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THE EFFECTS OF BANNING THE WORD "RAPE" FROM A RAPE TRIAL

A Thesis in

Psychology

by

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ABSTRACT

In 2006, a U.S. District Court Judge banned the word "rape" from a rape trial. This study examined the effects of this language ban on juror decision making. Participants read one of four brief trial summaries of a rape case (including or excluding the word "rape" and strong or weak evidence against the defendant), rendered a verdict, rated the defendant's level of guilt, and answered additional questions. An ANOVA revealed a significant interaction, such that language did not matter in strong evidence cases, but language did matter in weak evidence cases. Importantly, participants exposed to the word "rape" distinguished between strong and weak cases—a finding that refutes the Judge's assumption that the word "rape" is inflammatory and impairs jurors' abilities to accurately evaluate the evidence. Legal implications are discussed, and I conclude that rape victims should be allowed to use their own words when testifying on the witness stand.

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INTRODUCTION

In November 2006, Nebraska District Court Judge Jeffre Cheuvront made an alarming pre-trial decision that sparked national interest in the impact of language in the courtroom. Prior to the trial of Pamir Safi, who was accused of raping Tory Bowen in October 2004, the defense had filed a motion for the Court to ban the use of certain inflammatory or prejudicial words that they believed would affect jurors' abilities to remain fair and impartial while listening to the evidence in the case. The defense argued that the words "rape," "sexual assault," "victim," "assailant," and "sexual assault kit" would evoke unfair prejudice or confusion among jurors. The prosecution, in adamant opposition, argued that it would be unfair and unreasonable to prohibit Ms. Bowen from telling the jury exactly what she believed happened to her. Judge Cheuvront, however, ruled in favor of the defense and agreed that these words were inflammatory and could possibly bias the jury. As such, the litigants and attorneys were required to monitor their language throughout the trial and choose their words carefully. The trial ended in a hung jury.

Mr. Safi's case received significant attention from victims' rights advocates, including the group Promoting Awareness, Victim Empowerment (PAVE), which led two days of protests in front of the Nebraska District Courthouse in July of 2007, prior to the jury selection for the second trial. Judge Cheuvront, who blamed Ms. Bowen for the media attention and lively protests outside the courthouse, declared another mistrial—this time because he feared that the pre-trial publicity would taint the jury pool. After a failed attempt to appeal with the U.S. Supreme Court on the grounds of a First Amendment rights violation, the prosecution in this case decided not to try the defendant a third time.

In support of Judge Cheuvront's ruling to ban certain words from the trial, defense attorney Clarence Mock, told reporters, "It's a legal conclusion for a witness to say, 'I was raped' or 'sexually assaulted.' That's for a jury to decide" (Lithwick, 2007). In fact, Ms. Bowen was not even allowed to say that she *felt* or *believed* that she was raped which, one might argue, is still accurate but yet somewhat different from stating "I was raped," because the words "feel" and "believe" qualify the message as being from the speaker's perspective and not necessarily a conclusive fact (Lithwick, 2007). Judge Cheuvront's ruling completely banned the words "rape," "sexual assault," "victim," "assailant," and "sexual assault kit," regardless of the context in which they would be spoken and despite the lack of empirical evidence supporting his assumption and judicial ruling.

The main assumption in Judge Cheuvront's decision to ban certain language from this rape trial is that these key words are inflammatory and prejudicial, meaning that when jurors hear these words, they will be inclined to prejudge the litigants in the case by consistently concluding that the defendant is guilty of rape. This presumed effect is in contrast to the typical judicial instructions jurors receive—that is, to remain impartial until they have heard all of the evidence at trial and to fairly evaluate the evidence that was presented to them based on the applicable evidentiary standard. Based on Judge Cheuvront's ruling in the 2006 trial of Pamir Safi and the media reports that ensued, I have specifically defined the Judge's assumption as a belief that the word "rape" will prejudice jurors to the extent that hearing this word will impair their ability to remain impartial during the trial and then fairly and accurately evaluate the evidence in the case. In the current study, I manipulated the language used by a rape victim and a medical expert as well as the strength of evidence against the defendant to determine the effect of language (including vs. excluding the word "rape") on jurors' perceptions of the defendant's guilt. To

date, no research has been published regarding the effects of allowing a victim to use more specific, descriptive terms, such as "rape" and "sexual assault" versus banning those words and forcing her to use terms such as "sexual intercourse" and "forced sexual intercourse." As such, the basis for my predictions comes from previous research on other controversial or gruesome evidence and the subsequent impact that this evidence has on jurors' perceptions and decisions.

Inflammatory or Prejudicial Evidence

Trial attorneys and judges are always on the lookout for evidence that could give an unfair advantage to one side or the other during the course of a trial. An unfair trial advantage can occur when a new piece of evidence is introduced to jurors—that is, evidence that is thought to "prejudice" the jury (for example, a photo of a deceased body). The prosecution might advocate showing this evidence to jurors not only to provide them with additional information about the crime scene but also to pull at the heartstrings of jurors—to make them feel an emotion, such as sympathy, fear, anger, or disgust, that will affect the way they view the issues in the case and how they come to a verdict. This is problematic because, according to the law, emotion and other extralegal factors are not supposed to play a part in juror decision making (Maroney, 2006).

Prejudicial evidence can take various forms in the courtroom, including visual modes (e.g., photographs of a crime scene) and verbal modes (e.g., a tape-recorded 911 call or a victim impact statement from a crime victim's family member). Many researchers have focused on the effects of visual evidence and more specifically the effects of gruesome photographs (Douglas, Lyon & Ogloff, 1997; Bright & Goodman-Delahunty, 2006) and videotaped crime scenes (Kassin & Garfield, 1991) that are shown to jurors at trial. In an empirical study investigating the effects of two types of gruesome evidence from a crime scene (verbal and photographic

evidence) on jurors' convictions, participants who saw any photograph of the crime scene, including gruesome photos of the murder victim or neutral photos of the scene, voted to convict the defendant significantly more often than participants who saw no photograph at all (Bright & Goodman-Delahunty, 2006). Gruesome photos of the murder scene showed the victim postmortem with deep neck wounds from various angles and blood splatter on a dresser; neutral photos showed a damaged door, the outside of the house, a gold necklace from the scene, a laundry room, and a bed. These authors directly compared gruesome photographs to gruesome words presented to jurors in trial excerpts. The gruesome excerpt provided a detailed description of the victim's neck wounds, whereas the non-gruesome excerpt did not include this detail. They found that variations in *verbal* evidence, that is, a neutral versus a gruesome description of a crime scene and murder victim, unlike photographic evidence, did *not* influence conviction rates or any of the quantitative dependent measures of juror affect, sufficiency of evidence, guilt, doubt, and confidence in verdict. Although these authors found no significant relationship between type of verbal evidence (gruesome vs. non-gruesome) and mock jurors' verdict decisions, in my study I expected to find that language used in a rape trial does matter when the strength of the evidence in a rape case is manipulated. As I describe in further detail in the next section, cases involving weak evidence against the defendant promote reliance on non-evidentiary factors (or extralegal factors) for decision making.

Strength of Evidence

As an independent variable, strength of evidence can be a useful tool for investigating the effects of extralegal factors on information processing and decision-making. Emotion in the courtroom, for example, is an extralegal factor that has been a hot topic of study for psychology and law researchers (Kaufmann, Drevland, Wessel, Overskeid & Magnussen, 2002; Dahl,

Enemo, Drevland, Wessel, Eilertsten & Magnussen, 2006; Wessel, Drevland, Eilertsen & Magnussen, 2006; Bollingmo, Wessel, Eilertsten & Magnussen, 2008; Bollingmo Wessel, Sandvold, Eilertsen & Magnussen, 2009). Generally speaking, jurors are thought to be effective triers of fact; that is, they are good at weighing the strength of evidence in a case before a rendering verdict decision (Visher, 1987). Thus, any extralegal factor, such as emotion or language, which is suspected of interfering with jurors' abilities to fairly and accurately evaluate the evidence presented at trial, is an important factor for empirical testing by psychology and law researchers. By varying the level of emotion or the kind of emotion displayed by a witness or party in the courtroom as well as the strength of evidence in a case, researchers have determined the degree to which emotion in this context influences juror decision-making and information processing.

The strength of evidence manipulation is useful for determining how a defendant's emotional display (as an extralegal factor) in the courtroom affects jurors' judgments of the defendant's guilt. Heath, Grannemann, and Peacock (2004) examined perceptions of a female defendant displaying low, moderate, or high emotion in conditions of strong or weak evidence against her. Findings of this study suggested that when the evidence against a female defendant is strong, her emotional display does not influence jurors' verdict decisions; however, when the evidence against her is weak, displays of emotion and juror verdicts are inversely related (that is, as her level of emotional display increases or becomes stronger, the percentage of jurors' judgments of her guilt decrease). This study provides support for the idea that extralegal factors affect juror decision-making in cases in which the evidence is either weak or mixed, but not necessarily in cases in which the evidence is strong or obvious. When the evidence in the case is weak and/or does not point to an obvious verdict decision, jurors will look for other clues,

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including emotional displays, which might reveal to them what really happened. Because the law requires that jurors focus on the evidence of the case and use the appropriate evidentiary standard (for example, *beyond a reasonable doubt* in criminal cases) for evaluating the evidence and coming to a fair verdict decision, manipulating the strength of the evidence in a rape trial allowed me to test the extent to which language affects jurors' perceptions of the defendant's guilt.

