

## Empathy and Jurors' Decisions in Patricide Trials Involving Child Sexual Assault Allegations

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*In a mock-trial paradigm, 205 participants considered a patricide trial in which a child defendant claimed the patricide was done in self-defense after years of sexual abuse. Participants in an empathy-induction condition were asked to take the perspective of the defendant and to detail how they would be thinking and feeling if they were the defendant. Control condition participants received no such instructions. Results indicated that, compared to jurors in the control condition, jurors who were asked to take the defendant's perspective had more empathy for the defendant (without feeling more similar to or more sympathy for the defendant), found the defendant less guilty and less responsible for the murder, and were more likely to consider abuse to be a mitigating factor in the killing. Overall, compared to men, women were more likely to believe the defendant's abuse allegations, find the defendant credible, and consider the defendant to be less responsible for the murder. Women in the empathy condition found the defendant less guilty than did all other jurors. Finally, child defendant gender was also varied, but this had few effects on case judgments overall. Jurors, however, were more likely to believe that the girl defendant was sexually abused than the boy defendant. We discuss theoretical implications for understanding the social psychological construct of empathy as well as implications for understanding jurors' decisions in cases involving child sexual assault allegations.*

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Hundreds of parents are killed each year by their children. About one fourth of these cases involve fathers and 15% involve mothers who are killed by children under the age of 18 years (Heide, 1992). These children are often victims of child maltreatment (Ewing, 1990; Heide, 1992). A salient example is the infamous patricide perpetrated by the Menendez brothers in California (age 18 and 21 years), who were convicted for murdering their parents even though they alleged that the murder was a self-defensive reaction to years of sexual and physical abuse (Church, 1993). A similar case was recently tried in Chicago: A 14-year-old girl pled guilty to second-degree murder after she murdered her allegedly sexually abusive father (Warmbir, 1997).

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Parricide cases involving claims of parental abuse are particularly interesting because whether or not a juror believes a child defendant should be held responsible for a parent's murder should be influenced by whether or not the juror believes the child defendant was abused and endangered. This would parallel decision-making in cases in which battered women kill their abusive partners; that is, in those cases, verdicts depend on jurors' beliefs in a woman's abuse claims (e.g., Follingstad et al., 1989; Schuller, Smith, & Olson, 1994). Even though parricide cases occur with some frequency and attract a great deal of media attention, we know of only one published study of lay people's reactions to such cases. Stalans and Henry (1994) examined people's decisions concerning whether or not to transfer juveniles charged with patricide to adult court. Participants were less likely to favor the transfer of juveniles who claimed to have been abused as compared to juveniles who evidenced no past abuse. Thus, as in battered woman cases, people appear to be more positively disposed toward defendants who suffered past abuse.

There have been no studies of jurors' reactions to patricide and matricide cases involving abuse allegations. It is reasonable to assume that factors that influence jurors' decisions in nonparricide child sexual abuse cases might also influence jurors' beliefs in such abuse allegations in parricide cases, and in turn, jurors' verdicts. In the present experiment, we investigated the influence of three such factors on judgments in a patricide case. Specifically, mock jurors considered a trial in which a 15-year-old sexual abuse victim killed her father and claimed that her actions were a self-defensive reaction to years of sexual abuse. We expected that situationally induced empathy for the teenager, defendant gender, and juror gender would affect jurors' beliefs in the abuse allegations, attributions of responsibility, and verdicts. Next, we review psychological literature related to the variables we studied, and formulate theoretically driven hypotheses.

### THE PSYCHOLOGICAL CONSTRUCT OF EMPATHY

Empathy is a multidimensional construct, having both affective and cognitive components. Specifically, Davis (1994) defines empathy as "the cognitive act of adopting another's perspective," "a cognitively based understanding of others," and "an affective reaction to the emotions of another" (p. 11). Importantly, the construct of empathy is related to, but theoretically distinct from, the construct of sympathy, which is defined by Eisenberg and Miller (1987b) as an "emotional state or condition that is not identical to the other's emotions, but consists of feelings of sorrow or concern for another" (p. 292). Thus, one can sympathize with a person without having empathy for him or her, which would entail experiencing the person's emotions and understanding his or her cognitive perspective.

Researchers have investigated both trait and state empathy. Trait empathy refers to fairly stable individual differences in people's general ability to empathize with others. In contrast, state empathy is empathy that has been temporarily prompted or elicited by a stimulus in the social environment (e.g., through perspective taking or actively engaging in role-playing behavior). In the current research, we are primarily concerned with the effects of state empathy on individuals' behavior.

Research on state empathy reveals that when individuals have empathy for victims of negative events and individuals in need of assistance, they are less likely to derogate those persons, and they are more likely to find them attractive, to value their welfare, to help them, and to find them less responsible for misdeeds (Aderman, Brehm, & Katz, 1974; Batson, Duncan, Ackerman, Buckley, & Birch, 1981; Batson, Turk, Shaw, & Klein, 1995; Eisenberg & Miller, 1987a; Krebs, 1975; Sulzer & Burglass, 1968). Of particular interest for the present research, when individuals have empathy for perpetrators of negative behavior, they are less likely to attribute responsibility for the behavior to them (Sulzer & Burglass, 1968).

### EMPATHY AND JUROR DECISIONS

We reasoned that the effects of empathy would extend to the courtroom. For example, if empathy is induced for a participant in a trial, it might affect jurors' decision-making behavior, just as induced empathy affects other social behavior. If an attorney induces jurors' empathy for a defendant, in turn, the jurors might be more inclined to attribute causality for the crime to situational factors surrounding the crime than to the defendant's internal motives, and to hold the defendant less responsible for his or her actions than they might otherwise. In fact, trial attorneys intuitively reason that empathy has a powerful influence in the context of the courtroom. To illustrate, in a handbook for attorneys, Hamlin (1985) writes, "The ability to actually experience, internally, what is at issue, to empathize and put themselves in another person's place, is something of which jurors are not consciously aware. Yet this process is human and universal, and it is a powerful inner voice in decision-making" (p. 315).

Both prosecuting and defense attorneys may purposely attempt to select jurors whom they believe are the most likely to empathize with their clients. For example, Hamlin (1985) proposes a list of questions to ask during voir dire to identify generally empathic jurors (e.g., "Does anyone give blood?"). Attorneys may also actively attempt to shift the empathic tendencies of jurors in their cases (a state empathy manipulation). According to Wright (1987), attorneys should try to manipulate empathy during their opening statements, while questioning witnesses, and in their closing statements. He asserts that in order for empathy to have an effect, the jury must feel close to the attorney and defendant, know the defendant's thoughts and feelings, and understand the defendant's motive. In their book on courtroom communication strategies, L. J. Smith and Malandro (1985) instruct attorneys on the importance of inducing empathy in the courtroom and detail strategies for eliciting empathy from jurors:

Just describing an event, regardless of how great the tragedy or how dramatic the experience, will not automatically produce empathy. The verbal patterns and structure will determine whether a true linking of empathy takes place between the jurors and client . . . [the jurors must] not only hear the emotional message, but actually go through the experience that the other individual had . . . When you are creating the experience for the jurors you are not trying to tell a story. Rather you are trying to get the jurors to experience the actual feelings that took place at that time . . . What we are trying to do is direct the jurors' perception so that they can feel and experience an emotion (pp. 373–376).

Of course, it is believed that prosecutors may benefit from inducing empathy for their clients as well.

There have been few investigations of the effects of situationally induced empathy for defendants. An exception is a study conducted by Archer, Foushee, Davis, and Aderman (1979, Experiment 1). Participants considered a mock trial involving a stabbing, then delivered individual verdicts. Experimental-condition participants were instructed by the defense attorney to imagine that they experienced the same events as the defendant and to visualize how they would feel if they were the defendant. Compared to control-condition participants, who were only asked to concentrate on the facts of the case, individuals in the empathy condition attributed less causal responsibility for the stabbing to the defendant and found the defendant's actions more lawful. There was a nonsignificant tendency for jurors in the empathy condition to vote not guilty more often than guilty. The researchers also found that a warning to consider only the facts and to be objective eliminated the bias produced by the defense attorney's empathy instructions.

