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**The Effects of Abuse Imminence
and Judicial Instructions
on Mock Jury Verdicts**

**by
Cheryl A. Terrance**

**A thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfilment of
the requirements for the degree of
Master of Arts
Department of Psychology
Carleton University**

**Ottawa, Ontario
May, 1993
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**"THE EFFECTS OF ABUSE IMMINENCE AND
JUDICIAL INSTRUCTIONS ON MOCK
JURY VERDICTS"**

Submitted by Cheryl A. Terrance, B.A.
in partial fulfilment of the requirements for
the degree of Master of Arts

Thesis Supervisor

Chair, Department of Psychology

Carleton University
May, 1993

Abstract

Mock jurors ($N=249$), viewed a simulated trial involving a woman charged with the murder of her abusive spouse, and deliberated in groups to a verdict. In each condition, the defendant pled not-guilty by reason of self-defense. Jurors were instructed by the judge to employ either an objective test or subjective test regarding the reasonableness of the defendant's actions. Within objective/subjective instruction conditions, half of the juries viewed a case in which the woman killed her husband while he was attacking her (confrontational), and the remaining half viewed a case in which she killed him while he was asleep (non-confrontational). Juries in the subjective conditions returned significantly more not-guilty verdicts than jurors in the objective conditions. At the individual juror level, subjects hearing subjective instructions returned significantly more not-guilty verdicts than jurors given objective instructions when the abuse was non-confrontational.

Acknowledgements

The author is indebted to Dr. Nicholas Spanos for his constant and enthusiastic supervision. Grateful acknowledgement is also made to Sue DuBreuil whose support and helpful comments contributed immeasurably to this thesis. Finally, I am especially grateful to my parents and Neil Wade for their support and computer expertise.

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Violence directed against women by intimate partners has been identified in the last two decades as a serious social problem (MacLeod,1987). Until recently, wife battering was considered to be a private and personal problem existing between spouses within the confines of the home. Consequently, the extent of such violence was not known, nor was it of major concern. Hence, Martin (1983), noted that while it was almost impossible to establish the exact prevalence of wife beating in the country, enough research has been done to ascertain that wife battering is a problem which has been largely ignored.

The relatively recent attention that the field of wife abuse has received from both public and professional spheres can be largely attributed to the women's movement (Gillespie,1989; Walker,1989). Researchers within the social sciences have also played a critical role in identifying and documenting the extent and nature of wife abuse. Despite this growing interest however, investigations into this field have produced findings which remain equivocal and controversial. This field of research has relied almost exclusively on clinical observations, qualitative interview studies, and anecdotal accounts of wife abuse (Gondolf & Fisher,1988). While information generated from such research may be valid, caution must be exercised before conclusions are drawn from the findings of such studies.

The field of wife abuse is admittedly a highly emotional and sensitive one, and thus is particularly susceptible to researcher bias in the form of sympathy for the victims. Variations in political motives, definitions and research methodology also pose a threat to the validity of much of the empirical research that is currently available. Indeed, a

number of researchers have criticized the lack of 'objectivity' and scientific credibility of much of the research into wife abuse (eg., Pachella,1988). A critical evaluation of research assessing wife abuse is crucial if reliable and valid data are to develop.

Defining the terms wife assault, battering, abuse and violence has been a subject of controversy in the literature. While terms such as 'domestic/family violence' have been used to describe violence which takes place between men, women and children within the home, feminists have rejected such gender-neutral terms in favor of terms such as wife beating/battering/assault (Walker,1990). Feminists contend that the situation of battered women is distinct and necessarily different from that of children and men. Furthermore, feminists contend that the use of gender-neutral terms such as 'spousal abuse', mistakenly implies that violence is equally distributed among men and women. Whether such an assertion is indeed valid however, remains controversial (Straus, Gelles & Steinmetz,1980). Nevertheless, while husband battering and child abuse are worthy topics of attention, they can, and must be viewed as distinct from wife battering. As such, they will not be specifically reviewed in this paper.

Some definitions of domestic violence have focused solely on the physical assaultive act. For instance, Gayford (1975), defined a battered wife as one who has been subjected to intentional, demonstrable, severe and repeated physical injury. Similarly, Deschner (1984), defined battering as a repeated pattern of physically injurious attacks on intimates or family members. While both definitions have the advantage of precision, such definitions have been criticized for failing to identify the more pervasive aspects of a battering relationship (MacLeod,1980; Martin,1983; Walker,1984).

Alternatively, Walker (1984), defined a battered woman as one "who is repeatedly subjected to any forceful physical or psychological behavior by a man in order to coerce her to do something he wants her to do without any concern for her rights" (p.xv). Such a definition, validates wife battering as a serious form of violence, distinct from other forms of family violence, such as child or husband abuse. The exclusion of terms such as 'spouse' from Walker's definition, takes into account women in dating, common law, divorced and separated relationships. Furthermore, this definition reflects a growing awareness that wife abuse involves not only physical acts of violence. While this definition will be employed in this paper, it is recognized that such a definition is also subject to criticism. For instance, Walker's (1984) definition has been criticized in failing to provide parameters for either the duration or severity of abuse which are both crucial in 'objectively' defining what constitutes a battering (Faignman, 1986).

A number of major theories have been proposed to assess the reasons why women stay with men who batter them. Two theories will be specifically examined in this paper; Walker's learning theory explanation, and a feminist perspective on wife battering. Such theories become important in shaping perceptions and beliefs regarding wife battering by revealing and confronting misconceptions regarding the woman's role in a battering relationship.

