conducted with John and specifically what I wanted to know was what he remembered happened. John was very explicit in the interview and stated three times that there were specifically that he can remember that Bert Ewer hit him with something in his hand. Either a telephone book, a belt, and beer can. Throughout John thought
throughout the year that there's been several other instances when Bert Ewer hit him. He wasn't exactly sure the number but he thought it was about once a day. Um, John, I also wanted to get at what impact I think and, um, being the expressed in fear. Um, there also seems to be some confusion on John's part. He's not real sure what he ever did that, that provoked these sorts of thing and he's, um, confused.

Question: Well that's the verbal test. did you run any other test?

Answer: Um hm. It's part of my evaluation of child I, I always want to see how they're functioning IQ wise. So I ran the Wechsler Intelligence Scale for Children Revised which is a standardized test used on children between the ages of 6 to 18.

Question: And what was the result of that?

Answer: The results of this test were that John was functioning well within the normal range of I.Q.

Question: OK, did that raise any questions in your mind?

Answer: Well yeah, it was kind of concerning to me about that test was that John has been doing rather poorly in school and based upon his IQ he should not be having any difficulties. There were no major deficits in John's, um, intellectual functioning.

Question: OK, did you run any other tests?
Answer: Um hm, I ran the Piers Harris Self Concept Inventory for Children. And this is a test which is developed and used for children to assess what children think of themselves and then compare to what other children then think of themselves and get an idea what their self esteem is or their self concept is.

Question: OK, and how old what did you find through this test?

Answer: John has a very low self esteem, um, there are certain areas that tended to be better for him tended to be more of, of a strength. One strength for him was in the area of what he thinks of his physical appearance. That was a real good for him. Excuse me, particular areas of concern for him were more of his own home environment, what he was feeling about that and a happiness measure, how happy he felt he was and also an academic measure, how he felt he’s doing in school. For example the question on that test was I’m a bad boy and then the child would answer yes or no.

Question: Any other tests on John?

Answer: Uh hm. I gave one last test which is called the Children’s Apperception Test. And this is a test used to assess a children’s personality and also their relationship to, ah, significant others.

Question: What was the result of that test?
Answer: That test like I said specifically looks at what sort of relationship does a child have with their parental figures. Um, interestingly enough, I found in that test that there were many themes of sadness and depression in that test. There was also many themes of fear. Um, John tended to have a theme of relationship to this mother one in which was close to his mother but maybe his mother wasn’t always someone who’s always going to be there to support him or someone he could depend on. The relationship with the father figure were often one of fear. Often one had the desire to be close to this person but a fear because of this person and often one confusion.

Question: Thank you. And what was your conclusion based on these tests?

Answer: My conclusions are is that, um, John first of all has a fairly good relationship with his mother, I would term it very good. Um, maybe mom hasn’t always been a person that’s been real strong for John to depend on. But there are definitely some tight bonds there. John’s relationship with a male figure for him figures more problematic. Especially there’s a concern on my part. He looks at this person maybe even someone to be afraid of and someone that you really he he’s confused about what exactly that figure is to him.
Question: Thank you very much. We have no more questions.
Judge: Do you have any cross examination?
Question: Yes, I do. In the interview that ah, you did
with John Snider ...
Answer: Ah ha.
Question: ... do you remember the number of times that you
said, ah, he had been ah, that you said he had been
beaten by Bert Ewer?
Answer: Um, well he said three times specifically that he
could remember that he was hit with an instrument.
And that was the belt, the beer can and then the um,
um I’m forgetting the other one; the belt, the beer
can and then the telephone book that he could
remember.
Question: Ah, do you remember the number of times he talked
about ah, as opposed to ....
Answer: Oh, OK.
Question: ... including other times you’ve seen him?
Answer: Over the past year he had initially said 18 to 26
times. And then there was, I was somewhat confused
because I think he had changed that after he had
talked to you. So then, ah, I went back and asked him
and tried to get some idea of what he was considering,
how he came up with that number. And he wanted to tell
me that is was a, a medium amount. And that’s what he
considered 18 to 26 -- to be a medium amount
Question: Do you remember where John Snider said he was hit with a telephone book? During that interview?
Answer: Um, no I do not. I believe he said right here on the head. I'm not real certain on that, I would have to check my notes.