Empathy may have a disproportionate influence in cases involving sexual abuse allegations, because evidence of sexual abuse is often ambiguous, there are rarely any witnesses except for the victim, and there is little, if any, physical evidence (Myers, 1998). To our knowledge, no researchers have explored the effects of *situationally induced* empathy in the context of trials involving child sexual abuse allegations. Researchers have, however, considered the effects of *trait* empathy for adult rape victims and child sexual assault victims in assault cases. For example, Deitz, Blackwell, Daley, and Bentley (1982) found that individuals with high levels of rape victim empathy made a variety of more "provictim" judgments, such as recommending higher prison sentences, being more certain of the defendant's guilt, and attributing more responsibility to the defendant and less responsibility to the victim (Deitz & Byrnes, 1981; Deitz et al., 1982; Deitz, Littman, & Bentley, 1984). Bottoms (1993) found evidence of similar attributional processing in child sexual abuse cases: The more "trait child victim empathy" mock jurors had for child victims, the more credible and the less responsible they found a child victim, and the more likely they were to find a defendant guilty.

It may be somewhat more ecologically valid to study situationally induced empathy rather than trait empathy in the courtroom because it would be difficult for legal counsel to prescreen jurors and identify those with certain preexisting empathic tendencies. Instead, attorneys are likely to induce empathy throughout the course of a trial. An experimental manipulation of empathy can provide insight into how this trial tactic influences jurors. To date, no researchers have manipulated empathy for victims or perpetrators in a child sexual abuse trial, but Coller and Resick (1987) examined the effect of induced empathy on rape victim blame. They found no effect of state empathy on victim blame; however, their null findings might have resulted from their failure to successfully manipulate empathy. Specifically, their manipulation was not very salient or involving, and it focused less on empathy than on perceptions of similarity (a separate construct altogether).

In summary, no one has examined the effects of situationally induced empathy for child victims, but results from studies of trait empathy for sexual abuse victims and studies of decisions in other types of cases suggest that empathy can affect

credibility judgments, attributions of responsibility, and verdicts. Our study is the first to examine the effects of situationally induced empathy for a child sexual abuse victim. As discussed in detail later, the victim in our case was also the defendant—the victim killed her father after allegedly suffering years of sexual and physical abuse. Empathy was induced or not in the course of our mock trial and various case judgments were examined. We expected more prodefendant judgments when jurors were led to have empathy for the defendant.

### GENDER AND JUROR JUDGMENTS

For several reasons, it is important to attend to abuse victim and juror gender when attempting to understand judgments in a case involving sexual assault allegations, especially when empathy is manipulated in that case. First, there may be inherent differences in men's and women's general empathic tendencies and their sensitivity to empathy manipulations. Compared to men, women appear to be better able to "decode" others' emotions and take the emotional perspective of others (Eisenberg & Lennon, 1983). Therefore, in our study, we predicted that women would be more engaged by an empathy manipulation than men would be.

Second, juror–defendant gender similarity may result in a similarity–leniency bias which may modify the effect of an empathy manipulation. When jurors feel similar to a defendant on a salient characteristic such as gender, jurors are sometimes more lenient toward the defendant than they are otherwise (e.g., Amato, 1979; Kerr, Hymes, Anderson, & Weathers, 1995; Stephan, 1974). Further, individuals may be better able to empathize with others of the same gender (Archer et al., 1979, Experiment 2). In our study, we systematically manipulated defendant gender so that we could fully examine potential juror–defendant gender similarity effects. Otherwise, for example, if the defendant in our case was always portrayed as a girl, and we found that women jurors were more empathic and lenient toward the defendant than men were, the finding could be attributed to either a similarity–leniency bias or to women being more lenient and empathic toward abuse victims in general.

Third, in cases where sexual abuse is used as a defense, juror gender is likely to emerge as an influential factor independent of any empathy. On average, many men view child sexual abuse as a less serious crime than women do (Corder & Whiteside, 1988) and are significantly more likely to endorse what might be termed "child sexual abuse myths" such as "A child who does not display signs of distress probably has not been a victim of sexual assault" (Morison & Greene, 1992, p. 604). Compared to women, men also tend to find child abuse victims less credible, and they are less likely to convict defendants accused of child sexual abuse (e.g., Bottoms, 1993; Bottoms & Goodman, 1994, Experiments 2 and 3; Gabora, Spanos, & Joab, 1993; Golding, Sanchez, & Sego, 1997; Nightingale, 1993; Schmidt & Brigham, 1996; see Schutte & Hosch, 1997, for a review). In addition, compared to men, women are more likely to have trait empathy for child abuse victims (Bottoms, 1993). We expected to find similar main effects of juror gender in our study. Specifically, we predicted that women would be more likely than men to believe a

claim of child sexual abuse, consider it to be a valid mitigating factor, and in turn, be less likely to render guilty verdicts against the victim/defendant.

Finally, abuse victim gender may also affect credibility and guilt judgments in trials where sexual abuse is used as a defense for murder, although findings from previous studies examining this factor have been mixed. For example, case judgments did not differ as a function of victim gender in studies examining the impact of victim gender on juror verdicts in a child sexual abuse trial (Bottoms & Goodman, 1994; Scheiner, 1988). In contrast, Broussard and Wagner (1988) found that men, but not women, found sexual abuse perpetrators less responsible when an abuse victim was a boy than when the victim was a girl. This is consistent with research that has revealed societal biases against the recognition of boys as true victims (Finkelhor, 1984; Rogers & Terry, 1984). In light of these conflicting results, we further investigated the effects of abuse victim gender on attributions of responsibility and case-relevant judgments in our study. We expected that any effects of abuse victim gender would manifest as the girl defendant being believed more (and therefore being judged less guilty) than the boy defendant.

## OVERVIEW

Our experiment conformed to a 2 (empathy: situationally induced or not induced)  $\times$  2 (juror gender)  $\times$  2 (defendant gender) between-subjects design. Participants read portions of the transcript from an actual trial in which a father was murdered by his child allegedly after years of sexual abuse. Hence, the defendant was also an alleged sexual abuse victim. For half of the participants, empathy for the defendant was induced during the defense attorney's opening and closing statements in the trial. The remaining participants received no empathy induction. After reading the transcript, participants made a variety of case judgments, including verdict, defendant responsibility for the killing and for the alleged abuse, defendant credibility, and beliefs about the abuse allegations and the degree to which the abuse was a mitigating factor in the case. Participants also completed measures assessing their feelings of empathy for, sympathy for, and similarity to the defendant.

We hypothesized that mock jurors in the empathy-induction condition (especially women) would have more defendant empathy (but not more defendant sympathy or more feelings of similarity to the defendant) than those in the control condition, and that they would, in turn, make more prodefendant case judgments. In addition, we expected that gender effects found in previous studies of perceptions of child sexual abuse cases described above would be replicated and be extended to this unique type of case.

## METHOD

### Participants

One hundred and two men and 103 women undergraduates from The University of Illinois at Chicago participated in return for course credit. All were jury-eligible

U.S. citizens over the age of 18 years (range = 18–42 years,  $M = 20$ ). The sample was ethnically diverse: 22% Asian American, 15% Latino/Hispanic, 41% White, 18% African American, and 4% other. The participants' median parental income was in the range of \$45,000–59,999 per year (mode = \$30,000–44,999 per year).

## Materials

### *Demographic Questionnaire*

An anonymous questionnaire assessed participants' gender, age, ethnicity, parental income, and prior experience with child sexual abuse (i.e., participants were asked if they ever experienced a variety of unwanted sexual acts, such as fondling and intercourse) before the age of 18.