This paper will first examine the literature concerning the pervasiveness and severity of battering, a feminist perspective and Walker's learning theory explanation of wife battering. Next, the legal defenses currently available to battered women who have killed their abusers, with an emphasis on the self-defense plea, and the impact of expert

witness testimony in such cases will be discussed. Finally, an experiment will be presented which examined the likelihood of acquittal of a woman charged with the second degree murder of her abuser, utilizing the legal doctrine of self-defense.

Prevalence and Severity of Abuse

While considerable effort has been directed toward determining the frequency and severity of wife abuse, accurate occurrence rates have been difficult to obtain (Martin,1983). Because wife abuse takes place within the confines of the home, there has been a general unawareness by both professionals and the public, of the extent of the situation. Official data, such as that derived from police reports and emergency hospital files, have often, for a variety of reasons, resulted in biased, unrepresentative figures (Martin,1983; Pagelow,1984; Walker,1984).

Regardless of the source, under-reporting of wife abuse has been a major barrier in obtaining accurate estimates of this phenomenon. For instance, it has been estimated that only 14-66% of wife assaults have been reported to police authorities (Dutton,1988; MacLeod,1980). Embarrassment, shame, fear of reprisal by partners and self-blame are only a few of the suggested reasons contributing to a woman's decision not to report to the authorities (Dutton,1988; MacLeod,1987; Walker,1984). Furthermore, a battered woman may perceive a particular battering incident as isolated or too trivial to mention (Walker,1984).

Authorities have also contributed to the under-estimation of the incidence of wife abuse. Hospital authorities for instance, in treating abused wives, have often disregarded the source of the injuries (Stark, Flitcraft & Frazier,1979). Furthermore, while some

doctors may recognize the cause, they have frequently reported the source of the injury as an 'accident' or of 'unknown origin' (Dobash & Dobash,1979).

Estimates derived from police reports, suggest that less than 1% of couples engage in violence. Taking the potential for under-reporting on the part of the victim however, such an estimate is most likely misleading. Furthermore, when wife battering is reported as such, police have traditionally classified such incidents under the more general categories of domestic disturbances and assaults (Okun,1986). Likewise, even if they respond to a wife battering incident, the police may feel the situation is under control, and hence no report of the incident is filed (Martin,1983).

Police reports and hospital records therefore, are likely to underestimate the actual frequency of wife abuse. As a result of the problems associated with such official sources of data, unofficial sources, based on representative sample surveys, may provide better estimates of the actual incidence of wife abuse. Nevertheless, problems are also associated with such data collecting methods.

The most common measure of physical violence in both Canada and the U.S., is the Conflict Tactics Scale (CTS) (Dutton,1988; Gelles & Straus,1986). This quantitative measure consists of 18 items, categorized on a continuum from least to most severe violent behaviors. The first ten items describe non-violent behaviors, and the final 8 items describe violent behaviors. The last 4 items, considered to be a measure of severe physical violence include, being kicked, bit or hit with a fist, threatened with a knife or gun, and used a knife or gun. Subjects are asked to indicate which, if any of the items were employed in handling interpersonal conflict within the previous year of their relationship.

Though the CTS has been considered to be a valid and reliable measure of wife abuse, (Straus et al.,1980), this measure has not been without criticism (Martin,1983; Okun,1986; Walker,1984). Criticism has been directed toward the ranking of the items. For example, the CTS ranks physical assaults as worse than psychological abuse (Okun,1986). In disagreement with this ranking, Walker (1984), noted that many of her subjects reported incidents of psychological abuse as being far worse than any physical assault that they had previously been subject to. Despite the criticism directed at the CTS, the data elicited by this measure remains one of the best available indicators of the incidence and prevalence of wife abuse (Dutton,1988).

Data obtained from a representative sample survey of 2,146 families utilizing the CTS, indicated that approximately 28% of the couples reported resorting to some form of physical violence (Gelles & Straus,1988). Comparable results were reported from a survey of spousal violence against women in the state of Kentucky that interviewed 1,793 women (Schulman,1979). Having also relied on the CTS, the findings indicated that 21% of the women interviewed, had allegedly been physically assaulted by their intimate partners.

Data gathered from a variety of other sources, are also helpful in estimating the frequency of wife abuse. MacLeod (1980), estimated that 1 in 10 Canadian women are assaulted by their male partners at least once during the course of their relationships. In Saskatchewan, McGillivray (1987), found that 4 in 10 women reported being physically abused by their partners. There is evidence to suggest that rates of wife assault may be even higher for specific ethnic groups. For instance, in Saskatchewan,

it was found that 7 out of 10 native women reported being abused (McGillivray,1987).

The severity of wife abuse has also been difficult to accurately determine. The most widely relied upon index of severity has been the CTS. Data gathered with this scale indicates that between 3-5% of intimate partners engage in severe violent behavior (Gelles & Straus,1988). In the Kentucky survey (Schulman,1979), 15% of 1,793 women interviewed, reported requiring medical attention for physical assaults against them by intimate partners. Other surveys provide comparable results. The Canadian Urban Victimization Survey (1985), reported that 27% of battered women required medical attention, with 53.2% of this group requiring emergency services. The lack of consistent definitions of battering relied upon by various studies may however, result in misleading conclusions.

Documenting the seriousness of physical injury is susceptible to the same problems that make it difficult to obtain valid data on the frequency of wife abuse. These problems include under-reporting by victims and authorities, misattributing causes of injuries and varying definitions of 'seriousness'. The most reliable data available are homicide statistics. MacLeod (1987) for instance, reported that in Canada, 15% of all homicides involved husbands killing their partners. Police records also reveal the potential seriousness of domestic dispute incidents. Seventy-five percent of all police injuries, including death, occurred while police were responding to domestic dispute calls (McGillivray,1987). While accurate estimates have been difficult to obtain, existing evidence supports the contention that wife assault is a social problem with potential serious consequences.