Participant Gender

Previous research has shown that women jurors in rape trials are more likely to render guilty verdicts than male jurors (Schutte & Hosch, 1997). Over 30 years ago, this gender difference was attributed to the effects of similarity (Miller & Hewitt, 1978), as rape victims were typically female and alleged perpetrators were typically male. More recently, gender differences in perceptions of rape have continued to emerge (Mitchell, Angelone, Kohlberger & Hirschman, 2009), but research has focused on the endorsement of rape myth beliefs to explain why men and women view rape differently.

Rape myths are false or commonly held stereotypical beliefs about rape that cause individuals to apportion more responsibility to the rape victim than the perpetrator and focus on the illegitimacy of rape as a serious crime (Lonsway & Fitzgerald, 1994). An example of a rape myth is "Many women secretly desire to be raped" (Payne, Lonsway & Fitzgerald, 1999). Gender differences in rape myth acceptance measures indicate that men tend to be more accepting of rape myths than women (Chapleau, Oswald & Russell, 2008; Newcombe, Eynde, Hafner & Jolly, 2008). I expected to find a similar effect of participant gender on perceptions of the defendant's guilt in the present study.

The Present Study

I varied the language used by a rape victim during her testimony as well as that of the medical doctor who examined her after the rape. Half of the participants were in the *inclusive* language condition—that is, they read a trial summary in which the victim and the doctor used the word "rape." The remaining participants were in the *exclusive* language condition—they read the same trial summary, but the word "rape" was replaced with "sexual intercourse" and "forced sexual intercourse" in the woman's testimony and "unwanted sexual intercourse" in the medical expert's testimony. The exclusive language condition was intended to reflect Judge Cheuvront's courtroom during a ban on the word "rape."

Clarence Mock—the defense attorney responsible for filing the motion to ban the word "rape" from the trial—explained to reporters that the word "rape" inflames jurors and causes them to decide a case emotionally rather than rationally (Lithwick, 2007). If this assumption about the inflammatory and prejudicial nature of the word "rape" on jurors' perceptions of the defendant's guilt is accurate, then the results of the current study would show a main effect of language and/or an interaction of language and evidence strength, such that language influences ratings of the defendant's guilt depending on the strength of the evidence in the case. Specifically, the Judge and the defense attorney would predict that participants exposed to the word "rape" (those in the *inclusive* language conditions), would rate the defendant's guilt higher than participants not exposed to this word (those in the *exclusive* language conditions), regardless of the strength of evidence in the case. In other words, participants would not be able to distinguish between a strong evidence and weak evidence case if they were exposed to this word. The Judge and defense attorney might also predict that in cases involving weak evidence against

the defendant, exposure to the word "rape" would cause participants to find the defendant guiltier than he would be if that word was banned from the trial.

Based on the previous research described above, I predicted no main effect of language. In other words, I predicted that participants who hear the word "rape" would be able to distinguish between strong and weak evidence cases, and their ratings of the defendant's guilt would reflect the strength of evidence in the case—that is, higher ratings of guilt in the inclusive language/strong evidence condition compared to the inclusive language/weak evidence condition. I also predicted that the effect of language, as an extralegal factor, would only appear in cases involving weak evidence against the defendant; when the evidence was strong, I predicted that there would be no effect of language. I expected to find a main effect of participant gender, such that male participants would rate the defendant less guilty than female participants.

Hypotheses

Five hypotheses were tested in this study:

Hypothesis 1. *If strength of evidence is an important factor in juror decision- making, then ratings of the defendant's guilt in the strong evidence conditions should be higher than those in the weak evidence conditions.* Because past research has shown that strength of evidence is a significant predictor of verdict outcome, I predicted a main effect of strength of evidence, such that ratings of the defendant's guilt would be higher in the strong evidence conditions than in the weak evidence conditions.

Hypothesis 2. *If participant gender is a strong indicator of defendant guilt in rape trials, then male participants in this study will rate the defendant less guilty than female participants.* I predicted a main effect of participant gender.

Hypothesis 3. *If extralegal factors influence juror decision-making only in cases involving weak evidence, then the effects of language (as an extralegal factor) will appear when the evidence against the defendant is weak; when the evidence against the defendant is strong, language will not influence juror decision-making.* I predicted an interaction of language and strength of evidence, such that language (that is, including vs. excluding the word "rape") would only affect jurors' decisions about the defendant's guilt in the weak evidence conditions.

Hypothesis 4. *I hypothesized that, if excluding the word "rape" reduces participants' perceptions of the severity of the crime (i.e., "She's not calling it rape, so she must not believe that she was raped."), then participants in the exclusive language/weak evidence condition will rate the defendant less guilty than those in the inclusive language/weak evidence condition.* Previous research has not investigated how trial outcomes or perceptions of victims are affected by the language victims use to explain their experiences in court. This hypothesis is based on the idea that when jurors hear a rape victim testify in court without using the word "rape" to describe what happened to her, they might believe that she is choosing not to call it rape because she does not believe that she really was raped. I predicted that participants in this study would interpret the rape victim's failure to "call it rape" as evidence of what really happened in the weak evidence case—it wasn't rape if she didn't call it rape.

Hypothesis 5. *If exposure to the word "rape" does <u>not</u> impair participants' abilities to accurately evaluate the evidence in the case, then ratings of the defendant's guilt will be higher in the inclusive language/strong evidence condition than the inclusive language/weak evidence condition.* Within the inclusive language conditions, I predicted that participants would still be able to distinguish between strong and weak evidence cases and that the strength of evidence would influence their perceptions of the defendant's guilt. Judge Cheuvront, however, would

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predict that ratings of the defendant's guilt in the inclusive language conditions would not differ according to strength of evidence in the case because of his belief in the inflammatory and prejudicial nature of the word "rape." In other words, when jurors hear the word "rape," their ability to evaluate the evidence in the case and render fair verdicts based on the evidence is impaired.

Figure 1. Predictions: Means of Participants' Ratings of Defendant's Guilt by Experimental Condition
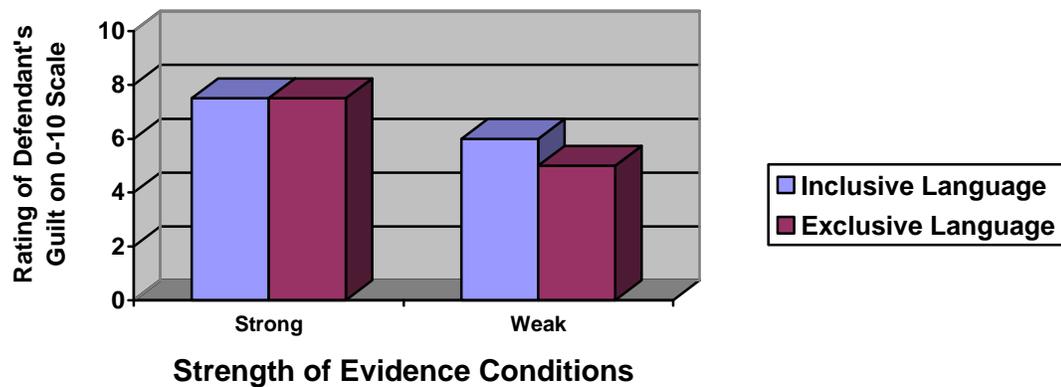
METHOD

Participants

Participants for the current study were recruited from groups of community members waiting to participate in a separate mock trial/jury research project that was unrelated to this study. The participants were recruited for the unrelated study either through random digit dialing or recruiter databases. Data collection sessions contained approximately 24 to 50 potential participants, and 16 to 46 participants from each session agreed to participate in this study.

While waiting for the other research project to begin, participants were approached individually and asked if they would like to participate in the current study. They were told that this study was affiliated with the Pennsylvania State University, their participation was voluntary, they would receive no additional compensation for agreeing to participate, their responses would be completely anonymous, and they could stop participating in the study at any time.

A total of 207 community members from six different states across the country participated in this study. Approximately 45 participants (18%) declined participation. One individual's data were omitted from analyses, because in an open-ended response, this person referred to the Nebraska Judge's decision to ban the word rape from a rape trial. It was believed that this individual had somehow obtained another participant's debriefing statement before he or she completed the study. Forty-six participants (22.2%) resided in Delaware; 45 participants (21.7%) were from California; 37 participants (17.9%) were from Pennsylvania; 36 participants (17.4%) were from Virginia; 22 participants (10.6%) were from Minnesota; and 21 participants (10.1%) were from Alabama. The mean age of participants in this study was 44.27 years ($SD =$ 15.04; range = 18-79). Ninety-nine participants (47.8%) were male, 93 participants (44.9%) were

female, and 15 participants (7.2%) did not specify a gender. One hundred and twenty

participants (58.0%) were Caucasian; 35 participants (16.9%) were African American; 17

participants (8.2%) were Hispanic or Latino/a; nine participants (4.3%) were Asian American;

one participant (0.5%) was Native American; eight participants (3.9%) indicated their

race/ethnicity as "other"; and 17 participants (3.9%) did not specify a race or ethnicity.