### *Trial Transcript*

The trial transcript was excerpted from an actual patricide trial shown on Court TV (American Lawyer/Court TV Video Library Service, 1992). After being edited slightly for readability, the transcript was 20 single-spaced, typed pages long and took approximately 30–45 min to read. In the case, a 15-year-old girl murdered her father, claiming she did so in self-defense to protect herself from her father's sexual abuse. The trial included opening and closing statements from the defense and prosecuting attorneys, as well as testimony from the investigating police officer, the defendant's friend, a neighbor, the defendant's aunt, the defendant's half-sister, the defendant's mother, and the defendant. The defendant's gender was manipulated by changing the child's name (Tracie or Tim), pronoun referents (e.g., she or he), the gender of the child's best friend (to be congruent with the defendant's gender), and abuse details as appropriate (e.g., description of body parts touched). In the trial, the prosecuting attorney portrayed the defendant as a spoiled brat who hated her/his father and shot the father while he was sleeping out of spite and a desire for inheritance money. In contrast, the defense attorney presented the defendant as a chronically abused child, arguing that the father was attempting to rape and murder the child at the time of the killing and thus the father was killed in self-defense.<sup>3</sup>

Experimental-condition participants were given an empathy manipulation as part of the defense attorney's opening and closing statements (see Appendix A). The induction engaged participants in active imagery concerning what happened the night of the murder from the defendant's perspective. Control-condition participants read the original transcript without the induction. To ensure the salience of the manipulation, jurors were asked to stop reading the transcript after the opening statements and write a brief (half-page) essay. Jurors in the empathy condition were instructed to "imagine what it would be like if you were [the defendant]. Put yourself in [the defendant's] shoes. Try hard to put yourself in [her/his] place and really think hard about how you would be feeling in [her/his] situation. Try to reflect upon the way you would feel if you were in these circumstances. In your mind's eye, perhaps you can visualize how it would feel for you to be [the defendant] in this situation. How would you feel? What would you be thinking? How are you

<sup>3</sup>Details about the trial transcript are available from the authors.

thinking and feeling right now, as [the defendant]? Please explain in the space below your thoughts and feelings.” [Portions of these instructions were taken from Archer et al.’s (1979) study.] Jurors in the control condition were instructed only to “explain in the space below your thoughts and feelings.”

#### *Jury Instructions*

A modified version of the Illinois Pattern Jury Instructions appropriate for the charges accompanied the transcript and instructed jurors about the three possible verdicts (not guilty, guilty of first-degree murder, and guilty of second-degree murder), the role of mitigating factors in determining verdicts, and the burden of proof. The instructions also admonished the jurors to apply the law to the facts of the case and to not be influenced by sympathy or prejudice, and the instructions informed jurors that neither opening statements nor closing arguments are evidence and that any non-evidence-based arguments made by the attorneys should be disregarded. Because pilot work revealed that the actual Illinois Pattern Instructions were incomprehensible, phrase changes were made to increase jurors’ comprehension and a simple flow chart was added to help participants understand the verdict choices. Further pilot testing revealed that the modified instructions were clear.<sup>4</sup>

#### *Case-Related Judgments*

Mock jurors were given a packet containing various case judgments. First, they chose among the three possible verdicts (guilty of first-degree murder, guilty of second-degree murder, and not guilty). Jurors also gave a brief explanation for their verdict. Next, participants rated the degree to which they blamed the defendant for the shooting, felt the shooting was the defendant’s fault, and believed that the defendant was responsible for the shooting on a series of 6-point scales ranging from 1 (no: not at all) to 6 (yes: completely). A Killing Responsibility Scale was constructed from these three items. In addition, responsibility was also measured with a Killing Responsibility Allocation Item and an Abuse Responsibility Allocation Item. These items ranged from 1 (0% responsibility allocated to the defendant and 100% allocated to the father) to 11 (100% responsibility allocated to the defendant and 0% allocated to the father). (Participants were instructed to complete the Abuse Responsibility Item only if they believed that abuse actually occurred.) Credibility judgments for each witness were made on separate 7-point scales ranging from –3 (totally unbelievable) to +3 (totally believable). (Only the defendant’s credibility was of interest. For analysis purposes, this scale was converted to a scale ranging from 1 to 7.) Separate 6-point scale items ranging from 1 (no: not at all) to 6 (yes: completely) measured whether participants believed that sexual abuse occurred and whether the alleged abuse was a mitigating factor in determining

<sup>4</sup>It is unlikely that our modifications of the jury instructions jeopardized the integrity of the study. The original instructions were simply incomprehensible (an unfortunate fact for jurors and defendants in Illinois). Jury instructions must be comprehensible because they educate jurors about the law and how to apply the law to a case, and in turn, they should reduce the effect of jurors’ individual biases on verdicts (e.g., Diamond, 1993; V. L. Smith, 1993; Wiener, Habert, Shkodriani, & Staebler, 1991; Wiener, Pritchard, & Weston, 1995). Our modifications made the instructions clearer, increasing the probability that they reduced the impact of jurors’ biases. Thus, compared to using unmodified pattern jury instructions, our use of modified instructions constituted a more stringent test of the effects of empathy.



guilt. Finally, on two separate scales ranging from 1 (no: not at all) to 6 (yes: completely), participants were asked whether they believed that (a) the defendant shot the father because she/he was a bad person (indicating a dispositional attribution), and (b) the defendant shot the father because of the situation the she/he was in (indicating a situational attribution).

### *Manipulation Check*

Participants were asked to indicate the age of the defendant so that we could determine whether participants paid attention to the case and remembered the immaturity of the defendant.

### *Defendant Empathy, Sympathy, and Similarity Measures*

Three separate scales were constructed specifically to measure empathy, sympathy, and similarity for the defendant. Details about the construction of these scales and their psychometric properties are given in the results section (see also Table 1). The Defendant Empathy Scale was composed of six items that measured the degree to which participants felt they could affectively and cognitively put themselves in the place of the defendant in this case. The Defendant Sympathy Scale was composed of three items measuring how much participants sympathized with

**Table 1.** Factor Analysis on Items Measuring Defendant Empathy, Sympathy, and Similarity

Item	Factor loadings		
	Factor 1: Sympathy	Factor 2: Empathy	Factor 3: Similarity
I feel sorry for Tracie English, the defendant. (SY)	<b>.91</b>	.14	-.02
I have sympathy for Tracie English, the defendant. (SY)	<b>.88</b>	.07	.14
I feel pity for Tracie English, the defendant. (SY)	<b>.87</b>	.16	.07
I have empathy for Tracie English, the defendant. (EM)*	<b>.76</b>	.21	.16
I can really imagine the thoughts running through Tracie's, the defendant's, head. (EM)	.22	<b>.83</b>	.11
I can really feel what Tracie, the defendant, must have been feeling the night of the shooting. (EM)	.16	<b>.71</b>	.34
I can experience the same feelings that Tracie English, the defendant, experienced. (EM)	.03	<b>.67</b>	.48
I can take the perspective of Tracie English, the defendant, and understand why the shooting occurred. (EM)	.51	<b>.57</b>	.16
I can really see myself in Tracie's, the defendant's, shoes. (EM)	.12	<b>.55</b>	.47
I feel like I can easily take the perspective of Tracie English, the defendant. (EM)	.44	<b>.49</b>	.42
I think I have a lot of things in common with Tracie English, the defendant. (SI)	.12	.12	<b>.88</b>
I know what it would be like to be Tracie English, the defendant. (EM)*	.07	.30	<b>.78</b>
I feel similar to Tracie English, the defendant. (SI)	.11	.34	<b>.77</b>
Eigenvalue	5.91	2.35	.88

*Note.* The parenthetical notation SY denotes items that were originally designed to measure Defendant Sympathy, EM denotes Defendant Empathy Scale items, and SI denotes Defendant Similarity Scale items. An asterisk indicates items that were dropped from analyses due to unexpected factor loadings.

(felt sorry for) the defendant. The Defendant Similarity Scale was composed of two items that measured how similar participants felt to the defendant in general and how much they felt they had in common with the defendant.

### Procedure

Men and women gave informed consent and were randomly assigned to the boy/girl and experimental [empathy or control (no empathy)] versions of the trial transcript, with the exception that an approximately equal number of men and women received each version. There were 25–27 participants per cell of the experimental design. After being instructed about the importance of the research and the seriousness of their role as jurors, participants read the trial transcript. Participants in the experimental condition encountered the empathy manipulation embedded in the transcript and wrote the empathy-inducing essay after reading the defense attorney's opening statements. Participants in the control condition simply wrote about their thoughts and feelings related to the case. When finished reading the transcript, all jurors read the jury instructions, then completed all remaining measures in turn: case-related judgments; the Defendant Empathy, Sympathy, and Similarity scales; and the demographic questionnaire. Finally, participants were fully debriefed, thanked for their participation, and given experimental course credit.