Question: I'd like to talk a little bit about the Battered Child Syndrome. When does the, do the characteristics of the damage usually stop? When a child has been beaten?
Answer: When do they stop?

Question: Yeah, isn't it isn't it a wouldn't it be correct to say that the damage doesn't end right as the beating stops; that there are some damages that go on beyond the child being beaten?
Answer: That's very, very dependent on how long the child beating has been going on. Um, I think a child that this has been happening to for two months the prognosis for when the effects of that and when the impact of that is going to end is much better and you can expect the prognosis if they get the proper treatment and the family gets the proper treatment to be much better than if this has been going on for 20 some years.

Question: Wouldn't you say that if the beating, the child battering, is continuing that the characteristics of the child from the beating are going to continue too?
In other words the symptoms of the Battered Child Syndrome aren't going to go away as long as the beatings continue?

Answer: I'm not sure I quite understand where... 

Question: What I'm asking you is ah, when you evaluated John... 

Answer: Um hm... 

Question: ... you said you could read things from him and know that he was a battered child. 

Answer: Um hm. 

Question: Showing the characteristics ah, poor self-esteem being one of them now are these things gonna continue as long as the child is being battered? 

Answer: The idea is ah, having the low self-esteem? 

Question: Yeah, yeah, exactly those. 

Answer: They can continue beyond that. I mean I, I really firmly believe that unless the child gets help that these sorts of things can continue beyond just the specific. It's not once the beating stops that these thing magically go away. 

Question: And wouldn't you say that ah, John needs help beyond the help what you've already give him? 

Answer: Yes, I would. I was making recommendations that John receive therapy. 

Question: See, I was give a number articles... 

Answer: Um hm.
Question: Ah, in order to prepare for your testimony. And, one of these articles shows nine characteristics ...

Answer: Uh hm.

Question: of children that have been battered. I’d like you to read these and tell me if untruthfulness or any synonym of that word is included in one, one of those nine characteristics that these experts have uh, brought forth?

Answer: Untruthfull?

Question: Untruthfull.

Answer: You mean lying?

Question: Lying.

Answer: Sure, um, opposition. It can definitely be used. A child who is oppositional would be someone who might, can give you a hard time and, and may not tell the truth.

Question: Would you say that ah, would you say that John Snider has at times been untruthfull about the things that he is scared of?

Answer: Yes, he did mention to me the fact that he was afraid to tell his teacher initially what had happened to him. And I asked him why and he said he was afraid to. Which I think is real characteristic from what I’ve seen of children that are abused. They’re, they’re afraid to trust adults. They’re also afraid he
mentioned to me that Bert Ewer said that he was going to hurt him if he told anyone. That’s something that’s John’s very fearful.

Question: OK, and untruthfulness is being identified as being one of these characteristics?

Answer: Um hm.

Question: Ah, would, what you have just said would continue at least up until the beatings stopped or beyond them? Would you say the untruth, untruthfulness would continue with the other characteristics?

Answer: I don’t want to specifically term oppositional behavior as exactly untruthfulness. I want to say that I think that, that could be a demonstration. Oppositional behavior could also be a demonstration of not talking at all. It could be a demonstration of spitting in someone’s face. I mean oppositional behavior as, as such that I don’t want to term it just as untruthfulness.

Question: From your experience is ...

Answer: Um hm.

Question: ... untruthfulness one of the characteristics that is typically appears in these ...

Answer: No.

Question: ... cases?

Answer: No.
Question: In cases of the Battered Child Syndrome ah, I've kind of gleaned from the articles I've been given...

Answer: Um hm.

Question: ... that specifically that the parent that least indicates from first glance ah, that is the one that is doing the battering. Is that, is that something I've read correctly

Answer: No, I don't believe so. I've, I've never read anything like that the, the care, the person who you least suspect? That's right?