Materials

Each participant was presented with a packet that contained a one-page, fictional trial

summary and five pages of post-stimulus questions. There were four versions of trial summaries

(Appendix A), and all four were similar in length (479 to 491 words) and scope. The trial

summaries only differed with regard to the strength of the evidence (strong or weak) against the

defendant and the language (including the word "rape" or replacing it with "sexual intercourse"

or "sexual intercourse against her will") used to describe the incident.

Trial Summaries. Participants were asked to imagine that they had been called for jury

duty and were chosen to serve as jurors in a criminal matter. They were told that Ms. Sheffield,

and the defendant, Mr. Brown, met at a local bar that night and then walked back to her

apartment together. In her apartment, Ms. Sheffield explained that Mr. Brown made comments

about how she looked in her dress, forced her up against a wall, and then pulled her into her

bedroom, where he raped her or forced her to have sex against her will. In her testimony, she

said that she told him to stop many times and even tried to push him off of her. After the

incident (either immediately after or the next morning), she called her friend who drove her to

the emergency room of a nearby hospital, where she received medical attention and evidence

was collected for a rape kit. The trial summary also included a brief description of the

testimonies of the doctor who examined the woman after the incident and the woman's friend.

The doctor gave a professional opinion regarding his findings (either significant or minimal vaginal tearing) and a subsequent conclusion (either a strong or weak likelihood that she had been raped or had sexual intercourse against her will). Ms. Sheffield's friend testified as to how she sounded on the phone (either upset and crying or composed and holding herself together) and how Ms. Sheffield described the incident to her (either rape or sex against her will).

Post-Stimulus Measures. The questionnaire packet included the Juror Negative Affect Scale (JUNAS), brief jury instructions regarding the burden of proof (that is, that the prosecution must prove *beyond a reasonable doubt* that the defendant committed the crime), a place to render a guilty or not guilty verdict, an 11-point Likert scale for rating the defendant's level of guilt, and more questions related to the trial summary.

The JUNAS was created by Bright and Goodman-Delahunty (2006) for their study on gruesome evidence and emotion. It consists of 30 items that comprise three subscales (fear/anxiety, anger, and sadness) drawn from the Profile of Mood States (McNair, Lorr & Droppelman, 1981) and the Positive and Negative Affect Scale (Watson, Clark & Tellegen, 1988) as well as a fourth subscale, disgust. The reliability of the JUNAS was not reported by these authors. Although data from the JUNAS were collected in this study, the scale was omitted from analyses, mainly because it measures participants' post-stimulus affect without reference to the cause or source of the affect.

The main dependent variable was participants' ratings of the defendant's guilt, using an 11-point Likert scale (with a "0" indicating that the defendant is *not at all guilty*, a "5" indicating an *undecided* position, and a "10" indicating that the defendant is *definitely guilty*). Following this measure, participants were asked, in an open-ended question, to provide a reason for their verdict decision. Next, participants used another 11-point Likert scale (where a "0" stands for

not at all, a "5" indicates *somewhat*, and a "10" means *extremely*), to rate the extent to which they found the victim credible, believable, honest, likeable, distressed, sensitive, manipulative, intelligent, and sympathetic. They used this same rating scale to rate the extent to which they were fearful of, angry toward, felt disgust toward, and felt sympathy for the defendant. As a manipulation check, participants were asked to rate the strength of evidence against the defendant, using another 11-point Likert scale (with higher numbers indicating strong evidence). Participants also answered open-ended follow-up questions: (1) Think back to Ms. Sheffield's testimony. What do you remember about how she described the incident? (2) Think back to what you read about the medical doctor's testimony. What do you remember about the results of the medical examination? (3) Think back to what you read about the testimony of the friend, Nicole. What do you remember about how Nicole described Ms. Sheffied when she called her? (4) In your own words, please describe your personal reactions to the trial summary that you read. (5) Regarding this case, what would you have liked to have heard or learned more about? (6) What do you think would change your opinion about this case? (7) Was there anything unusual, surprising, or confusing about the legal dispute that you read? Participants also answered a question regarding personal experiences with rape, sexual assault, and domestic violence. Finally, they answered demographic questions (i.e., gender, age, race, education level, employment status, occupation, marital status, household income, and city and state of residence) and other questions regarding their life experiences (i.e., management/supervisory experience; experience or training in law enforcement, social work, and the legal and medical fields; union membership; political affiliation and general political views; involvement in previous lawsuits; and previous experience as a juror). After completing the questionniare packet, participants were

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thanked and were given a half-sheet of paper with additional information about the purpose of the study.

Manipulations

In the current study, strength of evidence was manipulated in three ways. First, the victim's actions following the rape varied according to the strength of evidence. In the strong evidence conditions she called her friend immediately after the defendant left her apartment, and in the weak evidence conditions she called her friend the next morning. Second, the medical doctor's testimony pointed to either a strong or weak evidence case. In this regard, strength of evidence was varied in a manner similar to the manipulations used in a previous study involving a murder scenario. In Heath, et al.'s (2004) strong evidence condition, the results of a paraffin test showed either a "very strong" or "very small" possibility that the defendant had fired the gun that killed the victim, and a fingerprint expert reported either an "extremely low" or "extremely high" probability that the fingerprints found on the gun belonged to the defendant. In the present study, the medical doctor testified that the results of his examination showed either "significant" or "minimal" vaginal tearing, which indicated either a "very strong" or "very weak" likelihood that the victim had been raped (in the inclusive language condition) or had "sexual intercourse against her will" (in the exclusive language condition). Third, the friend's testimony about what the victim sounded like over the phone varied according to condition. In the strong evidence condition, the friend testified that "she was upset" on the phone and "sounded like she had been crying." In the weak evidence condition, the friend described the victim as "composed" and said that she "seemed to be holding herself together okay."

In the real-world courtroom language ban, all individuals in the courtroom, including the judge, clerk, attorneys, and witnesses, were required to monitor their language use so that they

did not use the word "rape" at any time during the trial. For this reason, the key word "rape" was used in (or excluded from) various parts of the trial summaries in this study. In the inclusive language condition, the word "rape" was used a total of nine times—twice in the introductory paragraph ("…the prosecution has brought charges of rape against the defendant." "…and then raped her."); twice by the victim in her testimony transcript ("I wasn't sure if he was going to rape me or not…" "Then he raped me"); once by the medical doctor to describe his findings ("…likelihood that Ms. Sheffield was raped."); once by the woman's friend ("…she had been raped."); and three more times throughout the trial summary as part of the narration ("…skin tissue for a rape kit." "…the doctor who conducted the rape kit examination…" "…right after the rape"). In the exclusive language condition, the word "rape" was replaced with these terms: "forced sexual intercourse," "sex," "sexual intercourse," "sexual intercourse against her will," and "incident." In three instances in which the word "rape" was used for narrative purposes in the inclusive language condition, it was omitted and not replaced by anything in the exclusive language condition. For example, "In this case, the Prosecution has brought charges [omitted: 'of rape'] against the defendant." "A medical doctor there examined her and took samples of her hair, blood, and skin tissue [omitted: 'for a rape kit']." "During the trial, the doctor who conducted the [omitted: 'rape kit'] examination testified that…" Jurors in the real trial conducted by Judge Cheuvront were not informed about the language ban; therefore, participants in the exclusive language condition also were not informed that certain language was excluded from the trial summary they read.

Procedure

Each data collection session consisted of approximately 24 to 50 participants. Within each data collection session, individuals were randomly assigned to one of four conditions: (a)

the inclusive language/strong evidence condition, (b) the exclusive language/strong evidence condition, (c) the inclusive language/weak evidence condition or (d) the exclusive language/weak evidence condition.

When community members arrived for the research project for which they had been recruited, they were asked if they would like to participate in a separate, unrelated study that was affiliated with The Pennsylvania State University. Signed consent was not required by the Institutional Review Board because participation involved no more than minimal risk, participants were 18 years or older, they received no compensation for participating in this study, and their responses in the questionnaire packet were completely anonymous (i.e., there was no coding system that linked participants' responses to their identities).   Those who agreed to participate in the current study were given a packet that contained all research materials, including one of four versions of the trial summary (Appendix A) and post-stimulus questionnaire (Appendix B).

RESULTS

Study Design

For this study, I employed a 2 (inclusive vs. exclusive language) X 2 (strong vs. weak evidence) X 2 (male vs. female participants) between-subjects design. Table 1 provides correlations of the main dependent measure (ratings of the defendant's guilt on an 11-point Likert scale, with higher numbers indicating more guilt) and secondary dependent variables (also measured on an 11-point Likert scale, with higher numbers indicating more of the characteristic, emotion or attribute).

Manipulation Check

As a manipulation check of the strength of evidence, participants were asked to rate the strength of the evidence against the defendant in the trial summary on an 11-point Likert scale, with a "0" indicating that the evidence was *extremely weak*, a "5" indicating *neutral*, and a "10" indicating that the evidence was *extremely strong*. A 2 (strong vs. weak evidence) X 2 (inclusive vs. exclusive language) ANOVA was performed with ratings of the strength of evidence as the dependent variable. As expected, there was a significant main effect of strength of evidence, $F(1, 183) = 35.38$, p=.001, such that participants rated the evidence stronger in the strong evidence conditions (M = 6.35, SD = 2.46) and weaker in weak evidence conditions (M = 4.29, SD = 2.23).