### RESULTS

We begin by presenting the results of preliminary analyses (of the manipulation check and the effects of sexual abuse history). Then, we then detail our main analyses: 2 (empathy condition)  $\times$  2 (juror gender)  $\times$  2 (defendant gender) between-subjects analyses of variance (ANOVAs) on (a) Defendant Empathy, Defendant Sympathy, and Defendant Similarity, and (b) case-related judgments (guilt, responsibility, credibility, person/situation attributions, and abuse allegation beliefs).<sup>5</sup>

#### Preliminary Analyses

##### *Manipulation Checks*

Nearly all participants (93.7%) indicated the correct age of the defendant (15 years), 5.8% were within 1 year (older or younger), and only one participant gave

<sup>5</sup>To ensure that empathy conditions were not confounded with preexisting differences in trait empathy, we administered trait empathy measures during an en masse pretesting session 1–3 months prior to the experiment. Specifically, we gave (a) the Child Victim Empathy Scale (CVES; Bottoms, 1993), a measure of cognitive and affective components of trait empathy for child sexual abuse victims (alpha reliability coefficients = .70–.72), and (b) the Interpersonal Reactivity Index (IRI; Davis, 1980), a measure of cognitive perspective taking and affective responding tendencies (alpha reliability = .71–.77). Two separate 2 (empathy condition)  $\times$  2 (juror gender)  $\times$  2 (defendant gender) between-subjects ANOVAs revealed no differences in CVES or IRI scores as a function of empathy condition,  $F_s(1, 197) \leq .11$ , but women scored higher on the CVES ( $M = 6.23$ ) and the IRI ( $M = 2.52$ ) than men did ( $M_s = 5.86$  and  $2.25$ , respectively),  $F_s(1,197) \geq 19.48$ ,  $p_s < .001$ . Therefore, we recomputed all analyses in which juror gender had a significant effect, using the CVES and IRI as covariates. Only one result was modified (regardless of whether covariates were entered separately or simultaneously): The main effect of juror gender on jurors' belief that the defendant was abused became nonsignificant,  $F(1,192) = .56$ ,  $p = .45$ .

an age 2 years away from the actual year (17 years). We retained all participants because they all remembered that the victim was a teenager, and there is no literature to suggest that there would be differences in judgments within these child age ranges.

As another check on the integrity of our methods, we examined participants' responses to the open-ended query about the reasons for their verdict choice. Specifically, it could be argued that the essay-writing instructions in the empathy condition caused jurors to think about, process, and remember the case evidence more than did the instructions in the control condition. We coded responses for mentions of the following: (a) elements of the crime (e.g., imminent danger, intent), (b) standard of proof, (c) allegations about abuse and the father's violence, (d) strength of the defense and prosecution cases, (e) defendant believability, (f) specific testimony and case facts, (g) defendant's thoughts and emotions, (h) alternative actions the defendant may have taken, and (i) responsibility attributions. Interrater reliability was .87. There were no statistically significant differences between the conditions with regard to the number of comments in any of these categories, all  $F(1,196) \leq 2.21$ ,  $ps \geq .14$ . In addition, there was no reliable difference in the number of words written by participants in the two conditions,  $F(1,203) = 1.91$ ,  $p > .05$ . Finally, no jurors in either condition made errors in case facts recalled. Thus, we found no evidence of differential case processing in the two conditions.

#### *Sexual Abuse History*

Consistent with past research (e.g., Epstein & Bottoms, 1998; Finkelhor, 1984), 15% of the sample indicated a history of sexual abuse (24% of women, 7% of men). One might expect individuals with a history of sexual abuse to differ in their case judgments from other participants because sexual abuse is the material issue in the case. For this reason, during voir dire, attorneys in cases involving sexual abuse may attempt to disqualify previously abused jurors from serving on the jury. Abused jurors may remain on juries, however, because many sexual abuse victims never disclose their abuse to anyone, and probably do not disclose their abuse when asked during a public voir dire session. Even so, we recomputed all analyses reported below (which include data from all participants) by excluding data from sexually abused participants. All results were comparable, with two exceptions noted below.

#### **Defendant Empathy, Sympathy, and Similarity**

Before considering the effects of our independent variables on case judgments, it was important to examine their relation to Defendant Empathy, Defendant Sympathy, and Defendant Similarity scale scores.<sup>6</sup> Recall our prediction that the empathy induction would affect empathy for the defendant without affecting feelings of sympathy or similarity. Our first step in addressing the confounding of empathy, sympathy, and similarity in other studies was to confirm the usefulness of our measures of these theoretically separate (but related) constructs. Therefore, we conducted a factor analysis on all items we originally constructed to measure defen-

<sup>6</sup>Jurors also completed measures of empathy for, sympathy for, and similarity to the father. There were no significant main effects of our empathy manipulation on any of these measures, illustrating that our empathy manipulation affected jurors' feelings for the defendant without affecting feelings for the father.

dant empathy (eight specially constructed items), sympathy (three items), and similarity (two items). Given our *a priori* hypotheses that three factors would emerge, we performed a factor analysis with varimax rotation, forcing three factors (see Table 1).

The three emerging factors accounted for 70.4% of the total variance in the data and generally supported our assumption that the three constructs are related, but conceptually distinct. Specifically, the first factor, Defendant Sympathy, contained our three sympathy items, yet it also contained one item that we assumed would assess empathy: "I have empathy for Tracie English, the defendant." This item did not load strongly on the second factor, Defendant Empathy, which contained six of our original empathy items. Note that this empathy item is the only item which forces participants to understand the definition of the word "empathy." All other items loading on the empathy factor describe the construct qualitatively. The loading of this seemingly face valid item on the defendant sympathy scale would result if lay people do not understand the precise definition of the term "empathy" and believe it to be synonymous with "sympathy," which we believe is very likely. Yet, even if people confuse specific terms, people can distinguish the psychological phenomenon of feeling sorry for another from feeling as if one understands the other's thoughts and feelings. Finally, the third factor that emerged, Defendant Similarity, contained the two items we constructed to measure similarity, but also one empathy item: "I know what it would be like to be Tracie English, the defendant." Participants may have interpreted the item to mean "I am like Tracie," which connotes feelings of similarity.

The two empathy items that loaded strongly on the sympathy and similarity factors were dropped from further analyses because of their theoretical incongruence with those factors and statistical incongruence with the empathy factor. Using the remaining items, we created multiitem scale measures of defendant empathy, sympathy, and similarity. The psychometric properties of each scale were acceptable. Specifically, the six-item scale measuring defendant empathy had an alpha of .85 and a mean interitem correlation of .49. The three-item defendant sympathy scale had an alpha of .91 and a mean interitem correlation of .76. Finally, the two items measuring general defendant similarity were significantly correlated at  $r = .66$ ,  $p < .001$  (we decided to retain the two face-valid similarity items as a scale for theoretical reasons, even though the eigenvalue for the similarity factor did not explain a significant amount of variance in the data).

### *Defendant Empathy*

A 2 (empathy condition)  $\times$  2 (juror gender)  $\times$  2 (defendant gender) between-subjects ANOVA revealed that, as predicted, jurors in the empathy condition had significantly more empathy for the defendant than did jurors in the control condition,  $F(1,196) = 9.58$ ,  $p < .01$  (see Table 2). Thus, our experimental manipulation of defendant empathy was successful. There was also a significant juror gender by defendant gender interaction,  $F(1,196) = 6.82$ ,  $p < .01$ . Simple effects analyses revealed that men jurors had significantly more empathy for the boy defendant than for the girl defendant,  $F(1,196) = 9.73$ ,  $p < .01$ , but women's ratings of empathy for the girl and boy defendant did not differ,  $F(1,196) = .39$ ,  $p > .10$ . No other

**Table 2.** Mean Defendant Empathy, Sympathy, and Similarity Scale Scores as a Function of Empathy Condition, Juror Gender, and Defendant Gender