Answer: No, I've never found that. I've never found that in my own clinical experience. I never. It's usually pretty evident who the person is.

Question: OK, a battered child -- is the Bettered Child Syndrome ah, at least generally is it parents that are the ones that are doing the battering?

Answer: No, it can be a parent or a significant other. I think the main thing to keep in mind is that it's a parent or a parental figure, someone who is in power over the children, someone with whom the child trusts.

Question: No further questions.

Answer: Do you have any redirect examination?

Question: Yes, your honor. Is it usual for a child who's been abused to deny it? At first?
Question: Oh yes, I think it’s very usual. When we talked before about the a, inability to trust. I mean these children haven’t been able to trust a lot of adults in their lives. And so if taken in particular from adult who’s going to ask them about it they may feel very threatened and want to deny it. This is very common in both children who’ve been physically abused and also children who have been sexually abused.

Question: Would it be unusual to not deny it?

Answer: Um, I think you can see it either way. I think, you know, from my experience it’s been more of the case of, if someone also brings it up the child is going to try to deny it initially, cause they feel very threatened. And it depends on who brings it up. If the person is pretty comforting it might not be so threatening.

Question: In your experience as a licensed clinical psychologist, have you ah, let me rephrase. You testified earlier that John had testified that he 18 to 16.

Answer: Um hm

Question: And then that he meant that to mean a medium number. Is it usual for a child who’s been abused to have a clear indication of how many times they’ve been hit?
Answer: No, I don’t think that every time they go hit they keep tally anywhere. I think he was trying to estimate. And what I got from that was he was trying to tell me he wouldn’t leave him alone. It wasn’t happening every day but it was happening once a week from what he could remember.

Question: Is there anything else that you could tell us about this family situation that might help enlighten us in this sit, instance?

Answer: Um, yeah, there was one thing which I didn’t really get an opportunity to talk about the test that I did with Betty Snider. Um, I gave her the Minnesota Multiphasic Personality Inventory and the results of that found that um, she was a, a person who right now is feeling pretty um, anxious and also someone who is feeling somewhat depressed. Specifically what I looked at from her whole personality profile is someone who is a dependent sort of person.

Question: Your honor I would object to this line of questioning by the witness. It’s unresponsive and narrative.

Judge: I would ah, over-rule the objection. You may proceed with your answer.

Answer: Um, specifically what I found about Betty Snider is she’s a dependent sort of person, with dependent sort of characteristics. What this means is that people who
are dependent have a hard time asserting themselves. And what I mean by that is: they have a hard time standing up for themselves. Ah, dependent persons are the sort of persons who um, might have a hard time calling a pizza place to get a pizza they may want someone also to do it. They may have a hard time if something’s bothering them to someone actually say you’re bothering me please don’t do this.

Question: I’ve no more questions.

Judge: Do you have any recross?

Question: No further questions.

Judge: You may be seated now.

Answer: Thank you.
APPENDIX B
SUMMARY OF WITNESSES’ TESTIMONY

The following is a summary of the testimony of all witnesses in the videotaped trial of Bert Ewer, with the exception of the expert witness in psychology. The witnesses are listed in the order in which they testified.

Martin Donovan: Martin resides at 103 Belmont Drive, Grand Forks, next door to Betty Snider. He is employed as a groundskeeper for the university of North Dakota. He has dated Betty in the past but currently views their relationship as "just friendly neighbors." When Martin was outside mowing his lawn he saw Bert Ewer hit John Snider with a beer can. Bert and John had been arguing over a cub scout uniform. Martin confronted Bert and threatened him if Bert was to ever hit John again. Betty was able to hear what was going on outside. Betty has hit John with a switch two times.