Table 1.   Correlations of Main and Secondary Dependent Variables

		MAIN DV: ratings of the defendant's guilt	Perceptions of her authenticity §	Sympathy for her	Fearful of him	Anger towards him	Disgust towards him	Sympathy for him	IV: strength of evidence (dummy coded)	IV: language (dummy coded)	IV: gender (dummy coded)
MAIN DV: ratings of the defendant's guilt	Pearson Correlation	1									
	N	203									
Perceptions of her authenticity §	Pearson Correlation	.690**	1								
	N	200	202								
Sympathy for her	Pearson Correlation	.496**	.622**	1							
	N	200	201	202							
Fearful of him	Pearson Correlation	.062	.121	.088	1						
	N	198	200	200	200						
Anger towards him	Pearson Correlation	.637**	.568**	.524**	.128	1					
	N	199	201	200	199	201					
Disgust towards him	Pearson Correlation	.675**	.604**	.557**	.106	.775**	1				
	N	199	201	200	199	201	201				
Sympathy for him	Pearson Correlation	-.280**	-.194**	-.011	.202**	-.025	-.122	1			
	N	199	201	200	199	201	201	201			
IV: strength of evidence (dummy coded)	Pearson Correlation	-.307**	-.329**	-.109	.074	-.126	-.233**	.196**	1		
	N	203	202	202	200	201	201	201	207		
IV: language (dummy coded)	Pearson Correlation	.043	.149*	.019	.076	.054	.069	-.030	.024	1	
	N	203	202	202	200	201	201	201	207	207	
IV: gender (dummy coded)	Pearson Correlation	-.006	-.058	-.023	.112	-.009	.027	-.108	.113	-.053	1
	N	189	190	190	188	190	190	190	192	192	192

** Correlation is significant at the 0.01 level (2-tailed).
* Correlation is significant at the 0.05 level (2-tailed).
§ Denotes a 5-item scale (credible, honest, believable, sensitive, and distressed), α = .92.

Participants' Ratings of the Defendant's Guilt

Participants' ratings of the defendant's guilt was the main dependent variable, and it was measured on an 11-point Likert scale, with a "0" indicating that the defendant is *not at all guilty*, a "5" indicating an *undecided* position, and a "10" indicating that the defendant is *definitely guilty*.

A univariate analysis of variance (ANOVA) was performed with language, strength of evidence, and gender as independent variables and ratings of the defendant's guilt as the dependent variable. With Hypothesis 1, I predicted a significant main effect of strength of evidence, and this hypothesis was supported by the data, $F(1,181) = 19.74$, $p = .001$, $d = 0.645$. As I had predicted, participants in the strong evidence cases ($M = 7.14$, $SD = 2.07$) rated the defendant guiltier than participants in the weak evidence case ($M = 5.63$, $SD = 2.61$). I did not predict a main effect of language (although the Judge would have predicted this main effect). Participants in the inclusive language conditions did not rate the defendant's guilt significantly different from participants in the exclusive language conditions, $F(1,181) = .837$, $p = .361$.

With Hypothesis 2, I predicted a significant main effect of participant gender. However, the data did not support this hypothesis, $F(1,181) = 0.48$, $p = .489$. Contrary to Hypothesis 2, males ($M = 6.45$, $SD = 2.48$) and females ($M = 6.42$, $SD = 2.45$) did not differ in their ratings of the defendant's guilt. Because I did not find any effects of participant gender, I excluded gender from subsequent analyses.

A second ANOVA was performed with language and strength of evidence as independent variables and ratings of the defendant's guilt as the dependent variable. A significant interaction of language and strength of evidence was obtained, $F(1,199) = 5.46$, $p = .020$. For a graphic display of these results, see Figure 1. With Hypothesis 3, I predicted that, *if extralegal factors*

influence juror decision-making only in cases involving weak evidence, then the effects of

language (as an extralegal factor) will appear when the evidence against the defendant is weak;

when the evidence against the defendant is strong, language will not influence juror decision-

making. In other words, I predicted that the effect of language would only be evident in the

weak evidence conditions, in which participants would look to other factors, such as language, to

help them decide the case. This hypothesis was confirmed, and tests of the simple main effects

revealed that the means of participants' ratings of the defendant's guilt in the inclusive

language/weak evidence (M = 5.12, SD = 2.51) and exclusive language/weak evidence (M =

6.14, SD = 2.64) were significantly different, $F(1,199) = 4.721$, $p = .031$, *d* = -0.396. (However,

the direction of this difference was surprising, as I explain in the next paragraph). Also as I

predicted, there was no significant difference between the mean ratings of the defendant's guilt

in the inclusive language/strong evidence (M = 7.39, SD = 1.92) and exclusive language/strong

evidence (M = 6.88, SD = 2.21) conditions.

With Hypothesis 4, I predicted that, *if excluding the word "rape" reduces participants'*

perceptions of the severity of the crime (i.e., "She's not calling it rape, so she must not believe

that she was raped."), then participants in the exclusive language/weak evidence condition will

rate the defendant less guilty than those in the inclusive language/weak evidence condition. In

other words, I predicted that participants' ratings of the defendant's guilt would be lower in the

exclusive language/weak evidence condition than the inclusive language/weak evidence

condition, because I believed that the absence of the word "rape" would reduce participants'

perceptions of the severity of the crime in cases involving weak evidence. Contrary to

Hypothesis 4, when the evidence against the defendant was weak, participants who read the

exclusive language trial summary (M = 6.14, SD = 2.64) rated the defendant significantly

guiltier than those who read the inclusive language trial summary (M = 5.12, SD = 2.50).

Because this finding was unexpected, mediation analysis was performed to better understand the

process that was driving the difference between the two language conditions when the evidence

was weak; the results of the mediation tests I performed are described in a section that follows.

Contrary to the assumption that underlines Judge Cheuvront's ruling to ban the word

"rape" from a rape trial (that is, the notion that the word "rape" is inflammatory and prejudicial

to the extent that it impairs jurors' abilities to accurately evaluate the evidence in the case and

render fair verdicts based on the evidence), I expected that participants would be able to

accurately evaluate the evidence in the case by rating the defendant's guilt based on the strength

of the evidence in the case, even when they are exposed to the word "rape" in the trial summary.

With Hypothesis 5, I predicted that, *if exposure to the word "rape" does not impair participants'*

abilities to accurately evaluate the evidence in the case, then ratings of the defendant's guilt will

be higher in the inclusive language/strong evidence condition than the inclusive language/weak

evidence condition. Hypothesis 5 was confirmed, as tests of simple main effects showed that the

mean of the guilt ratings in the inclusive language/strong evidence condition (M = 7.39, SD =

1.92) was significantly higher than the mean of guilt ratings in the inclusive language/weak

evidence condition (M = 5.12, SD = 2.50), $F(1,199) = 24.42$, p = .001, $d = 1.027$. Interestingly, I

also found no significant difference in the means of guilt ratings in the two exclusive language

conditions, $F(1,199) = 2.43$, p = .113. Participants in the exclusive language/strong evidence

condition (M = 6.88, SD = 2.21) and those in the exclusive language/weak evidence condition

(M = 6.14, SD = 2.64) did not significantly differ in their perceptions of the defendant's guilt.

Figure 2. Means of Participants' Ratings of Defendant's Guilt by Experimental Condition
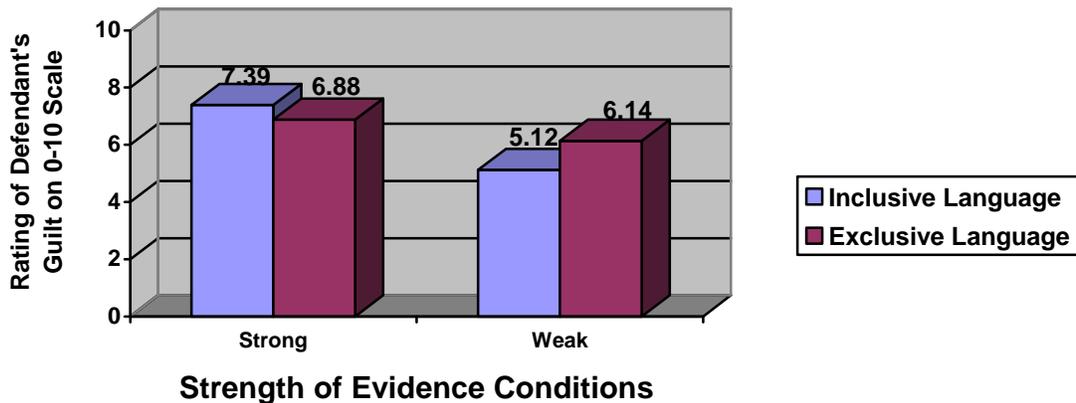
Conviction Rates

Overall, 62.5% (n = 120) found the defendant guilty. The general pattern of conviction rates—that is, the percentage of guilty versus not guilty verdicts—for each of the four conditions was similar to the results found with numerical ratings of the defendant's guilt for each condition. See Figure 2 for an illustration of these results. Conviction rates were analyzed using a set of three Chi Square tests, one for each of the three independent variables. Results of the Chi Square tests showed a significant relationship between strength of evidence and verdict, $X^2 = 24.43$, p = .001, df = 1. However, there was no significant relationship between language and verdict ($X^2 = .89$, p = .346, df = 1) or between gender and verdict ($X^2 = 1.51$, p = .219, df = 1).