	Mean scale scores								
	Defendant empathy scale			Defendant sympathy scale			Defendant similarity scale		
	Empathy	Control	Marginal	Empathy	Control	Marginal	Empathy	Control	Marginal
Women jurors									
Tracie	3.93	3.23	<u>3.58</u>	5.36	4.53	<u>4.95</u>	2.22	1.96	<u>2.09</u>
Tim	3.83	3.01	<u>3.42</u>	4.77	4.60	<u>4.69</u>	2.05	1.70	<u>1.88</u>
Marginal	3.88	3.12	<u>3.49</u>	5.07	4.57	<u>4.82</u>	2.14	1.83	<u>1.99</u>
Men jurors									
Tracie	3.15	2.47	<u>2.79<sup>a</sup></u>	4.23	4.07	<u>4.15<sup>a</sup></u>	1.66	1.80	<u>1.73</u>
Tim	3.66	3.56	<u>3.61<sup>b</sup></u>	4.75	4.92	<u>4.83<sup>b</sup></u>	1.94	1.81	<u>1.88</u>
Marginal	3.41	3.02	<u>3.19</u>	4.49	4.50	<u>4.50</u>	1.80	1.81	<u>1.81</u>
Overall marginal	<b><u>3.64<sup>a</sup></u></b>	<b><u>3.06<sup>b</sup></u></b>		<b><u>4.78</u></b>	<b><u>4.53</u></b>		<b><u>1.97</u></b>	<b><u>1.82</u></b>	

*Note.* Scale items range from 1 to 7. Higher numbers indicate greater empathy, sympathy, and similarity. Means with different superscripts in the same row or column are significantly different at  $p < .05$ . “Tracie” indicates the girl defendant condition; “Tim” indicates the boy defendant condition.

main effects, all  $F_s(1,196) = 2.98$ ,  $ps \geq .09$ , or interactions, all  $F_s(1,196) \leq .99$ ,  $ps \geq .32$ , reached statistical significance.

#### *Defendant Sympathy*

Jurors in the empathy condition and control conditions did not differ in their sympathy for the defendant,  $F(1,197) = 1.24$ ,  $p = .27$  (see Table 2), further supporting our theoretical assumption that the constructs of empathy and sympathy are distinct and can be manipulated independently. There was a significant juror gender by defendant gender interaction,  $F(1,197) = 4.70$ ,  $p < .05$ . As with empathy, men had more sympathy for the boy defendant than for the girl defendant, simple effects,  $F(1,197) = 4.95$ ,  $p < .05$ . Women were not affected by defendant gender,  $F(1,197) = .72$ ,  $p > .10$ . No other main effects, all  $F_s(1,197) \leq 2.23$ ,  $ps \geq .14$ , or interactions, all  $F_s(1,197) \leq 1.35$ ,  $ps \geq .25$ , were statistically significant.

#### *Defendant Similarity*

Empathy had no significant effect on similarity, suggesting that empathy can be manipulated without affecting similarity,  $F(1,196) = 1.64$ ,  $p = .20$  (see Table 2). No other main effects, all  $F_s(1,196) \leq 1.07$ ,  $ps > .30$ , or interactions, all  $F_s(1,196) \leq 3.30$ ,  $ps \geq .14$ , were significant.

#### *Essay Coding*

To bolster our argument that empathy, sympathy, and similarity are conceptually distinct, but related constructs, and that empathy can be affected apart from sympathy or similarity, we coded the essays that participants were instructed to write after the defense attorney's opening statements. The essays were broken down into individual thought units and coded for expressions of (a) empathy (e.g., "I can understand what the defendant is going through"), (b) sympathy (e.g., "I feel bad for the defendant"), (c) similarity (e.g., "I think I have a lot of things in common with the defendant"), (d) the reverse of empathy (e.g., "I can't imagine what it would be like"), (e) the reverse of sympathy (e.g., "I don't feel sorry for the defendant at all"), and (f) the reverse of similarity (e.g., "I am not like the defendant"). Two independent coders (both blind to experimental condition) coded 20% of the essays. Because their proportion of agreement was high (.97), one of them coded the remaining essays. As expected, participants in the empathy condition expressed far more empathy thoughts ( $M = 5.34$ ) than did participants in the control condition ( $M = .14$ ),  $F(1,197) = 231.35$ ,  $p < .05$ . Very few participants in either condition expressed thoughts considered to be the reverse of empathy, but more of these thoughts were expressed in the empathy condition ( $M = .21$ ) than in the control condition ( $M = .02$ ),  $F(1,197) = 8.31$ ,  $p < .05$ . Few jurors expressed feelings of sympathy, but slightly more sympathy was expressed in the control condition ( $M = .08$ ) than in the empathy condition ( $M = .02$ ),  $F(197) = 4.94$ ,  $p < .05$ . There were no significant differences between the experimental conditions in terms of thoughts reflecting the reverse of sympathy (empathy  $M = .01$ , control  $M = .05$ ),  $F(1,197) = 1.37$ ,  $p > .05$ . Finally, no jurors made comments reflecting similarity or the reverse of similarity.

Thus, our coding of participants' essays supports our factor-analytic results

and serves as an assurance that our empathy manipulation was successful. Jurors in the empathy condition expressed more empathic thoughts, but no more thoughts of sympathy or similarity, than did jurors in the control condition. This supports our contention that our manipulation induced empathy, not feelings of sympathy or similarity, and that these three constructs are indeed conceptually different, as reflected in our three scales.

### Case-Related Judgments

#### *Verdict Preference*

Verdicts were combined into two categories: “Guilty” (composed of “Guilty of First-Degree Murder” and “Guilty of Second-Degree Murder”) and “Not Guilty.” Because both of our independent and dependent variables were dichotomous, we used Logit modeling to examine our data (Simonoff, 1998). Empathy condition, juror gender, defendant gender, and all possible two-way interactions were entered as predictors in the model. The overall model did not significantly differ from chance,  $LR \chi^2(1) = 1.54, p = .21$ , indicating that the proposed model adequately fit the data. As predicted, the empathy condition by verdict association was significant,  $z = -2.91$ , with jurors in the empathy condition finding the defendant guilty less often than did jurors in the control condition (see Table 3 for verdict percentages). Also, as expected, the juror gender by verdict association was significant,  $z = -2.22$ , with women jurors finding the defendant guilty less often than did men jurors. No other associations were statistically significant,  $zs \leq 1.31$ .

#### *Defendant Credibility*

Women jurors rated the defendant as significantly more credible ( $M = 4.27$ ) than men jurors did ( $M = 3.62$ ),  $F(1,196) = 7.65, p < .01$ . Defendant credibility did not vary as a function of empathy condition, however: Jurors in the empathy condition ( $M = 4.00$ ) found the defendant as credible as did those in the control condition ( $M = 3.90$ ),  $F(1,196) = .16, p = .69$ . Credibility was also not affected by defendant gender: girl defendant,  $M = 3.94$ ; boy defendant,  $M = 3.97$ ;  $F(1,196) = .02, p = .90$ . No interactions reached statistical significance,  $F(1,196) \leq .47, ps \geq .50$ .

**Table 3.** Guilt Judgments as a Function of Empathy Condition and Juror Gender

Condition	Percentage of not-guilty verdicts	Percentage of guilty verdicts <sup>a</sup>	Percentage of first-degree murder verdicts	Percentage of second-degree murder verdicts
Empathy condition				
Empathy	41	59	17	42
Control	24	76	21	55
Juror gender				
Women	40	60	15	45
Men	25	75	23	52

<sup>a</sup>First- and second-degree combined.

### *Killing Responsibility*

We analyzed two measures of mock jurors' perceptions of responsibility for the murder: (a) the three-item Killing Responsibility Scale and (b) the Killing Responsibility Allocation item. The Killing Responsibility Scale had acceptable internal consistency ( $\alpha = .87$ , mean interitem correlation = .70). There was a significant main effect of empathy condition on the Killing Responsibility Scale,  $F(1,195) = 4.06$ ,  $p < .05$ . Jurors in the empathy condition ( $M = 3.82$ ) found the defendant less responsible than did jurors in the control condition ( $M = 4.20$ ). Further, women found the defendant significantly less responsible ( $M = 3.81$ ) than did men ( $M = 4.21$ ),  $F(1,195) = 4.54$ ,  $p < .05$ . There was no significant main effect of defendant gender,  $F(1,195) = .002$ ,  $p = .97$ , nor any significant interactions, all  $F_s(1,195) \leq 2.07$ ,  $p_s \geq .15$ .