Betty Snider: She is the mother of John Snider and resides at 101 Belmont Drive, Grand Forks. Her occupations
are secretary and bookkeeper and she also receives $50 per month from her husband, Frank Snider. They are separated. She has a difficult time getting by "with bills." Bert Ewer hit John with a beer can and Martin Donovan went over and confronted him. John ran into his bedroom immediately after being hit by Bert. She did not confront Bert at that time. Bert has hit John before, she had originally given permission to Bert to punish John. The punishments had been getting more severe but she has not confronted Bert as to the disciplining. Bert stays over on occasion but has never truly moved in with her.

**John Snider:** John is nine years of age and in the fourth grade. Uncle Bert has been beating on him. John calls Bert Ewer "Uncle Bert" because John needs to call him something. Uncle Bert does not live with John. He has been beaten by Bert with a half filled beer can, telephone book and a belt. When Bert hit John with the beer can, he went inside the house and told his mother. She said, "Don't bother me.", so he went into his room. Bert has hit him 10 to 20 times; John was guessing as to the exact number. Bert has never given a reason as to the beatings and John's mother would just say "Don't bother me." When he first told his teacher, Mrs. Walstrom, about being hit he said he
banged into a door. The next time, he told her he fell down the stairs. He said these things out of fear that Bert would beat him again. He told the police Bert hit him. His mother has slapped him with switches. He and Bert did get along with each other.

**Expert Witness:** A transcript of this testimony appears in Appendix A.

**Joy Walstrom:** Joy resides at 2312 6th Ave. Grand Forks. She taught 3rd grade in the past but now teaches 4th grade. John Snider is one of her students. She noticed John had a cut lip. When she asked him about it he said he ran into a door. Later, when she asked him about a bruise on his right cheek, he said he fell down a stairs. It was about the size of a quarter or half-dollar. She was not suspicious he was being abused at that time. Still later, she asked him about a black eye. She became suspicious when he again told her he fell down a stairs. She took John to the principal's office. She asked him if Bert ever hit John and he began to cry. John denied being beaten by Bert. After the meeting she called the police and a social worker. Her actions were required by law.
Robert Hooks: Officer Hooks has been employed as a police officer for 15 years. He has received special training in the investigation of child abuse. He interviewed John Snider at school, Betty Snider at her house and Martin Donovan at his house. Betty stated that Bert Ewer assaulted John on three occasions. She had known about it and let it go on due to a fear of loss of financial support. Officer Hooks suspected Bert had assaulted Betty. John told Officer Hooks that Bert hit him several times, once with a beer can near the eye. Martin reported Betty hit John five to six times, sometimes with a switch.

Sarah Brown: Sarah resides at 401 Park Drive, Grand Forks. She had been employed as a social worker for the past five years at the Grand Forks Count Social Services Child Protection Unit. She visited Betty Snider's residence to investigate allegations of child abuse. Betty denied Bert Ewer abused John Snider at first but then said sometimes John was rude and Bert would punish him. Betty added that Bert was a good man. She cried during the interview and stated that the punishments had been getting worse. Sarah never asked if Betty ever struck John. She only asked about Bert as that person was the only one reported.
Frank Snider: Frank is thirty-two years of age and employed as a freelance graphics artist. He is married to Betty Snider but lives in Taos, New Mexico. He moved out six years ago because he "couldn't put up with her behavior." Frank stated that Betty was a very emotional person and a poor mother who harassed and hit John. Her battering John began was he was an infant. Frank’s attempts to stop Betty did not work. When John was three, she hit him with a stick. Frank would often notice bruises on John’s legs and arms. Frank doesn’t pay child support because he can’t see his child. He decided to testify as he could leave the home but John can’t.

Peggy Mayrose: Peggy is a thirty-five year old married mother of five who resides at 5399 4th Ave. Grand Forks. She has been employed for the past eight years as a third grade teacher. She taught John Snider last year. She feels that he is a nice boy but that he would often mix fact and fantasy. For example, he wrote about a summer trip to New York where he saw the Washington Monument. Also, he lied when he gave an excuse for not doing an assignment. Peggy viewed him as not credible. She did notice that John would have bruises but did not report this to authorities. She did talk to Betty Snider about the bruises. Betty
denied abuse, stating John had some accidents recently.