Figure 3. Percentage of Guilty Verdicts by Experimental Condition
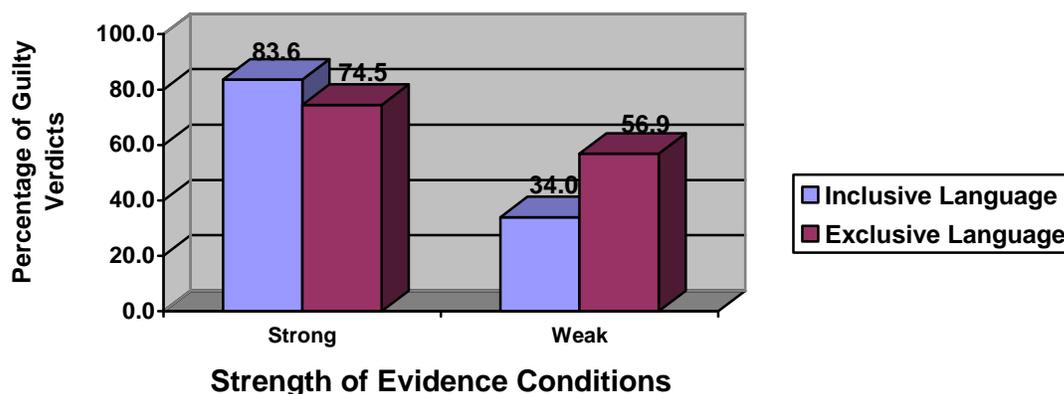
Mediation Analysis

Mediation analysis was performed to test potential intervening variables that could account for the effects of language and strength of evidence on participants' ratings of the defendant's guilt. I was especially interested in learning what was causing participants in the inclusive language/weak evidence condition to rate the defendant less guilty than participants in the exclusive language/weak evidence condition. It was possible that the language used in the weak evidence cases caused participants to feel sympathy for the victim, anger or disgust toward the defendant, or participants simply may have judged the victim as more authentic, and this in turn influenced their perceptions of the defendant's guilt. I focused on perceptions of the victim's authenticity, sympathy for the victim, as well as the emotions of anger and disgust towards the defendant as potential mediators.

Victim Authenticity. I was particularly interested in participants' perceptions of the victim's authenticity as a potential mediator, especially considering that the majority of

information in the trial summary was testimony from the victim herself, and participants were

not given any information regarding the defendant's testimony or his side of the story. I defined

an authentic rape victim as a person who displays the qualities and behaviors that participants

would expect from someone who was raped (Hackett, Day & Mohr, 2008). Generally,

participants would perceive an authentic person as credible, believable, and honest. In addition

to that, an authentic rape victim would engage in certain behaviors or display specific emotions

that participants would expect from someone who had been raped—that is, the victim would be

upset, distressed, eager to seek help, and appear sensitive to what happened to her.

After participants in the current study rendered a guilty or not guilty verdict, rated the

defendant's level of guilt, and answered the open-ended question about why they voted this way,

they used an 11-point Likert scale to rate the degree to which they felt certain emotions or

ascribed certain qualities to the victim and then to the defendant. Higher numbers on the scale

indicated increased emotion or stronger perceptions of these qualities. Participants rated the

extent to which the victim was credible, believable, and honest, as well as how sensitive and

distressed she appeared to be. A reliability analysis showed that these five items (credible,

believable, honest, sensitive, and distressed) reliably measured the same construct ($\alpha = .92$),

which I referred to as perceptions of the victim's authenticity.

Sympathy for the victim. Sympathy for the victim was also tested as a potential

mediating variable in this study. Traditional judicial instructions to jurors typically include

directions not to use sympathy as a factor influencing their decisions. Jurors are told to set their

sympathies aside and judge the case based on the evidence that has been presented. If Judge

Cheuvront's prediction that hearing the word "rape" results in a failure to accurately evaluate the

evidence in the case, then sympathy could be a potential mediator affecting perceptions of the

defendant's guilt. Participants rated the extent to which they felt sympathy for the victim on the

11-point Likert scale described in the preceding paragraph.

Anger and disgust. Negative emotions, including anger and disgust, were considered

possible mediators, because previous research has shown that experiencing these emotions can

influence how individuals process information and how jurors attribute legal responsibility.

Angry individuals are more likely to blame social mishaps on other people and judge these

events as more unfair than sad individuals (Keltner, Ellsworth & Edwards, 1993). Through a

series of studies, Tiedens and Linton (2001) have shown that individuals experiencing anger

engage in less deep and more heuristic-based information processing than those experiencing

other negative emotions, including fear and anxiety. They also found that angry participants

were less likely to differentiate between strong and weak arguments.

Disgust, a negative emotion triggered by events involving the violation of a person's

dignity or a violation of socio-cultural norms (Rozin, Lowery, Imada & Haidt, 1999), is thought

to be associated with feelings of certainty, and individuals who are certain are less inclined to

process information systematically (Tiedens & Linton, 2001). Hence, feelings of anger and

disgust were tested as potential mediating variables that could account for variance in the

relationship between language/evidence strength and ratings of the defendant's guilt. If Judge

Cheuvront's assumption about the inflammatory or prejudicial nature of the word "rape" is

correct, then one or both of these negative emotions should mediate this relationship. Using the

same 11-point Likert scale described above, participants rated the extent to which they felt anger

and disgust towards the defendant.

To determine what was driving the language difference in the weak evidence conditions,

a total of four linear regression analyses were conducted using Baron and Kenny's (1986) causal

step strategy. Only data from participants exposed to the weak evidence conditions (approximately half of the participants) were included in the mediation analysis. Language was the predictor variable, and participants' ratings of the defendant's guilt was the outcome variable. The four mediation analyses are described in the paragraphs that follow.

The first mediation analysis involved *victim authenticity* as a potential intervening variable. Language significantly predicted ratings of the defendant's guilt (adjusted R^2 = .029, β = 1.020, SE = .520, p = .052) and perceptions of the victim's authenticity (adjusted R^2 = .084, β = 1.307, SE = .418, p = .002). Perceptions of authenticity also significantly predicted ratings of the defendant's guilt (adjusted R^2 = .518, β = .862, SE = .085, p = .001). When both language and authenticity were entered together as predictors of the outcome variable, the effect of language on participants' ratings of the defendant's guilt diminshed (adjusted R^2 = .513, β = -.075, SE = .390, p = .847), but the effect of authenticity on ratings of the defendant's guilt, controlling for language, was significant (β = .867, SE = .090, p = .001). This analysis showed that victim authenticity completely mediated the relationship between langauge in the weak evidence conditions and ratings of the defendant's guilt. This mediation is depicted in Figure 3.

The second mediation analysis involved the extent to which participants felt *sympathy for the rape victim*. Again, language significantly predicted ratings of the defendant's guilt (adjusted R^2 = .029, β = 1.020, SE = .520, p = .052). However, language did not significantly predict participants' feelings of sympathy for the female victim (adjusted R^2 = .018, β = .890, SE = .537, p = .101). Without a significant correlation between language and sympathy for the female victim, sympathy for her cannot mediate the relationship between language in the weak evidence conditions and ratings of the defendant's guilt.

The third mediation analysis involved *anger toward the defendant* as a possible mediator of the relationship between language and ratings of the defendant's guilt. As in the previous mediation analyses, language significantly predicted ratings of the defendant's guilt (adjusted $R^2 = .029$, $\beta = 1.020$, SE = .520, p = .052) and participants' ratings of anger toward the defendant (adjusted $R^2 = .025$, $\beta = 1.146$, SE = .614, p = .065). Anger toward the defendant also significantly predicted ratings of the defendant's guilt (adjusted $R^2 = .574$, $\beta = .643$, SE = .057, p = .001). When both language and anger toward the defendant were entered together as predictors of the outcome variable, the original effect of language on participants' ratings of the defendant's guilt diminshed (adjusted $R^2 = .574$, $\beta = .354$, SE = .357, p = .324), while the effect of anger toward the defendant on ratings of the defendant's guilt, controlling for language, was significant ($\beta = .631$, SE = .058, p = .001). Therefore, anger completely mediated the relationship between language in the weak evdience conditions and ratings of the defendant's guilt.

The fourth and final mediation analysis involved the extent to which participants felt *disgust toward the defendant* as a possible mediator of the relationship between language and ratings of the defendant's guilt. Again, language significantly predicted ratings of the defendant's guilt (adjusted $R^2 = .029$, $\beta = 1.020$, SE = .520, p = .052). However, language did not significantly predict disgust toward the defendant (adjusted $R^2 = .001$, $\beta = .667$, SE = .630, p = .293). Without a significant correlation between language and disgust toward the defendant, disgust could not mediate the relationship between language in the weak evidence conditions and ratings of the defendant's guilt.