Feminist Perspective

A feminist model explains wife beating as resulting from sexist values and attitudes that accompany gender inequality (Russell,1976). Rather than focusing on innate biological abnormalities, personality or mental health problems of the woman or batterer, feminists have addressed the values and structure of male-dominated societies that permit, and thus sustain, crimes against women (Martin,1983). Central to a feminist analysis of wife abuse therefore, is the subordination of women to men.

Wife battering is viewed within the broader context of male domination whereby patriarchal ideology and institutions have allowed men to use force as an instrument of control (Dobash & Dobash,1979). Feminist thinkers have maintained that violence against women is a product of the traditional sex-roles associated with patriarchy which have placed the male into a role of dominance/power and the female into a role of submission/powerlessness (Adams,1985; Martin,1983).

From a feminist perspective, it is important to analyze the historical conditions in which the acceptance of wife abuse evolved. Dobash and Dobash (1979), have traced the continuing presence in law of a husband's right and duty to punish his wife's transgressions with physical force. The British doctrine of 'coverture' held that a wife and husband were a single entity at law, with the husband being the 'entity'. Such a designation held the man responsible for his wife's actions, and hence, entitled him to discipline his wife in order to ensure that she would behave. The only protection for the wife against her husband's disciplinary actions were some statutes passed to limit the extent of the discipline. The infamous 'rule of thumb', which forbade the husband using

a stick thicker than his thumb when beating his wife, was introduced as a compassionate measure for the protection of wives.

According to feminist scholars, the legacy of such thinking has influenced current attitudes concerning the status of women in the family unit (Dobash & Dobash, 1979; Martin, 1983). As Martin noted (1983), the concepts of masculinity and femininity which have defined the roles and expectations of men and women, developed from the historical roots of the patriarchal nuclear family, not from biological realities.

Thus, from a feminist perspective, it has been asserted that men have been trained and reinforced by the patriarchal structure to be violent. Women then, become restricted and limited in their actions because of their fear of men's violence (Martin, 1983). Consequently, men have been able to maintain their position of power over women. The feminist claim then, is twofold: society is patriarchal and the use of violence by men to maintain patriarchy has been acceptable.

Police and criminal justice system inaction are often cited as evidence that male violence against women is tolerated. The reluctance of police officers' to arrest an abuser and thus as feminists claim, directly sanction the behavior of the perpetrator, is revealed in low arrest rates. In a study of 400 shelter women, Pagelow (1984), reported that as many as 61% of the requests of arrest were refused. Similarly, data collected from states with mandatory arrest laws, revealed less than a 40% arrest rate. Some evidence suggests that arrest is an effective deterrent and thus decisions not to arrest may indirectly support a batterers' decision to maintain his behavior (Sherman & Berk, 1984). Nevertheless, such evidence is subject to criticism. The argument that police action in

wife abuse situations is solely influenced by patriarchal attitudes is rather simplistic. Indeed, findings suggest that police engage in a complex process of handling such cases which is influenced by a number of variables (Black,1980).

Although the criminal justice system has been described by some as reluctant to prosecute wife abuse cases, support for this contention is not strong. Indeed, a study by Levens and Dutton (1980), revealed that the criminal justice system's response to wife assault was no less aggressive than for other crimes. Furthermore, a large portion of the prosecutorial reluctance that does occur, has been attributed to the high numbers of battered women who have willingly dropped out of the criminal justice system procedure (Sheehy,1987). Neglected in such an explanation however, are such factors as a woman's financial situation and the fear of retaliation by an abuser, which may influence a woman's decision to drop criminal charges (Walker,1984).

That society, as a patriarchal unit justifies male violence against women remains dubious. A survey by Stark and McEvoy (1970), reported that 24% of men and 17% of women approved of a man hitting his wife under 'appropriate' circumstances. This finding however does not prove that a cultural norm for beating wives exists within society. Indeed, based on Stark and McEvoy's survey, the majority of men and women do not endorse slapping as an appropriate behavior under any circumstances. Furthermore, because the survey did not define the term 'appropriate', interpretations of the findings remain ambiguous.

From a feminist perspective, wife battering is not a consequence of innate factors on the part of men or women. Rather, wife battering is viewed within the context of

male domination. Indeed, feminist writers contend that it is the norms of a patriarchal culture which influences the attitudes of males in such a way as to justify violence towards women. As such, a feminist analysis may be valuable in identifying societal dynamics which permit or support the use of violence against women. Nevertheless, such an analysis, taken on its own, has been criticized as lacking empirical underpinnings. Indeed, the strong activist perspective inherent in feminist writings has been challenged as bringing into question the scientific credibility of these writings.

Learning Theory Explanation

Lenore Walker (1979), has formulated a theoretical model called the Battered Woman Syndrome which postulates a cyclical and escalating cycle of wife abuse, to explain why women remain in abusive situations and why they sometimes resort to violence to end abusive relationships. The Battered Woman Syndrome (BWS), as described by Walker, puts forth two major theoretical constructs - learned helplessness and the cycle theory of violence.

Walker's (1979) theoretical concept of "learned helplessness", was drawn from the work of Seligman and Maier (1976). Seligman and Maier (1976), observed that animals, after being subjected to intermittent and unavoidable schedules of shock, no longer attempted to escape from their cages even when a route to do so was provided.

The apparent similarities between Seligman's and Maier's learned helplessness hypothesis and the behavior of battered women, led Walker (1979), to adapt the theory in order to explain the apparent passivity of women in abusive situations Walker (1979), postulated that the unpredictability of repeated beatings leave women with the feeling that

they have no control over what will happen to them. Thus, similar to the laboratory animals experiencing repeated, unpredictable shocks from which there was no apparent escape, battered women eventually learn that they are helpless to prevent future violent attacks (Gelles and Cornell,1990).