Bert Ewer: Bert is a 25 year old, single male who is self-employed as a truck driver. He resides at 715 N 40th St. Grand Forks. He described his relationship with Betty Snider as "very, very close" and "something special." They have seen each other once every two weeks for two days or so for the past year. Bert had been getting along with John Snider quite well "until recently when (John) has been lying so much." Bert has tried to talk to John about it but he is so distant. Betty does not like to accept blame and puts blame onto others. She has a short fuse. Betty, John and Bert were in the kitchen and John was talking to his mother about getting a cub scout uniform. Betty hit John on the side of the face with a spoon. John ran out of the house and Bert followed. He tried to console John and noticed that he was cut up and bruised. The next door neighbor did not come over and talk to him. Bert has seen Betty hit John 15 times. Bert has talked to her about hitting John but she blamed Bert for her abuse. He decided to testify because John is being hurt in that home. Bert is right handed and drinks with his right hand.
APPENDIX C
RESEARCH QUESTIONNAIRE
JUROR DEMOGRAPHIC DATA

1. Age: ________
2. Sex: ________
3. Marital Status: Single ____ Divorced ____ Married ____
4. Race: Asian ____ Black ____ Caucasian ____
   Hispanic ____ Native American ____ Other ____
5. Number of children: _____
6. Age of youngest child: _____
7. Highest level of education completed (in years):
   ______________________
   (For example, high school graduate = 12 years)
8. Major: __________________
9. Grade point average: _______
   (if unknown, give closest estimate)
1. In your personal opinion, do you believe Bert Ewer is guilty or not guilty?

_________ guilty _________ not guilty

2. From the information presented in this case, how certain are you that Bert Ewer is guilty?

not at all 1 2 3 4 5 6 7 8 9 very certain

3. How do you feel, personally about John Snider?

very 1 2 3 4 5 6 7 8 9 very negative

positive

4. How severe do you think the psychological impact of the abuse would be on John?

not at all 1 2 3 4 5 6 7 8 9 very severe

5. To what extent do you feel that Bert was justified in his actions because of some aspect of the victim’s behavior or character?

not at all 1 2 3 4 5 6 7 8 9 totally justified

6. How do you feel, personally, about Bert?

very 1 2 3 4 5 6 7 8 9 very negative

positive

7. How easy would it be for you to feel empathy for Bert (in other words, to put yourself in his place) in viewing the incident?

very difficult 1 2 3 4 5 6 7 8 9 very easy
8. How easy would it be for you to feel empathy for John?
very difficult  1 2 3 4 5 6 7 8 9  very easy
9. How serious do you think the crime of child physical abuse is?
not at all  1 2 3 4 5 6 7 8 9  very serious
10. How effective was John’s attorney in presenting his side of the case?
very   1 2 3 4 5 6 7 8 9  very ineffective
11. How effective was Bert’s attorney in presenting his side of the case?
very   1 2 3 4 5 6 7 8 9  very ineffective
12. How believable was John’s testimony?
not at all  1 2 3 4 5 6 7 8 9  very believable
13. If John was the opposite sex how convincing would the testimony then be?
less  1 2 3 4 5 6 7 8 9  more convincing
no change convincing
14. How believable was Bert’s testimony?
not at all  1 2 3 4 5 6 7 8 9  very believable
15. If Bert was the opposite sex how convincing would the testimony then be?
   less 1 2 3 4 5 6 7 8 9 more convincing
   no change convincing

16. How convincing was the testimony of the expert witness about the Battered Child Syndrome?
   not at all 1 2 3 4 5 6 7 8 9 very convincing

17. If the expert witness was the opposite sex how convincing would the testimony then be?
   less 1 2 3 4 5 6 7 8 9 more convincing
   no change convincing

18. How convincing was the testimony of Mrs. Snider in this case?
   not at all 1 2 3 4 5 6 7 8 9 very convincing

19. If Mrs. Snider was the opposite sex how convincing would the testimony then be?
   not at all 1 2 3 4 5 6 7 8 9 very convincing
   no change convincing