After the four mediation analyses were performed, victim authenticity and anger toward the defendant emerged as two variables that completely mediated the effect of language on the

defendant's guilt. Next, I investigated the possibility that something other than the independent variables could be driving the measures of victim authenticity and anger toward the defendant. The questionnaire packet that participants filled out asked them first to render a guilty or not guity verdict and then to rate the defendant's level of guilt. After that, they answered questions about the victim's authenticity and the extent to which they felt anger toward the defendant. Because participants rated the defendant's guilt *before* responding to questions about victim authenticity and anger, it was possible that their ratings of guilt were influencing their perceptions of the victim's authenticity and anger towards the defendant. To test this possibility, I performed two reverse mediation analyses, with language in the weak evidence conditions as the predictor, authenticity or anger toward the defendant as the outcome, and ratings of the defendant's guilt as the potential mediator.

With victim authenticity as the outcome variable, I found that language significantly predicted perceptions of victim authenticity (adjusted R^2 = .084, β = 1.307, SE = .418, p = .002) and ratings of the defendant's guilt (adjusted R^2 = .029, β = 1.020, SE = .520, p = .052). Ratings of the defendant's guilt also significantly predicted perceptions of victim authenticity (adjusted R^2 = .518, β = .607, SE = .060, p = .001). When language and guilt were entered together as predictors of victim authenticity, the original effect of language on victim authenticity remained significant (adjusted R^2 = .539, β = .712, SE = .309, p = .024). This finding indicated that there was not a reverse mediation effect—that is, ratings of the defendant's guilt did not mediate the relationship between language and authenticity, so authenticity *was* considered a mediator of the relationship between language in the weak evidence cases and ratings of the defendant's guilt.

When anger towards the defendant was entered as the outcome variable, I found a significant reverse mediation effect. Language significantly predicted anger towards the

defendant (adjusted R^2 = .025, β = 1.146, SE = .614, p = .065) and ratings of the defendant's

guilt (as shown in the preceeding paragraph). Ratings of the defendant's guilt significantly

predicted anger towards the defendant (adjusted R^2 = .574, β = .900, SE = .080, p = .001). When

language and guilt were entered together as predictors of anger towards the defendant, the

original effect of language on anger diminished (β = .205, SE = .426, p = .631), and ratings of the

defendant's guilt accounted for variability in anger (adjusted R^2 = .579, β = .892, SE = .082,

p = .001). Because this analysis revealed a significant reverse mediation effect—that is, ratings

of the defendant's guilt completely mediated the relationship between language and anger

towards the defendant—anger was *not* considered an intervening variable that could help to

explain the effects in this study.

Figure 4. Standardized Beta Coefficients for the Relationship between Language in the Weak Evidence Cases and Ratings of the Defendant's Guilt, as Mediated by Perceptions of the Victim's Authenticity
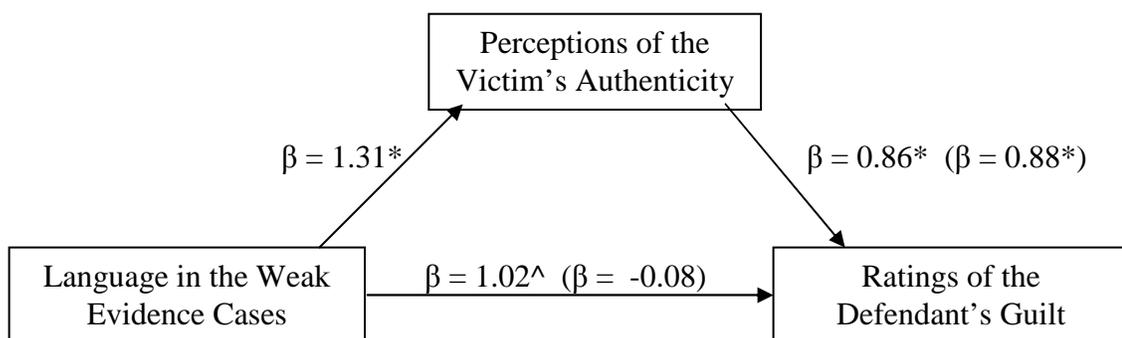
The standardized beta coefficients controlling for the other factor are in parentheses.
* p < .05
^ p = .052

DISCUSSION

The findings of this study suggest that, in cases involving weak evidence, language *does* affect juror decision-making. When the word "rape" was excluded from the trial summary, participants perceived the victim as more authentic and the defendant as guiltier than when the word "rape" was included. When the evidence against the defedant was strong, language did *not* affect jurors' perceptions of the defendant's guilt. Contrary to the primary assumption of Judge Cheuvront's language ban regarding the inflammatory or prejudicial nature of the word "rape," participants in this study who were exposed to the word "rape" rated the defendant's guilt based on the strength of evidence against the defendant. However, those who were not exposed to the word "rape" failed to rate the defendant's guilt based on the strength of evidence in the case.

Guilt Ratings and Conviction Rates

Hypothesis 1 was supported by data from this study. A main effect of strength of evidence was obtained, as participants rated the defendant's guilt higher when the evidence against him was strong compared to when the evidence was weak. In keeping with legal standards and traditional beliefs about the importance of evidence strength, this finding confirms that the strength of evidence against the defendant is a strong indicator of perceptions of the defendant's guilt.

I also found no main effect of language, which contradicts Judge Chevront's beliefs about the inflammatory nature of the word "rape." If the word was inflammatory, participants in the inclusive language conditions who were exposed to it would have rated the defendant's guilt higher than those in the exclusive language conditions who were not exposed to it, but in this study, language alone did not affect jurors' perceptions of the defendant's guilt. This non-

significant finding provides support for the belief that exposure to the word "rape" in a rape trial does not inflame or prejudice jurors.

Hypothesis 2 was not supported. There was no main effect of gender, as males and females did not differ in their ratings of the defendant's guilt. I had expected that, regardless of experimental condition, male participants' ratings of the defendant's guilt would be lower than female participants' ratings mainly because of previously reported gender differences in the acceptance of rape myth beliefs and specifically men's tendency to blame victims of rape (Lonsway & Fitzgerald, 1995). Instead, there was no effect of participant gender on their ratings of the defendant's guilt.

Hypothesis 3 was supported by the data. The effect of language on perceptions of the defendant's guilt were only evident in the weak evidence conditions. This finding also supports the current literature that explains that extralegal factors influence juror decision-making in cases involving weak (rather than strong) evidence against the defendant (Kaufmann, et al., 2002; Heath, Grannemann & Peacock, 2004). When participants in this study were asked to rate the defendant's guilt in a case in which the evidence against him was strong, language did not influence their ratings. When the evidence agasinst the defendant was weak, the language used by the victim and the doctor became an important factor in their decision-making.

Hypothesis 4 was not supported by the data. I had expected to find that participants' ratings of the defendant's guilt would be higher in the inclusive language/weak evidence condition than the exclusive language/weak evidence condition, because I believed that the absence of the word "rape" would reduce participants' perceptions of the severity of the crime in cases of weak evidence. Instead, what I found was that participants in the exclusive language/weak evidence condition rated the defendant guiltier than those in the inclusive

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language/weak evidence condition. Furthermore, mediation analysis showed that the effect of language in cases of weak evidence against the defendant on ratings of the defendant's guilt was mediated by participants' perceptions of the victim's authenticity. When the language used in a trial summary with weak evidence excluded the word "rape," participants in this study viewed the victim as more authentic than when the language included the word "rape," and their perceptions of the victim's authenticity affected their perceptions of the defendant's guilt. In other words, when the victim said that she had had sexual intercourse against her will, and the evidence against the defendant was weak, participants in this study found her to be more credible, believable, honest, distressed, and sensitive, and in turn, they found the defendant to be guiltier than when the victim said that she had been raped and the evidence was similarly weak. As discussed on the following pages, future research is needed to further explore this finding.

Hypothesis 5 was supported by the data. When participants were exposed to the word "rape" in the trial summary they read, ratings of the defendant's guilt were higher in the strong evidence condition than in the weak evidence condition—their ratings of the defendant's guilt were based on the strength of the evidence in the case. Therefore, exposure to this word did not impair participants' abilities to rate the defendant's guilt according to the strength of evidence in the case. The assumption of the Judge's ruling (i.e., that the word "rape" is inflammatory or prejudicial to the extent that jurors exposed to it are not be able to accurately evaluate the evidence in the case and render a fair verdict based on the strength of the evidence) was not supported by the data. Participants in this study were not impaired by their exposure to the word "rape," as they found the defendant guiltier when the evidence against him was strong versus weak.

I also found no significant difference between ratings of the defendant's guilt in the exclusive language/strong evidence condition and the exclusive language/weak evidence condition. Specifically, when participants were *not* exposed to the word "rape," those in the weak evidence condition rated the defendant's guilt nearly as high as those in the strong evidence condition. With the language restriction, participants who read a trial summary with weak evidence did not rate the defendant's guilt according to the strength of the evidence against him. This important non-significant finding suggests that excluding or banning the word "rape" from a rape trial with weak or ambiguous evidence prevents jurors from making decisions about the defendant's guilt based on the strength of the evidence in the case. In fact, data from the current study indicate that, in cases involving weak evidence, excluding the word "rape" causes jurors to view the victim as more authentic, which increases perceptions of the defendant's guilt and ultimately gives an advantage to the prosecution at trial. This is exactly the effect that Judge Cheuvront was trying to *avoid* when he enacted the language ban during the 2006 rape trial in his courtroom.