The belief that death may be their only option, has been suggested by data obtained at emergency services which indicate that 1 in 4 female suicide attempts were carried out by women in battering relationships (Browne,1987). Whether these women did however attempt suicide as a direct result of being battered remains speculative. Other self-destructive coping devices, such as alcoholism and drug abuse, have also been reported in battered women as a means of dealing with the violence (Johnson,1986). Another reportedly common coping response by battered women is their minimization of the violence to which they were subjected, and their subsequent anger felt in reaction to it (Walker,1984).

The second component comprising the BWS, as postulated by Walker is the cycle theory of violence. This proposition is a tension reduction hypothesis which maintains that incidents of wife abuse occur in a patterned, repetitive manner. This three step cycle is composed of 1) tension building, 2) acute battering incident and, 3) kindness and contrite behavior (Walker,1979).

The first phase, is characterized by minor physical and verbal abuse perpetrated by the abuser resulting in tension build up. The second phase, the acute battering incident, results from the growing and unresolved tension build up from the first phase. Phase two is characterized by verbal and physical aggression that can leave the woman

physically injured. This phase is ended when the batterer stops, bringing with its termination a sharp psychological reduction in tension (Walker 1984).

The final phase helps explain why many women remain in such violent situations. The behavior of the batterer in this stage is characterized by apologies, showing kindness and remorse, and promises that he will never be violent again. Walker's (1984) results suggest that as long as violence is absent in phase 3, this phase can be reinforcing for the woman.

As the cycle is repeated, the level of violence and psychological abuse escalates. Over time, phase three may be either curtailed or completely omitted. Such a cycle of violence, establishes an intermittent reinforcement schedule which is crucial to the battering relationship (Walker,1984).

There are however a number of criticisms directed at Walker's proposed battered woman syndrome. The label "syndrome" has been objected to by feminist thinkers as it implies pathological deficiencies on the part of the woman. Sheehy (1987), for example, suggested that there is a risk of women's responses to domestic violence being trivialized or controlled by the medical characterization of the causes and "symptoms" of BWS. Thus, the BWS risks being identified as a mental illness. Furthermore, evidence concerning the BWS may be construed in such a way that other mitigating factors which justify the aggressive conduct of a woman are not considered legitimate unless she conforms to the characteristics set forth by the BWS (Sheehy,1987).

Criticism has also been directed towards Walker's use of the term 'learned helplessness', in that it mistakenly implies passivity on the part of battered women.

Gondolf and Fisher (1988) for instance, postulate that the learned helplessness label serves only to promote victim blaming. They submit that battered women labelled in this way risk being viewed as passive masochistic recipients of abuse. Supportive of Gondolf and Fishers's assertion, are the specialized counselling interventions available to battered women. Such interventions are usually victim blaming in the sense that they teach the women how to end the violence. These strategies, focusing solely on the battered woman, are aimed at building self-esteem, assertion, and reducing feelings of inadequacy (Gondolf & Fisher,1988).

Research findings have contradicted the suggestion that the behaviors of battered women are passive (Gondolf & Fisher,1988; MacLeod,1987). For example, Gondolf and Fisher (1988), noted that the abused women in Walker's sample (1979), were actively seeking outside help as the violence escalated and hence were not, as Walker suggested, passive. Indeed, the findings of several studies support the fact that battered women have been in contact with a variety of social service agencies. For instance, in Pagelow's (1984) study of shelter residents, it was reported that sometime during the course of the battering relationship, 55% of the women had contacted police, 44% contacted legal agents, 28% contacted psychiatrists or psychologists, 22% contacted the clergy and 15% contacted marriage counsellors. These findings bring into question the appropriateness of the learned helplessness label.

Gondolf and Fisher (1988) proposed a survivor theory, in which the passivity witnessed in abused women was not a result of impairment, but rather was caused by a deficiency in outside resources. This hypothesis is supported by investigations into the

response of the criminal justice system to wife assault. While a number of battered women have actively sought out police support, arrests are uncommon. For example, according to Pagelow's (1984) study of 400 shelter women, as many as 61% of the requests for arrest of the perpetrator were refused. Reluctance to arrest the abuser however, may be related, at least in part, to the fact that battered women often refuse to press charges after their husbands have been arrested (Sheehy, 1987). Nevertheless, this does not change the fact that battered women have actively sought out help.

Criticism has also been directed at the accuracy of Walker's cycle theory of violence. Walker's research design has been criticized as containing a number of methodological and interpretive flaws which brings her conclusions into question. Indeed, close analysis of Walker's research provides little empirical support for her proposed cycle theory of violence.

In testing the cycle theory of violence, Walker relied only upon conclusions drawn from a series of interviews with battered women. While such a method may be valid, the use of leading questions by the interviewers, renders the subjects' responses suspect. Indeed, it has been suggested that responses may have been the result of hypothesis guessing on the part of subjects (Faigman, 1986). Further criticism has been directed toward the interpretation of subjects responses. For instance, Walker derives her evidence of tension building and loving contrition phases from interviewers interpretations of responses, rather than directly from the responses themselves (Faigman, 1986). Such an arrangement therefore makes the research particularly susceptible to experimenter bias.

Although the BWS has been subject to a number of criticisms, the admissibility of such evidence has nevertheless been heavily relied on in cases involving battered women who have killed their battering partners. Introduced by expert witnesses, BWS evidence may play a critical role in the defenses open to women charged with killing their abuser. The efficacy of BWS evidence, will be further reviewed when discussing expert witness testimony.