There was also a significant main effect of empathy condition on the Killing Responsibility Allocation item,  $F(1,196) = 9.09$ ,  $p < .01$ . Jurors in the empathy condition allocated less responsibility to the defendant for the killing ( $M = 5.57$ , corresponding to approximately 46% responsibility) than did jurors in the control condition ( $M = 6.71$ , corresponding to approximately 57% responsibility). No other main effects, all  $F_s(1,196) \leq 2.06$ ,  $p_s \geq .15$ , or interactions, all  $F_s(1,196) \leq 1.19$ ,  $p_s \geq .32$ , were statistically significant.

### *Abuse Responsibility*

Unexpectedly, there were no significant main effects, all  $F_s(1,137) \leq 2.46$ ,  $p_s \geq .12$ , nor interactions of the independent variables, all  $F_s(1,137) \leq 1.83$ ,  $p_s \geq .18$ , on perceived responsibility for the alleged sexual abuse. The null findings may reflect a restricted range of responses. On average, jurors who believed that sexual abuse occurred found the child defendant only 7% responsible for the sexual abuse (corresponding to a mean of 1.69 on the 11-point scale).

### *Dispositional and Situational Attributions*

Next, analyses considered participants' separate ratings of person and situation attributions for the murder. There was a significant main effect of defendant gender on the belief that the defendant shot his/her father because the defendant was a bad person,  $F(1,196) = 7.98$ ,  $p < .01$ . Compared to the girl defendant ( $M = 2.39$ ), the boy defendant ( $M = 2.95$ ) was more likely to be seen as a "bad person" for shooting his father. There were no other significant main effects, all  $F_s(1,196) \leq 1.66$ ,  $p_s \geq .20$ , nor interactions, all  $F_s(1,196) \leq 1.51$ ,  $p_s \geq .22$ . Men's ( $M = 2.80$ ) and women's ( $M = 2.55$ ) ratings did not differ significantly, and ratings of jurors in the empathy condition ( $M = 2.74$ ) did not differ significantly from those in the control condition ( $M = 2.60$ ).

Contrary to hypotheses, there was no significant main effect of empathy condition on the belief that the defendant shot his/her father because of the situation,  $F(1,196) = 2.23$ ,  $p > .05$  (empathy  $M = 4.58$ , control  $M = 4.33$ ). There was a significant empathy condition by defendant gender interaction on this belief, however,  $F(1,196) = 3.94$ ,  $p < .05$ . Simple effects gender analyses revealed that jurors who read about the boy, Tim, were unaffected by the empathy manipulation,  $F(1,196)$



$= .16, p > .10$  (empathy  $M = 4.31$ , control  $M = 4.41$ ). But among jurors who read about Tracie, those in the empathy condition were more likely to believe that she killed because of situational factors ( $M = 4.86$ ) than jurors in the control condition ( $M = 4.25$ ),  $F(1,196) = 6.01, p < .05$ . This effect became marginally significant, however, when sexually abused participants were excluded from the analysis,  $F(1,169) = 3.43, p < .07$  (perhaps reflecting the loss of degrees of freedom). Further, the main effect of empathy condition became statistically significant when sexually abused participants were excluded, with jurors in the empathy condition being more likely to believe that the defendant shot his/her father because of the situation ( $M = 4.67$ ) than jurors in the control condition ( $M = 4.48$ ),  $F(1,169) = 4.68, p < .05$ . No other main effects,  $F_s(1,196) \leq 1.28, p_s \geq .26$ , or interactions,  $F_s(1,196) \leq .68, p_s \geq .41$ , were significant.

### *Abuse Beliefs*

Finally, we considered jurors' beliefs about the sexual abuse allegation and its implications. First, jurors were more likely to believe that the girl defendant was abused ( $M = 4.29$ ) than the boy defendant ( $M = 3.86$ ),  $F(1,194) = 4.56, p < .05$ . This effect became nonsignificant, however, when sexually abuse participants were excluded from the analysis,  $F(1,169) = 1.89, p > .10$ . There was also a significant main effect of juror gender: Women were more likely to believe that the defendant was abused ( $M = 4.27$ ) than men were ( $M = 3.88$ ),  $F(1,194) = 3.78, p < .05$ . Contrary to hypotheses, there was no significant main effect of empathy condition,  $F(1,194) = .20, p = .66$  (empathy  $M = 4.03$ , control  $M = 4.12$ ), nor were there any significant interactions,  $F_s(1,194) \leq .90, p_s \geq .34$ .

Second, there was a significant main effect of empathy condition on jurors' tendency to consider sexual abuse as a mitigating factor in determining the defendant's guilt,  $F(1,194) = 6.91, p < .01$ . Jurors in the empathy condition ( $M = 4.02$ ) were more likely than those in the control condition ( $M = 3.42$ ) to believe that sexual abuse was a mitigating factor. No other main effects, all  $F_s(1,194) \leq .38, p_s \geq .54$ , or interactions, all  $F_s(1,194) \leq 1.27, p_s \geq .26$ , were significant.

## DISCUSSION

For the first time, we investigated the impact of an empathy manipulation on juror decision making in a patricide case involving child sexual abuse allegations. Our findings clearly demonstrate that jurors' case-related judgments are affected when an attorney asks them to identify affectively and cognitively with a defendant. As predicted, compared to jurors in the control condition, jurors in the empathy condition had more empathy for the defendant, were more lenient in their guilt judgments, considered the defendant to be less responsible for the killing, and were more likely to think abuse was a mitigating factor in the trial. Next, we discuss our main findings and consider the basic and applied contributions our study makes to the literature on empathy and on juror decision making in cases involving child sexual abuse allegations.

### Empathy

Although most previous research has confounded empathy, sympathy, and similarity because of the difficulty of separating them empirically, the theoretical distinctions among these psychological constructs are important (Davis, 1996). The constructs of empathy, sympathy, and similarity are not independent or orthogonal, as suggested by some overlap in the item loadings in our factor analysis. They do correlate with each other, just as do other related, but different concepts such as intelligence and need for cognition. They are, however, conceptually distinct. As we noted earlier, empathy is an active process of cognitive and affective perspective-taking, but sympathy entails more passive affective responding. Thus, according to Wispé (1986), sympathy is the “heightened awareness of another’s plight as something to be alleviated,” but “empathy refers to the attempt of one self-aware self to understand the subjective experiences of another self. Sympathy is a way of relating. Empathy is a way of knowing” (p. 314). Further, as Davis (1996) has noted, it is also important to distinguish empathy from feelings of similarity, which are also closely related. Having empathy for another involves understanding what it would be like to be in the other’s place, which may lead to feelings of similarity with the other person. In our study, we were able to measure feelings of defendant empathy, sympathy, and similarity with statistically reliable scales, and we were able to manipulate feelings of empathy without affecting feelings of sympathy or similarity. Specifically, compared to participants in the control condition, participants in the empathy condition expressed more empathic thoughts in their essays, but no more thoughts of sympathy or similarity. Further, on our scale measures, participants in the empathy condition reported feeling more empathy for the defendant, but they did not report feeling more sympathy for or similarity to the defendant. These results are a noteworthy contribution to the basic social psychological literature on empathy and sympathy.

It is important to note that although the empathy induction affected empathic feelings, guilt judgments, responsibility judgments, and jurors’ belief that abuse was a mitigating factor as we predicted, empathy did not affect jurors’ perceptions of the defendant’s credibility nor their beliefs that the alleged abuse occurred. Thus, jurors can feel empathic and less punitive toward a defendant without necessarily believing the defendant more or less. To gain more insight about this, we inspected the reasons that jurors in the empathy condition gave in response to the open-ended query about the reason for their verdicts. Thirty percent of the jurors in the empathy condition who found the defendant not guilty because of self-defense indicated that they chose that verdict because of the defendant’s past history of abuse and the father’s alcoholism. For example, a juror in the empathy condition wrote, “I believe he [Tim] probably wasn’t in ‘immediate danger,’ but the acts his father had committed in the past justify a not guilty verdict.” Thus, such jurors may have doubted the defendant’s claim of being in imminent danger at the moment of the shooting, but believed that the *past* abuse was a sufficient excuse for killing the father, nullifying the law instructing them to acquit only if the defendant felt she/he was in imminent danger at the exact moment of the killing.