Implications for the Legal System

The findings of this study do not support Judge Cheuvront's assumptions about the effects of the word "rape" in a rape trial. Instead, the findings suggest that when a victim is allowed to use her own words and refer to the incident as rape, jurors are still able to render verdicts based on the strength of evidence presented at trial. In fact, the results indicate that banning the word "rape" from a weak evidence trial produces the effect that Judge Cheuvront feared most—it impairs jurors' abilities to accurately evaluate the evidence they hear at trial and causes them to render verdicts that do not match the strength of the evidence in the case. This is dangerous from a legal standpoint, because the law requires jurors to evaluate the evidence

according to the applicable evidentiary standard and to render verdicts based on the evidence presented at trial. In other words, there should be a discrepancy between ratings of the defendant's guilt in cases with strong evidence versus weak evidence, but based on the findings of this study, when the evidence is weak, a judicial ban on the word "rape" impairs jurors abilities to accurately evaluate the evidence in the case, and their verdicts reflect this impairment.

From this research, I conclude that banning the word "rape" from a rape trial produces legally undesirable effects in cases involving weak or ambiguous evidence, and rape victims should be permitted to use their own language to describe their side of the story to jurors in court. After all, jurors should be smart enough to realize that just because an individual is making a claim in court does not mean that they must automatically believe that individual's account of what happened. In a criminal court of law, the prosecution and the defense present their best case for the jury, and the jurors are left to evaluate the evidence in the case by applying the appropriate evidentiary standard, as instructed by the judge. If a victim wants to label the crime as "rape" on the witness stand, and the defendant wants to say he didn't rape her, jurors are still going to be able to fulfill their duties as triers of fact. Using the word "rape" in a rape trial is not likely to inflame the jury and bias them towards the prosecution. However, in certain cases, banning this word from the trial can give an unfair advantage to the prosecution.

Directions for Future Research and Methological Limitations

The most surprising finding from this study was that when the word "rape" was excluded or banned from a trial involving weak evidence against the defendant, participants perceived the defendant as guiltier than when the word "rape" was included or permitted. Furthermore, excluding the word "rape" from a rape trial summary with weak evidence caused participants to perceive the victim as more authentic (i.e., more credible, believable, honest, distressed, and

sensitive) than when the word was included, and as perceptions of the victim's authenticity increased, so did their perceptions of the defendant's guilt. Future research is needed to explain this unexpected pattern of findings. One possible explanation is that, when the evidence was weak, participants' uncertainty about what happened could have caused them to focus on the extent to which the victim's testimony (as evidence) was consistent with other evidence presented at trial, especially the doctor's report. When the victim referred to the incident as "sexual intercourse" or "sex against [her] will," and the evidence was weak, participants could have been more inclined to believe and trust her testimony (and find her more authentic) because the language she used reasonably matched the weak evidence against the defendant. On the other hand, when she referred to the incident as "rape," and the evidence was weak, participants could have been less inclined to believe her, because her strong, definitive language was not consistent with the weak evidence in the case.

Another possible explanation for why participants in the exclusive language/weak evidence condition rated the defendant guiltier than those in the inclusive language/weak evidence condition is that the use of the word "rape" in the inclusive language/weak evidence condition could have made the evidentiary standard ("beyond a resonable doubt") more salient to participants. In other words, reading that the word "rape" was being used to describe an incident for which there was weak evidence against the defendant could have caused participants' attention to focus on the fact that the evidentiary standard was high, and this caused them to perceive the defendant as less guilty; whereas when participants were not exposed to the word "rape," the evidentiary standard could have been less salient for them, causing participants to perceive the defendant as guiltier.

For exploratory purposes, participants' open-ended responses to the question asking them to explain why they voted guilty or not guity (that is, after rendering the guilty/not guilty vote and rating the defendant's level of guilt on a 0-10 Likert scale) were coded for content. Post hoc, I was interested in learning what participants cited as their main reasons for rendering their verdicts (e.g., an aspect of the victim's testimony, the doctor's findings, or the friend's testimony) and if their responses revealed any insight into how the language used in the trial affected their perceptions of the case. The most common responses to this question referred to an aspect of the victim's tesimony (37.2%) and/or the doctor's testimony (25.1%), both of which included language manipulations. However, none of the participants in either of the exclusive conditions mentioned that the victim and/or the doctor did not refer to the incident as "rape." Also, none of the participants in the inclusive language/weak evidence condition mentioned anything about the victim calling the incident "rape" even though the evidence was weak.

The post hoc exploratory analysis that I conducted also was intended to reveal the frequency of participants' expressions of rape myth beliefs in each of the four experimental conditions. Rape myths have been defined as "prejudicial, stereotyped, or false beliefs about rape, rape victims, and rapists" (Burt, 1980, p. 217). These beliefs minimize the seriousness of rape and "serve to deny and justify male sexual aggression against women" (Lonsway & Fitzgerald, 1994, p. 134). In hindsight, it would have been more beneficial to administer the Illinois Rape Myth Acceptance (IRMA) Scale to participants to test beliefs in rape myths as a variable mediating the relationship between language in the weak evidence conditions and ratings of guilt. (I did not include IRMA Scale in the current study because it originally was intended to be a pilot study for the purpose of evaluating participants' reactions to and understanding of the trial summaries.) A post-hoc qualitative analysis of participants' open-

ended responses to the question asking them why they voted guilty or not guilty revealed that a total of 45 participants (22.2%) expressed an acceptance of rape myth beliefs. Table 2 provides the frequency of participants who indicated a belief in rape myths (for example, "She wanted it because she took him back to her apartment" and "She didn't fight him.") in each experimental condition. Fewer participants in the inclusive language/strong evidence condition expressed a rape myth belief than in three other conditions, which could be attributed to the experimental condition itself. In other words, it is possible that the version of the trial summary that included strong evidence and the word "rape" was less likely to prompt participants to think about rape myth beliefs because the evidence against the defendant was strong, and the victim's language matched the strong evidence. The frequencies of rape myth beliefs in the other three conditions appear to be evenly distributed.

Table 2.   Frequencies of Expressions of Rape Myth Beliefs by Experimental Condition

Experimental Condition	n	%
Inclusive Language/Strong Evidence	6	11.1%
Exclusive Language/Strong Evidence	15	29.4%
Inclusive Language/Weak Evidence	13	26.5%
Exclusive Language/Weak Evidence	11	22.4%

The exploratory analysis of participants' rape myth beliefs as expressed in their open-ended responses also revealed no participant gender differences. Overall, 22 males and 22 females reported a rape myth belief in this open-ended question. (One participant who expressed a rape myth belief did not report gender.) This finding was consistent with the results of the ANOVA that revealed no main effect of participant gender on ratings of the defendant's guilt. Previous studies have reported gender differences in participants' conviction rates in simulated

rape trials (Schutte & Hosch, 1997; Fischer, 1997) and endorsement of rape myth beliefs (Newcombe et al., 2008) using undergraduate student samples (typically with mean ages falling between 19 and 22). Results of this study suggest that participant gender differences may be less consistent across studies, at least within community participant samples with a wider age range and higher mean age.

There are several other limitations to this study. A real trial might take several days or weeks, and real jurors might hear and see live testimony from more than a few witnesses during the trial. However, participants in this study were asked to read a very brief, single-page trial summary with limited information. They read a condensed version of the victim's testimony, followed by a brief summary of the doctor's medical findings and a few sentences describing testimony from the victim's friend. Participants did not have the opportunity to read any testimony from the defendant or even read a summary of his side of the story. One of the most common themes that participants expressed on their questionnaires was that they wanted to hear more information about the trial, and in particular, they wanted to hear the defendant's side of the story. They had many questions as to why the defendant followed the victim back to her apartment, what he was thinking when she told him that it wouldn't be a good idea to go any further, and why he did not stop when she told him to stop. The fact that they were not provided with any information about the defendant's side of the story clearly aggravated many participants, but even so, more than half of the participants found the defendant guilty beyond a reasonable doubt without any additional information from the defense. In a similar study that exposed participants to the brief testimony of a rape victim (either videotaped or written) but no testimony from the defendant, over half of the participants found the defendant guilty of rape (Kaufmann et al., 2002). Although participants in the current study expressed frustration

regarding the lack of information they received before they were to come to a conclusion about the defendant's guilt, it appeared as though additional information from the defense was not required to find the defendant guilty beyond a reasonable doubt.

Another limitation of this study is that participants rendered independent votes and did not have an opportunity to discuss the case facts with other participants in a simulated deliberation group. What I cannot conclude from this study is the extent to which deliberation outcomes are influenced by the effects of language and evidence strength. Previous research shows that the effects of extralegal factors, such as stereotypes and emotional expressions from witnesses, are attenuated when groups of participants deliberate to a unanimous decision about the defendant's guilt (Dahl, et al., 2006). Future research should investigate the effects of banning the word "rape" on jury deliberation outcomes. I would expect that, in deliberation groups lasting an hour or more, individual participants would be more likely to verbalize their perceptions of the victim as they relate to the language that she used to describe or label the incident (that is, as "rape" or "sex"), but the effects of language in the weak evidence condition are likely to be attenuated as a result of the group deliberation process, resulting in only main effects of strength of evidence. However, it is also possible that if participants in similated jury deliberation groups do not discuss the victim's language and their perceptions of it, then the group deliberation process would not be able to attenuate the effect.