Expert Witness Testimony

Battered women who kill their batterers, have sought to introduce expert testimony in order to buttress their claims of self-defense. Criteria specifying the admissability of expert witness testimony include: 1) whether the subject matter is beyond the ken of the average juror, 2) the research in the field be advanced or established sufficiently and, 3) the expert witness must possess such expertise (Galliano & Nichols,1988; Gillespie,1989). While such testimony may be critical to a battered woman's defense, there remains much legal controversy about allowing an expert to testify.

Courts, in rejecting such testimony have based their decisions on a number of factors. These include, 1) the belief that the jury was capable of understanding the plight of the battered woman without expert testimony, 2) the syndrome was not sufficiently established within the scientific community, 3) expert testimony interferes with the purpose of the jury which is to decide the guilt or innocence of the defendant. and, 4) the probative value of such testimony is outweighed by its prejudicial impact on the jury (Pachella,1988). This last concern has been raised in situations where expert testimony

is viewed as going beyond relevant prior violent acts that jury should consider (Ewing,1987). Hence, some courts have been concerned that such testimony would in effect put the deceased on trial.

If admitted, the testimony of an expert witness usually consists of describing the battered woman syndrome. Such testimony is not offered in a trial to demonstrate that the batterings so affected the defendant's mental capacity that she could not tell right from wrong (Gillespie,1989). Indeed, the fact that the woman was previously beaten by her spouse does not, taken alone, justify her killing him at a later time (Gillespie,1989). As such, the battered woman syndrome, taken on its own, does not constitute a defense. Rather, the syndrome is offered in a self-defense trial to aid the jury in understanding that given the defendants' past experience, her perception of imminent danger and her subsequent action was indeed reasonable.

Since a large number of battered women kill outside the acute battering incidents, Ewing (1987), noted that expert witness testimony could be especially helpful in such situations. Accordingly, in situations where a juror would not see any threat or danger, an expert witness can help educate how a battering relationship generates different perspectives of danger, imminence, and necessary force. Thus, under such a set of circumstances, expert testimony would help establish how and why the battered woman fits into the traditional self-defense doctrine.

While expert witness testimony may be crucial in demonstrating the reasonableness of the battered woman's actions, it remains unclear how jurors use such testimony in their decision-making. For instance, Ewing (1987), after reviewing forty-

four non-representative cases, found that of twenty-six cases where expert witness testimony was admitted, only one-third of the defendants were acquitted. Consequently, admitting expert witness testimony on the battered woman syndrome does not automatically result in acquittals. Nevertheless, it was also found, that in a portion of the cases that had admitted expert witness testimony, the defendants were convicted of lesser offenses.

Inconsistencies in expert witness testimony has been suggested as influential in a jury's decision to acquit (Ewing, 1987). For instance, testimony offered by an expert witness describing a battered woman's perceptions as distorted because of the abuse previously suffered by them, is then used to demonstrate the reasonableness of the woman's actions. Furthermore, the portrayal of a battered woman as victimized and helpless is at odds with the fact that she had been charged with murder.

Concern has also been expressed regarding reliance on the battered woman syndrome as a defense. The popularity that the BWS has received from the news media creates the impression that women can secure acquittals simply by proving that they were battered women (Sheehy, 1987). Consequently, such cases may inspire public resentment for the 'special treatment' received by such women. Furthermore, as Sheehy (1987) points out, BWS evidence can be interpreted so stringently by the courts that any woman who does not correspond to the 'victim' stereotype, may be undermined in her effort to use BWS evidence to prove self-defense.

Feminist thinkers have also expressed concern with the direction that expert witness testimony is taking. They contend that such testimony sometimes characterizes

the battered woman as so damaged or emotionally disabled by the violence that she is unable to act reasonably (Gillespie,1989). As such, expert witness testimony has been criticized for focusing on the psyche of the defendant, rather than on the circumstances which would aid in explaining the homicide as necessary (Schneider,1989). Indeed, feminists stress the need to see the battered woman's actions as reasonable and warranted.

Defenses Open to Battered Women Who Kill

According to 1985 data, women perpetrate less than 14% of the homicides in Canada (Johnson,1986). Women who commit homicide have almost always done so within the domestic situation. Chimbos (1978), in a study of spousal homicides in Canada, noted that nearly all the women charged with the death of their partners had reportedly been previously beaten by them; thereby, suggesting to Chimbos, that these women killed in self-defense.

Culpable homicide is murder where the person who causes the death of a human being, i) means to cause his/her death or, ii) means to cause him/her bodily harm that he/she knows is likely to cause his/her death, and is reckless whether death ensues or not (S.229 (a), Criminal Code of Canada). In Canada and the United States, the two defenses most widely relied upon following a plea of not-guilty by women charged with homicide of their abusers are, 1) insanity (including automatism) and, 2) self-defense. Each of these pleas will be dealt with in turn.

Insanity

Both the insanity and automatism defenses connote an impaired mental state.

Though the insanity defense has been recently used only by a small percent of women charged with killing their partners, the defense has been more successful than a plea of self-defense (Ewing, 1987). Indeed, prior to the 1980's, battered women who killed their batterers, for the most part relied on defenses that implied an impaired state of mind.

The insanity plea is based on the assumption that while the act was wrong, the mental state of the person renders him/her incapable of appreciating the nature and quality of the act (S.16, Criminal Code of Canada). However, such a defense has been difficult to prove since, in many cases, it was obvious that the woman was perfectly sane (Archer, 1989). Furthermore, until very recently in Canada, a defendant found not guilty by reason of insanity, was committed to a mental institution for an indeterminate amount of time. Consequently, insanity pleas have been reserved as a last resort for cases involving women charged with killing their abuser (Gillespie, 1989).