20. How convincing was the testimony of Mr. Donovan (John’s neighbor)?
   not at all 1 2 3 4 5 6 7 8 9 very convincing
21. If Mr. Donovan was the opposite sex how convincing would the testimony then be?
   
   less   1 2 3 4 5 6 7 8 9 more
   convincing  no change  convincing

22. How convincing was the testimony of Mr. Snider?
   
   not at all  1 2 3 4 5 6 7 8 9 very
   convincing  convincing

23. If Mr. Snider was the opposite sex how convincing would the testimony then be?
   
   less  1 2 3 4 5 6 7 8 9 more
   convincing  no change  convincing

PLEASE DO NOT TURN TO THE NEXT PAGE UNTIL AFTER DELIBERATION
24. Please rank order (from 1 to 12, with 1 = most important and 12 = least important) the portions of the trial that had the greatest impact on your decision of Bert's guilt or innocence in the case.

A. Opening statement of prosecuting attorney
B. Opening statement of defense attorney
C. Testimony of Mrs. Snider
D. Testimony of John Snider
E. Testimony of Martin Donovan
F. Testimony of the expert witness
G. Testimony of Bert Ewer
H. Testimony of Mr. Snider
I. Closing Statement of prosecuting attorney
J. Closing statement of defense attorney
K. Immediately after judge's instructions to the jury
L. After jury deliberation

25. Using A through L above in question #24, at what point in the trial did you reach your decision as to Bert's guilt or innocence in this case. Please check only one.

26. If after deliberation Bert Ewer has been found guilty or the jury was still undecided, how many years should he be sent to prison?

1 to 5 _______  6 to 10 _______ 11 to 15 _______
16 to 20 _______ more than 20 _______

The statements listed below describe attitudes toward the role of women in society that different people have. There are no right or wrong answers, only opinions. You are asked to express your feeling about each statement by indicating whether you (A) agree strongly, (B) agree mildly, (C) disagree mildly, or (D) disagree strongly. Please indicate your opinion by letter in the blank provided.

_____ 1. Swearing and obscenity are more repulsive in the speech of a woman than of a man.

_____ 2. Women should take increasing responsibility for leadership in solving the intellectual and social problems of the day.

_____ 3. Both husband and wife should be allowed the same grounds for divorce.

_____ 4. Telling dirty jokes should be mostly a masculine prerogative.

_____ 5. Intoxication among women is worse than intoxication among men.
6. Under modern economic conditions with women being active outside the home, men should share in household tasks such as washing dishes and doing the laundry.

7. It is insulting to women to have the "obey" clause remain in the marriage service.

8. There should be a strict merit system in job appointment and promotion without regard to sex.

9. A woman should be as free as a man to propose marriage.

10. Women should worry less about their rights and more about becoming good wives and mothers.

11. Women earning as much as their dates should bear equally the expense when they go out together.

12. Women should assume their rightful place in business and all the professions along with men.

13. A woman should not expect to go to exactly the same places or to have quite the same freedom of action as a man.

14. Sons in a family should be given more encouragement to go to college than daughters.

15. It is ridiculous for a woman to run a locomotive and for a man to darn socks.

16. In general, the father should have greater authority than the mother in the bringing up of children.
17. Women should be encouraged not to become sexually intimate with anyone before marriage, even their fiances.

18. The husband should not be favored by law over the wife in the disposal of family property or income.

19. The husband should be concerned with their duties of childbearing and house tending, rather than with disagree for professional and business careers.

20. The intellectual leadership of a community should be largely in the hands of men.

21. Economic and social freedom is worth far more to women than acceptance of the ideal of femininity which has been set up by men.

22. On the average, women should be regarded as less capable of contributing to economic production than are men.

23. There are many jobs in which men should be given preference over women in being hired or promoted.

24. Women should be given equal opportunity with men for apprenticeship in the various trades.

25. The modern girl is entitled to the same freedom from regulation and control that is given to the modern man.
BIBLIOGRAPHY