We predicted that jurors in the empathy condition would see the world from

the defendant's perspective and, in turn, be more likely to attribute the cause of the murder to situational factors (the abuse) than to dispositional factors (the defendant's tendencies) and vote more leniently. Even though the only direct attributional measure affected by the empathy manipulation was the situational attribution item for jurors evaluating the girl defendant, there was other evidence for the attributional process we predicted. Specifically, the empathy induction affected verdicts, which were defined in terms of situational versus dispositional attributions for the defendant's actions. That is, not-guilty verdicts are by law supposed to be rendered when a juror believes that a defendant's actions are caused, in part, by the situation. In fact, jurors in the empathy condition were more likely than those in the control conditions to render not-guilty verdicts than guilty verdicts. Further, empathic jurors were also more likely to indicate that they considered abuse to be a mitigating factor in the case.

### **Juror and Defendant Gender**

As predicted, there were a number of main effects associated with juror gender. Compared to men, women were more lenient in their verdicts and considered the defendant more credible and less responsible for the murder. Women were also more likely to believe that sexual abuse occurred and that the defendant was in danger at the time of the killing. These results are consistent with findings from a growing number of studies examining judgments in child sexual abuse cases (e.g., Bottoms, 1993; Bottoms & Goodman, 1994; Golding et al., 1997; Schmidt & Brigham, 1996). Contrary to hypotheses, however, women were no more likely than men to believe that the abuse was a mitigating factor. As discussed above, we believe this reflects men's and women's equal skepticism about abuse on the night of the killing, but a tendency for women to be more likely than men to feel that abuse had occurred previously and was serious enough to warrant a lenient verdict.

Our study makes a unique contribution to the literature on gender differences in reactions to sexual assault allegations: We provide the first evidence that women are more pro-abuse victim than men even when the abuse victim is accused of murder. This is similar to effects of juror gender found in research investigating jurors' reactions to cases in which battered women kill their abusive husbands: Women find the defendant less responsible (Schuller et al., 1994) and less guilty (Schuller & Hastings, 1996) than men do. In both types of cases, the defendant claims self-defense against severe abuse. Women appear to be more likely than men to believe that chronic abuse (either against children or against romantic partners) is serious enough to justify the use of deadly force in self-defense. Among other things, this surely reflects the large difference in rates of sexual abuse and spousal battering victimization among women and men in our society, and women's internalization of their differential vulnerability and all its implications.

We also manipulated defendant gender in our study. Although the effects of this variable were not pervasive, we demonstrated for the first time in the scientific literature that, overall, jurors were more likely to believe that a girl victim was sexually abused than a boy victim. This is consistent with research illustrating cultural biases against boy victims (Finkelhor, 1984; Rogers & Terry, 1984). Previous

studies have found no effect at all (Bottoms & Goodman, 1994; O'Donohue, Elliott, Nickerson, & Valentine, 1992) or interactions between juror gender and child victim gender (e.g., Broussard & Wagner, 1988; Quas, Bottoms, Haegerich, & Nysse, 1999). Defendant gender also affected dispositional attributions for the killing. Specifically, the boy defendant was considered to have been more likely than the girl defendant to have killed his father because the boy was a bad person. The girl defendant was perceived as less likely to have killed because of such an inherent disposition. There was also an unexpected significant interaction between empathy condition and defendant gender on our direct measure of situational attributions. Specifically, the empathy induction did not affect attributions about the boy defendant's behavior, but jurors in the empathy condition were more likely than jurors in the control condition to attribute the girl's actions to the situation. This may reflect the commonly held stereotype that females are more intensely emotional than males are (Robinson & Johnson, 1997) as well as the belief that boys are not as harmed by sexual abuse as girls are (Eisenberg, Owens, & Dewey, 1987; Finkelhor, 1984). That is, jurors may have felt that Tracie was more emotionally affected by the abuse than Tim was, which may have led jurors to attribute Tracie's (but not Tim's) motivation to the trauma of abuse. There were no other effects associated with defendant gender—the biases we uncovered were not strong enough to influence guilt judgments, responsibility judgments, or other abuse beliefs.

Finally, note that we found little support for similarity-leniency biases in judgments (e.g., Kerr et al., 1995) or for a competing male antihomosexuality bias (that men would react more negatively to male-perpetrated abuse of boys than to male-perpetrated abuse of girls). Jurors' similarity scale ratings indicate that women jurors felt no more similar to the girl defendant than to the boy defendant, and men jurors felt no more similar to the boy defendant than to the girl defendant. Further, men were no more lenient toward the boy defendant than the girl defendant in terms of verdicts, and women jurors were no more lenient toward the girl defendant than the boy defendant. However, one finding is potentially consistent with the similarity-leniency bias: As discussed above, men in the empathy condition reported feeling more empathy and sympathy for the boy defendant than for the girl defendant. More research is needed before we can understand the significance of that finding.

### IMPLICATIONS, CAVEATS, AND CONCLUSIONS

Our research makes a significant contribution to the social psychological literature on empathy by enhancing our understanding of (a) the methods by which one can elicit empathy in individuals, (b) the effects of empathy on social behavior, and (c) the distinctions among empathy, sympathy, and similarity. The research also makes contributions to the literature on juror decision making, particularly juror decision making in murder cases in which the defense theory is linked to claims of child sexual abuse. Our findings imply that, as attorneys have intuitively suspected, jurors' case judgments are influenced by empathy, that empathy can be induced during the course of a trial through appropriate empathy induction techniques, and

that empathy can influence beliefs that a defendant's past abuse can mitigate an act of murder.

We took care to design our study in a manner that would make generalizations to the legal arena possible. For example, the ecological validity of our study is increased by our use of a transcript from an actual trial rather than artificial stimuli such as a brief summary of a fabricated case, or slide or film presentations of mock trials in which actors pose as trial participants, which can appear contrived. Thus, attorneys' opening and closing statements and all witnesses' testimony were realistic. We also used the actual jury instructions that would be used in such a case in the state of Illinois (yet we did have to modify these instructions to make them comprehensible, a detail that is interesting itself apart from the central aspects of this study). We assured that our mock jurors were over the age of 18, U.S. citizens, and ethnically diverse, as an actual jury pool would be. We took care to impress upon our mock jurors the seriousness of the research, and our observations confirmed that our participants were very engaged in the task and interested in the case.

Even so, there are always reasons to be cautious in generalizing the results of laboratory research to actual cases. Our jurors knew their judgments would not have an impact on a defendant's life. Further, our jurors did not view the case unfolding live before them: They read a transcript, thus removing them somewhat from the drama and realism of the case. Nonetheless, research has revealed little difference between mock jurors' decisions in reaction to written scenarios involving child witnesses versus more elaborate videotaped testimony (e.g., Goodman, Golding, & Haith, 1984; Goodman, Golding, Helgeson, Haith, & Michelli, 1987). Further, using videotaped trial stimuli to examine the effects of defendant gender could have costly tradeoffs. That is, boy and girl actors on such videotapes would differ in many aspects other than strictly gender. Differences in the defendants' appearance, attractiveness, action, etc., would be difficult to control. Written scenario methodology allows us to have the experimental control necessary to draw cause and effect conclusions about our gender variable before moving on to more elaborately staged research investigating the pattern of results found here.

We also did not ask the mock jurors to deliberate before reaching a verdict. Decisions made by individual jurors might not mirror decisions made by a jury in the same case (Diamond, 1997; Weiten & Diamond, 1979). Group discussion might serve to dampen jurors' extralegal biases, or, through a process of attitude polarization (e.g., Levine & Moreland, 1998), deliberation might actually augment empathic predeliberation tendencies. Also, although our sample was more ethnically diverse and older than many college freshman samples, our jurors were university undergraduates who may not render the same decisions as community jurors. Even so, a recent meta-analysis by Bornstein (1999) reveals few differences in the mock-trial judgments of undergraduates and community members (see also Cutler, Penrod, & Dexter, 1990; Isquith, 1988; Lind & Walker, 1979). Nevertheless, it would be advisable to replicate this study with community-member participants.