For a plea of automatism to be entered, the defendant must have been in a state of mind at the time of the crime not conducive to forming the intent required, or able to realize the consequences of the act (Black, 1979). Reports of women suffering memory loss, disorientation, and confusion after the incident tend to legitimize such a plea (Browne, 1987). However, there may be difficulty in establishing to the jury that the woman was in a dissociated state at the time the crime was committed, as that state is transitory. Consequently, similar to insanity cases, she may appear, at the time of her trial, perfectly sane.

Defenses implying an impaired mental state, such as insanity or automatism, have been criticized for a number of reasons. Firstly, jurors have often been skeptical of such

defenses, and thus tend to doubt the credibility of the defendant. In addition, there is evidence to suggest that jurors mistrust psychiatrically based conclusions (Browne,1987); Ewing,1987). Feminist thinkers have maintained that impaired mental state defenses shift the focus toward proving the pathology and mental impairment of the woman, and away from her right to be free from harm inflicted by another person (Browne,1987). Schneider (1989) for instance, has pointed out therefore, that defenses implying an impaired state of mind should be used only after all other possible alternatives have been explored and rejected. Consequently, defenses that legitimize the behavior of the woman have been looked upon more favourably.

Self-Defense

An alternative defense available in such cases, has been a plea of self-defense. Self-defense is premised on the principle that one who was unlawfully attacked by another, should be able to take reasonable steps to defend him/herself (Crocker,1985). The law of self-defense was meant to apply equally to all persons regardless of gender, and on the surface, it does not seem to discriminate (Gillespie,1989). Nevertheless, difficulties have arisen in the application of the self-defense plea to cases involving battered women who have killed their batterers. Such difficulties centre on the fact that the self-defense doctrine has historically been formulated in terms of male experience.

The paradigmatic scenario for which the doctrine of self-defense was designed, was that of two men involved in either an unwarranted assault or fist-fight brawl. The underlying assumptions of self-defense as it developed, were that such an altercation was a one-time violent quarrel between two men who were strangers and were of more or

less equal size and strength (Gillespie,1989).

Feminist thinkers contend that the present day doctrine of self-defense, as it has been currently translated by the courts, has changed little from the time it was developed. Indeed, it has been alleged that current self-defense doctrine continues to reflect a male-centred perspective. Consequently, as will be discussed, many problems arise in attempting to apply traditional self-defense standards to battered women who kill.

A plea of self-defense must meet three conditions in order to be entered. First, evidence surrounding the case must support the plea of self-defense as reasonable. Second, defendants must have perceived themselves to be in imminent danger of death or serious bodily harm, and thirdly, that the defendants used reasonable force in self-defense (S.34, Criminal Code of Canada). Meeting such criteria however, has proved to be a challenge for battered women. Assumptions underlying the doctrine of self-defense have been built upon male perspectives of imminent danger and reasonable force (Gillespie,1989). In addition, what has traditionally been viewed as reasonable has been based upon male standards (Gillespie,1989).

The concept of imminent danger is based on face-to-face violent confrontations involving male adversaries or attacks by strangers (Gillespie,1989). As such, feminists contend that the self-defense doctrine does not take into account the cumulative effects of repeated violence, nor the prediction of violence in the future (Browne,1987). However, research to date reveals that women who have been repeatedly battered by their partners have become sensitized to the signals of impending violence (Walker,1984). Thus, because battered women become responsive to stages of violence

from their batterer, it has been suggested that they may reasonably interpret certain conduct to be indicative of an imminent attack. Further to this, women who have killed their batterers have often done so during a lull in the violence, at a calmer, safer period (Browne,1987; Ewing,1987; Walker,1984). The requirement of imminent danger however, does not cover such a set of circumstances. Rather, 'imminent' has often been defined by the courts to mean 'immediate'. Hence, a battered woman's use of force has often been viewed as unjustified, because she was not in immediate danger when she killed.

Likewise, the criteria of reasonable force does not take into account the disparity in physical size and strength of the woman and batterer. Battered women often have to rely on a lethal weapon for protection against an abuser who often has the advantage in physical size and strength (Walker,1984). The inherent bias of the reasonable force requirement has however been acknowledged in some courts. For instance, the judge noted in the case of the State v. Wanrow that the instructions of reasonable force "...leaves the jury with the impression that the objective standard to be applied is that applicable to an altercation between two men. The impression created - that a 5'4" woman with a cast on one leg and using a crutch must, under law, somehow repel a 6'2" intoxicated man without employing weapons...violates the respondent's right to equal protection under the law" (Jones,1980; p.286). Nevertheless, it should be noted that not all judges find it necessary to draw attention to this biased feature of reasonable force. As such, it has often been left to the 'common-sense' of the jury to draw such conclusions.

Question of Reasonableness and Self-Defense

The ultimate question in a self-defense case, is whether the defendant's belief of danger and her consequent action was indeed reasonable. In other words, in dispute, are the beliefs and perceptions regarding the situation that were reasonable for the defendant to have. Thus, as Gillespie (1989) noted, even if a defendant successfully meets the requirements of imminence and reasonable force, still at issue is whether her belief of imminence and her response was reasonable. In answering this question, courts have traditionally required juries to apply an objective test of what was considered reasonable.

When requiring juries to apply an objective test of reasonableness, jurors are instructed to evaluate the claim of self-defense from the perspective of a reasonable man/person. In other words, the apprehension of danger and the belief that self-defense was necessary, must be reasonable from the perspective of a reasonable man/person. Thus, the defendant's belief that self-defense was necessary must be tested against what an ordinary person would have deemed as reasonable (Gillespie,1989).