Conclusion

The purpose of this study was to test the assumption that the word "rape" in a rape trial is inflammatory and prejudicial, because exposure to this word impairs jurors' abilities to accurately evaluate the evidence and render fair verdicts based on the strength of the evidence presented at trial. The results do not support this assumption, as participants in the current study

perceived the defendant's guilt based on the evidence against him when the word "rape" was used multiple times throughout the trial summary that they read. Banning this word from a rape trial involving weak evidence against the defendant produced the impairment effect that Judge Cheuvront was hoping to avoid. While future research is necessary to better understand the effects of banning the word "rape" from a rape trial, the findings of this study suggest that rape victims and other witnesses should be allowed to use their own words to tell their story on the witness stand.

Appendix A: Trial Summaries

Inclusive Language/Strong Evidence Condition

In this case, the prosecution has brought charges of rape against the defendant, Mr. Brown. The prosecution's main witness is Ms. Sheffield, a woman who met Mr. Brown at a local bar the night of the incident in question. Ms. Sheffield claims that around 11:30 p.m., she and Mr. Brown walked back to her apartment. After only a few minutes inside her apartment, the prosecution claims that Mr. Brown began to make comments about how she looked in her dress, forced her up against the wall in her living room, pulled her into her bedroom, and then raped her. Here is a brief excerpt from Ms. Sheffield's testimony in court:

> I was scared. I didn't know what he would do. I tried to just ignore what he was saying about my body and my dress. I kept thinking, "How did I get into this situation?" He pressed me against the wall. His hands were holding mine against the wall, and I couldn't move. He told me that he couldn't resist me, and he began to kiss me. I went along with it because I was scared, and I really didn't know what to do. He then took my arm and pulled me into my bedroom. I told him that I didn't think it would be a good idea, and he pushed me down onto my bed. At that point I just froze and thought—this couldn't be happening to me. I thought about getting off the bed, but I didn't want to make him angry at this point. I wasn't sure if he was going to rape me or not, but I knew that he was going to do what he wanted to do. He got right on top of me, began kissing me again, and told me that I was going to like it. Then he raped me. It hurt. I told him to stop many times and tried to push him off of me, but he was stronger than me, and he kept going. I don't know how long it lasted—maybe a few minutes, but it seemed longer. I just couldn't believe it was happening. I wanted it to be over.

Right after Mr. Brown left her apartment, Ms. Sheffield called her friend, Nicole, and told her what had happened. Nicole immediately took her to the emergency room of a nearby hospital. A medical doctor there examined her and took samples of her hair, blood, and skin tissue for a rape kit.

During the trial, the doctor who conducted the rape kit examination testified that Ms. Sheffield had "significant vaginal tearing," which indicated a "very strong likelihood that Ms. Sheffield was raped." Ms. Sheffield's friend, Nicole, also testified that Ms. Sheffield was upset when she called her right after the rape. Nicole said, "She sounded like she had been crying. She managed to tell me that she had been raped."

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During the trial, the doctor who conducted the examination testified that Ms. Sheffield had "significant vaginal tearing," which indicated a "very strong likelihood that Ms. Sheffield had had sexual intercourse against her will." Ms. Sheffield's friend, Nicole, also testified that Ms. Sheffield was upset when she called her right after the incident. Nicole said, "She sounded like she had been crying. She managed to tell me that she had had sex against her will."

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During the trial, the doctor who conducted the rape kit examination testified that Ms. Sheffield had "minimal vaginal tearing," which indicated a "very weak likelihood that Ms. Sheffield was raped." Ms. Sheffield's friend, Nicole, also testified that Ms. Sheffield was composed when she called her the morning after the rape. Nicole said, "She seemed to be holding herself together okay. She told me that she had been raped."

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For the each of the items listed below, use a number from the scale that best describes how you are feeling right now.

1	2	3	4	5
Slightly or not at all	**A little**	**Moderately**	**Quite a bit**	**Extremely**

Nervous	_____	Irritable	_____	Miserable	_____
Gloomy	_____	Excited	_____	Peaceful	_____
Happy	_____	Tense	_____	Anxious	_____
Disgusted	_____	Relieved	_____	Restless	_____
Resentful	_____	Bitter	_____	Content	_____
Calm	_____	Disturbed	_____	Discouraged	_____
Shocked	_____	Hostile	_____	Shaky	_____
Angry	_____	Uneasy	_____	Sad	_____
Panicky	_____	Upset	_____	Repulsed	_____
Afraid	_____	Glad	_____	Unhappy	_____
On edge	_____	Distressed	_____	Annoyed	_____
Hopeful	_____	Bad tempered	_____	Helpless	_____
Furious	_____	Revolted	_____		

PLEASE READ THESE JURY INSTRUCTIONS CAREFULLY:
In this criminal trial, the burden of proof is on the prosecution—that is, the prosecution must prove beyond a reasonable doubt that the defendant, Mr. Brown, raped Ms. Sheffield. We realize that you did not read testimony from the defendant, but based on what you did read, please answer the following questions to the best of your ability.

1. If you were a juror serving on this trial and you had to vote that the Mr. Brown was either *guilty or not guilty of rape*, how would you vote? (Check one)

    _____ Guilty
    _____ Not Guilty

2. Using the scale provided, please circle a number that describes *how guilty of rape* you perceive Mr. Brown to be:

    0   1   2   3   4   5   6   7   8   9   10

    Not at   **Extremely**
    All Guilty   **Not Sure**   **Guilty**

3. Please describe the basis for your verdict decision:

_____

_____

_____

For the each of the questions listed below, write a number from the scale that best answers the question:

0	1	2	3	4	5	6	7	8	9	10

Not at all   **Somewhat**   **Extremely**

4. To what extent do you find Ms. Sheffield **credible**?   _____

5. To what extent do you find Ms. Sheffield **believable**?   _____

6. To what extent do you find Ms. Sheffield **honest**?   _____

7. To what extent do you find Ms. Sheffield **distressed**?   _____

8. To what extent do you find Ms. Sheffield **sensitive**?   _____

9. To what extent do you find Ms. Sheffield **manipulative**?   _____

10. To what extent do you find Ms. Sheffield **intelligent**?   _____

11. To what extent do you feel **sympathy for Ms. Sheffield**?   _____

12. To what extent are you **fearful of Mr. Brown**?   _____

13. To what extent do you feel **anger toward Mr. Brown**?   _____

14. To what extent do you feel **disgust toward Mr. Brown**?   _____

15. To what extent do you feel **sympathy for Mr. Brown**?   _____

16. Using the scale below, how would you rate the strength of the evidence **against Mr. Brown** in the trial you read about? (Circle one number on the scale below that best answers the question.)

0	1	2	3	4	5	6	7	8	9	10

Extremely Weak   **Neutral**   **Extremely Strong**

17. Think back to **Ms. Sheffield's testimony**. What do you remember about *how she described the incident?*

_____

_____

_____

18. Think back to what you read about the **medical doctor's testimony**. What do you remember about *the results of the medical examination?*

_____

_____

_____

19. Think back to what you read about the testimony of **the friend, Nicole**. What do you remember about *how Nicole described Ms. Sheffied when she called her*?

_____

_____

_____

20. In your own words, please describe your personal reactions to the trial summary that you read. Please be as specific as possible.

_____

_____

_____

21. Regarding this case, what would you have liked to have heard or learned more about?

_____

_____

_____

22. What do you think would change your opinion about this case?

_____

_____

_____

23. Was there anything unusual, surprising, or confusing about the legal dispute that you read?

_____

_____

_____

24. Have you, a family member, or close friend, ever been the victim of a crime, including but not limited to burglary, robbery, sexual assault, rape, drunk driving, or domestic violence? (Circle one)   YES   NO

If <u>yes</u>, what type of crime?

_____

If <u>yes</u>, and you feel comfortable providing us with more details, please feel free to do so. For example, when and to whom did this happen?

_____

_____

25. What is your gender? (Circle one)   MALE   FEMALE

26. What is your age? _____

27. What is your race/ethnicity? (Check one)

   ___ African American   ___ Hispanic or Latino/a

   ___ Asian American   ___ Native American

   ___ Caucasian   ___ Other; please specify: _____

28. What is the highest level of education you have completed? (Check one)

   ___ Less than high school   ___ Some college   ___ Some graduate school

   ___ High school diploma   ___ Associate's degree   ___ Masters/professional degree

   ___ Trade or technical school ___ College degree   ___ Doctorate

29. What is your employment status? (Check one)

   ___ Employed full-time   ___ Unemployed   ___ Student

   ___ Employed part-time   ___ Retired   ___ Homemaker

30. What is your occupation? _____

31. What kind of work do you do? _____

32. Do you have any management or supervisory experience? (Circle one)   YES   NO

33. What is your marital status? (Check one)

   ___ Never married   ___ Separated   ___ Widowed

   ___ Married/Domestic Partner ___ Divorced

34. Do you have any specialized knowledge, work training, or education in the following

   areas? (Check all that apply to you.)

   ___ Law enforcement   ___ Legal field   ___ Social work   ___ Medical field

35. Have you ever served in the military? (Circle one)   YES   NO

36. Do you belong to any unions? (Circle one)   YES   NO

37. How would you describe your political affiliation? (Check one)

___ Democrat   ___ Republican   ___ Independent   ___ Other

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