Finally, essay writing would not be used by attorneys in actual cases to manipulate empathy. It was done so in this case to assure that the empathy induction was salient to mock jurors. Essay writing should not be necessary in a real trial setting

in which the impact of an attorney's empathy induction statements will be enhanced by the impact of the real courtroom environment. Even though the essay writing may be viewed as artificial, we needed to ensure that the empathy manipulation was successful so that the psychological theory about empathy could be tested. Future research should involve mock jurors evaluating a case in which the empathy induction is delivered solely by the attorneys to enhance the ecological validity of the research.

In summary, exploring the effect of variables on jurors' decisions in a laboratory setting represents an important first step in a line of research designed to examine juror decision making (Diamond, 1997), but only the first step. The next step will be to determine the degree to which these findings generalize in more realistic settings.

As we have shown, parricide cases and other cases involving abuse allegations involve a number of complex, psychologically interesting issues that can be examined experimentally, producing results of significance to the basic psychological literature as well as results that can inform the legal system about issues of applied significance. Future research should continue to explore factors that affect decisions in such cases. For example, we were successful in inducing empathy for a defendant in a patricide case. Would it be possible to have jurors take the emotional and cognitive perspective of an abuser (in this case, the murdered father)? If so, would the defense attorney's attempts to induce empathy for the defendant be neutralized by the prosecutor's attempts to induce empathy for the murder victim? In the actual trial, the prosecutor did not try very hard to encourage empathy for the father (in our estimation) and even acknowledged that although the father didn't deserve to be killed, he may have been the "meanest, baddest, son-of-a-bitch in town." Was this an irresponsible or realistic defense? We suspect it would be quite difficult to induce empathy for victims and defendants involved in some types of crimes, a suspicion that could easily be explored in future research. To address an issue of basic theoretical interest, further research might also be aimed at determining whether cognitive and affective components of empathy have differential impacts on behavior. Other research might examine potential mediators of the effect of empathy. That is, by demonstrating empirically the effect of empathy on judgments, we have taken the necessary first step in investigating attorneys' intuitions about their ability to induce empathy in jurors and about the effect of empathy on judgments, but future work should also examine the psychological processes underlying the effect of empathy.

In conclusion, jurors' biases—either preexisting biases or those induced by trial circumstances—may overshadow what little hard evidence is presented in cases involving child sexual abuse allegations and threaten the integrity of the judicial system by hindering fair, impartial trials for defendants and victims. As a framework for understanding biases in decision making in cases involving child sexual abuse allegations, the present discussion has considered gender and empathy as determinants of perceptions, evaluations, and case judgments. Findings of such research may eventually lead to a more educated courtroom, one where fact finders are aware of potential biases and ways to avoid biases when making consequential judgments.

## APPENDIX OPENING AND CLOSING STATEMENTS OF THE DEFENSE ATTORNEY

The opening and closing statements of the defense attorney are detailed below. Participants in the empathy condition read the arguments as presented below. Participants in the control condition read the same arguments, but without the sections marked in bold.

### Defense Attorney's Opening Statement

This is the part where we get to tell you what the truth is. You will hear from many sources that physical and emotional abuse was a long-standing thing in the English home. Bill would drink heavily and threaten to abuse people, keeping them in fear for their safety on a regular basis. Tracie will tell you that on three or four occasions he sexually abused her, with the abuse ranging from fondling her to getting her down and trying to get into her panties, even asking her to perform oral sex on him. All Tracie could do is run away and wait until it died down to come back home. What kept this cycle going is that Bill would promise, "This is not going to be like that anymore, Tracie. Things are going to change." Bill would make her think it was her fault and she would always come back and it would always turn out the same way.

Well, on July 1, 1996, it did not turn out the same way. As usual, Bill came in drinking and pitched his usual fit. Tracie left him alone and went to her room. Then Dad came into her room and tried to force himself on her. They got into a struggle. Bill English grabbed her by the hair and pulled her into his bedroom. Tracie found one of Bill's guns during the struggle and squeezed off one shot, striking him, and knocked him back on his bed. She didn't see any blood, she didn't know what happened. She ran next door to Mr. Schneider's house, hysterical, screaming and crying. Mr. Schneider took Tracie to her mother's house. Tracie's mother will tell you that when she got there Tracie was still hysterical. The only thing Tracie knows is that when she resisted her father that night, he came at her in such a way that she was convinced that she would suffer serious physical injury or death.

At this point the police were called. Tracie will tell you that she doesn't remember much about her conversation with Detective Burbrink. It took a month for her to even remember what happened.

Tracie is the only witness to this incident. What determines this case is whether or not you believe Tracie's testimony about what happened. It will be powerful. It will probably be upsetting to you. But this little girl is going to have to tell you what happened. She'll tell you that the sexual abuse had been going on for a while.

**Now, imagine if this were you in this situation. Put yourself in Tracie English's adolescent shoes and try hard to really think about how you would be *feeling* and *thinking* in her situation. Think long and hard about how you would react. Your alcoholic father repeatedly sexually and physically abused you, constantly manipulated your feelings, making you feel guilty if you ever tried to leave home. You had tried to leave on numerous occasions, but couldn't because you always thought the abuse was your fault. Now imagine that your father is chasing you down the**

hall, to abuse you once again. You fear being raped. You fear being killed, because your father is angrier and more aggressive than usual. You have been abused throughout life, you feel constantly in danger, you feel helpless, and the only way to get away is to kill this abusive, alcoholic monster. You are in a struggle, you reach up to try and get away, and there is a gun. A gun right in your hand. Now I ask you ladies and gentlemen of the jury, how would you have been thinking and feeling if this was *you*? What would your reaction have been?

I hope that after you hear Tracie's testimony you will be sure that she was forced to defend herself from either serious physical injury or death while defending herself from rape from her father. I hope you'll find that this shooting was justified as self-defense, and that you will acquit her of all charges. **You will acquit her especially after you imagine yourself in this situation. I am sure that you would understand if you emotionally and thoughtfully put yourself in Tracie's shoes.** Thank you.

### Defense Attorney's Closing Argument

You heard Tracie's testimony. She told you that for the last couple of years her father had taken sexual liberties with her. Rubbing her breasts, going down into her pants, these things have happened repeatedly. She also tells you that it was nothing for him to threaten to kill her. This happened twenty, thirty times.

But she also tells you that on July 1, 1996 everything went to a new level. Her father came in screaming and hollering. She didn't want any part of it. She went into her room and the man came in and started rubbing on her, threw her to the floor, started rubbing on her breasts, going down inside of her pants. She tried to escape, but he caught her at the back door. She couldn't get out. He then dragged his daughter into his bedroom by her hair. A struggle occurred and in the struggle, she took one shot, hit him, and we have this case today.

You can see, I hope, through her mother's testimony how bad Tracie's life was. Her mother pretty much left her to do what she wanted to do. Her father physically abused all the family members except her half sister.

Tracie had an alcoholic, abusive father that she just kept going back to, but the man never changed. She always thought he would change.

You have to understand about sexual abuse that it's a crime that nobody sees—nobody takes their kids in the front yard or the fairgrounds and sexually abuses them. It always happens behind closed doors. There's no witness. And it just keeps on happening.

**Now, try and imagine what Tracie was thinking and feeling the night of Bill's death. Better yet, imagine that you are Tracie English and reflect on what you are thinking and feeling. You are in a hopeless situation. You have been sexually abused your whole life by an alcoholic father, who has manipulated your feelings again and again. He is becoming more and more abusive. And then, your father is out of control. He is screaming at you and pulling you down the hall by your hair, all in an attempt to molest you. You think, "Is this ever going to end?" You know he is going to rape you. You feel that your life is at stake if you resist. You start to**



**struggle, your heart is beating, your mind is racing, and all of a sudden. . . a gun. And in a rush of panic you grab the weapon and end your suffering.**

You promised that you would uphold the law just as vigorously by delivering a verdict of “not guilty” as you would delivering a verdict “guilty” if the evidence indicates it. There is a privilege to use deadly force in self defense if one is under the immediate threat of serious physical injury, death, or rape. When you look at the evidence I hope you’re going to decide that the facts indicate that this young girl was in danger of rape or serious physical injury or death and you will acquit her of all charges. **You will acquit her especially after you imagine yourself in this situation. I am sure that you would understand if you emotionally and thoughtfully put yourself in Tracie’s shoes.** Thank you.

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