What was intended by such an objective perspective, also referred to as the reasonable man/person test, was an objective, universal standard against which everyone's actions could be measured. The guiding principles of an objective perspective are those of equality and individual responsibility so that all persons would be held to the same standards (Crocker,1985). Such a standard would thus, in cases of self-defense, ensure that there was no fluctuating standard against which the defendant would be measured.

While the objective standard of reasonableness has been employed by the majority

of courts in Canada and the U.S., much criticism has been directed toward its applicability in self-defense cases where battered women have killed their batterers. First and foremost, the use of an objective standard has been criticized on the grounds of not specifically addressing the special circumstances surrounding a battered woman's decision to kill her mate (Crocker,1985; Gillespie,1989). Thus, while expert testimony often refers to the history of abuse suffered by a battered woman, the social and economic pressures preventing her from leaving and her fear, such factors are often not acknowledged when asking what a hypothetical person would have done. Consequently, jurors, though provided with expert testimony, may fall prey to stereotypical attitudes toward the battered wife and the circumstances surrounding her actions (Gillespie,1989). Understanding the context in which the woman acted, feminists posit, is essential to appreciating the reasonableness of the defendant's actions (Crocker,1985).

Feminists have also been critical of the formal equality model on which the objective standard has been based. Such a model calls for the elimination of distinctions between the sexes and advances a gender-neutral, strictly identical treatment of men and women (Sheehy,1987). Feminists however, criticize such a model in that it only serves to obscure the social reality and inequalities faced by women. An objective standard, feminists posit, embody male values and hence, a jurors' knowledge of what is 'objective' has been male-defined. As such, it does not allow for the accommodation of women's experiences and perspectives, and thus serves only to further entrench inequality between the sexes (Boyle, Bertrand, Lacerte-Lamontagne & Shamai,1985; Sheehy,1987).

In contrast, a number of feminist and legal scholars have proposed a subjective

standard of reasonableness as being better suited in self-defense cases, particularly those involving battered women who killed their batterers (Gillespie, 1989). Responding to the criticism of an objective standard, the subjective standard allows for an individualized inquiry into the context in which a battered woman acted. As implied by the name, a subjective standard involves an assessment of how the battered woman construed her situation at the time of the incident. Thus, in judging the reasonableness of the defendant's beliefs and actions, jurors are specifically instructed to adopt the defendant's perspective (Gillespie, 1989).

By requiring jurors to make use of a subjective standard, all that is required is that the defendant honestly believed that self-defensive action was necessary. That such a belief on the part of the defendant was unreasonable by an hypothetical, objective person, would not defeat the defendant's claim (Gillespie, 1989). Thus, the defendant's conduct is judged only by what the defendant, given her circumstances, honestly believed was necessary in order to protect herself.

While the subjective standard has been promoted by feminist as valuable, such a standard may, in application, be problematic. Sheehy (1987) for instance, raises the concern that battered women may still be judged on an objective standard if jurors can not fully identify with the defendant. Taking such a concern into consideration however, feminists maintain that such a standard is at least preferable and more applicable to self-defense claims than an objective standard.

Purpose

Self-defense requires a showing of reasonableness in the degree of force used by

the accused and in her assessment of the imminence of the danger. Accordingly, the purpose of this study was to assess the likelihood of acquittal in cases where the defendant pleads not-guilty to the charge of second degree murder by reason of self-defense when a subjective test versus an objective test of reasonableness was applied.

The specific circumstances under which a woman kills her spouse play an important role in determining the outcome of the trial. In the literature, it is clear that women have a greater chance of acquittal when their self-defensive actions took place while an attack by their abuser was underway (Ewing, 1987; Gillespie, 1989). Indeed, Follingstad et al. (1989), reported a main effect for acquittal rates determined by the proximity of the physical attack to the defensive action taken by the battered woman. Accordingly, the situation that was underway at the time of the shooting was manipulated in order to assess its impact on acquittal rates. Thus, in one situation, the defendant had been physically confronted by her batterer at the time the shooting took place. In the second condition, the deceased was sleeping at the time her was killed. It was hypothesized that, a) the subjective test of reasonableness would be more successful in producing not-guilty verdicts, than the traditional objective test, and b) in the non-confrontational case, a finding of not-guilty would more frequently occur when a subjective, rather than an objective test of reasonableness was employed.

Method

Subjects

A total of 249 subjects (127 males and 122 females), were drawn from first year psychology students at Carleton University, who had volunteered to participate as jurors

in a simulation of a murder trial in exchange for course credit. Juries ($N=40$) consisted of 5-8 members. Each jury was composed of both males and females.

Apparatus

Four videotapes simulating a trial of a battered woman charged with the murder of her husband were presented. Juries were randomly and equally distributed amongst the four conditions.

Actors appearing in the videotapes were volunteers selected from friends of the researcher. The script (see Appendix J) was drawn from legal cases describing women charged with second degree murder of their partners (Ewing, 1987; Gillespie, 1989; R. v. Lavallee, 1990; Walker, 1984; Dobash & Dobash, 1979). The trial proceedings paralleled those of an actual trial and included, a) presentation of the opening statements of the judge, prosecution and defense, b) presentation of the witnesses for the prosecution and defense, c) closing statements by the defense, prosecution and, d) the judge's charge.

The conditions under which the shooting took place, included a physical confrontation that took place between the defendant and the deceased at the time of the shooting, and a non-confrontational situation whereby the deceased was sleeping at the time of the incident. The judges' instructions to the juries were also varied. The instructions involved the application of either a subjective or objective test of reasonableness to the defendant's self-defense plea.

Treatments

In all four conditions, the judge charged the jury regarding the conditions which must have been met in order for a plea of self-defense to be accepted under the law.

Under s.34 of the Criminal Code of Canada, the jury was told the defendant must have, i) perceived imminent bodily danger or death, and ii) used reasonable force to evade it.

Testimony of a dispute officer and a doctor were also introduced. The testimony of the dispute officer indicated that she had previously responded to a domestic dispute call at the defendant's home. No assault charges were laid against the husband. A doctor, who examined the defendant a year prior to, and the day after the killing, testified as to the physical condition of the defendant. The doctor stated that on both occasions the defendant had broken bones and lacerations. An internal examination performed the day of the killing revealed a severely bruised kidney and internal bleeding.

Expert witness testimony was admitted with regard to the battered woman syndrome. The expert witness explained how being a battered woman would generate different perspectives of danger, imminence, and necessary force. Further to this, the expert witness suggested that these perspectives, though different from the average person, were legitimate.

Confrontation Condition

In the condition in which the defendant was physically confronted by the deceased moments before the shooting, the prosecution argued that this assault was no different from previous beatings. As such, the prosecution suggested that the defendant did not act in self-defense, as she was never in danger of imminent bodily harm or death. Rather, the prosecution maintained that the defendant killed her husband with deliberate mal-intent.

The defense on the other hand, claimed that the defendant had killed her husband

in self-defense. Based on the deceased's previous behavior, the defense argued that the defendant had reasonable grounds to believe that her life was in danger. As the beating was underway, the defense maintained that the defendant had no other means available to escape. As such, the force used by the defendant was warranted, for the defendant knew that if her husband survived he would kill her.

The defendant testified in both the confrontation and non-confrontation conditions, that her husband had, on numerous occasions pushed and hit her. When she was pregnant the defendant testified that her husband kicked her in the stomach and caused her to miscarry. The night before the killing, she alleged that he woke her up and hit her to the ground. While on the ground, the defendant stated that he hit her with the butt end of the gun, at which time she had blacked out. The night of the shooting, the defendant claimed her husband was cleaning his gun and had made threatening remarks implying that he would use his gun on her the following day. Afterward, the husband went to sleep.

In the confrontation condition, the defendant testified that her husband, having slept for a couple of hours, awoke and had allegedly threatened her again and proceeded to beat her. Afraid for her life, the defendant claimed that she had grabbed the gun and shot her husband.

Non-Confrontation Condition

In the non-confrontation condition, the prosecution argued that the defendant did not act in self-defense. In support of this, the prosecutor drew attention to the fact that the defendant killed her husband while he was asleep, and had used excessive force by

firing a gun 4 times. Rather, the prosecution suggested that the defendant killed her husband with deliberate mal-intent.

The defense refuted the prosecutions claims, and claimed that the defendant had killed her husband in self-defense. As a battered woman, the defense argued that the defendant, having been threatened with death the night of the killing, had reason to believe she was in imminent danger. The force the defendant used was warranted, for the defendant knew if her husband survived he would kill her.

The defendant testified that after her husband had threatened to later kill her, he had gone to sleep. While asleep, the defendant testified that she had had a couple of drinks and was recalling the day's events, including the threat on her life. Afraid that her husband would kill her the next day after he woke up, the defendant killed him while he was asleep.

Subjective Condition

In the subjective condition, the judge charged the jury to use a subjective test of reasonableness in determining whether the defendants' belief of danger and her consequent action was indeed reasonable. The judge instructed the jury as follows, " In deciding this question, you must base it on the standard of what the defendant considered reasonable at the time of the offense, given her mental and emotional characteristics, and given the external events at the time. That is, the defendant's actions are to be judged against her own subjective impressions, and not those which you the jury might determine to be objectively reasonable. Your task as a jury will be to look at all the evidence and determine whether the defendant's belief that she was about to be killed or

seriously injured was genuine - not whether some other person in similar circumstances would have. Under a subjective standard, the defendant's conduct is not to be judged by what an average person might or might not consider reasonable to do under the circumstances. Instead, the defendant's conduct is to be judged by what the defendant herself, in good faith, honestly believed, and had reasonable ground to believe was necessary in order to protect herself from death or serious injury."

Objective Condition

In the objective condition, the judge charged the jury to use an objective test of reasonableness in deciding whether the defendants' belief of danger and her consequent action was indeed reasonable. The objective test of reasonableness, as instructed by the judge, reads as follows, "In order to judge the reasonableness of the defendant's beliefs and actions, you must consider how an ordinary person, operating reasonably under the circumstances existing at the time of the alleged offense would have responded."

Procedure

Subjects were randomly assigned to one of four conditions, a) non-confrontation/objective instruction, b) confrontation/objective instruction, c) non-confrontation/subjective instruction and, d) confrontation /subjective instruction. The study took place in a laboratory room with a television and video camera. Having been informed briefly regarding the study, jurors were asked to sign a consent form (see Appendix A). A second consent form was distributed to jurors before deliberations informing them that the jury deliberations would be taped (see Appendix B).

Before trial proceedings commenced jurors were asked to complete a 32 item

questionnaire that pertained to attitudes toward victims of wife assault and batterers (see Appendix C). At the completion of the trial proceedings, before jury deliberation, jurors were asked to complete a credibility checklist (see Appendix D). Jurors were asked to indicate on a 5 point scale whether they found the testimony of the defendant and expert witness to be credible (5) or not (-5).

Before deliberation, a foreperson was randomly selected and informed of their duties (see Appendix E). The foreperson was informed to continue taking tallies (see Appendix F) until the jury had reached an unanimous verdicts. A maximum time limit of 80 minutes was given to the jury for deliberation. At the end of this time, if the jury had not reached an unanimous verdict, the jury was declared hung. Following deliberation, jurors were also asked to indicate on a 4 point scale the degree to which they found the defendant's actions to be justified and reasonable (see Appendix G).

The debriefing session included a discussion of the purpose of the experiment, clarification of legal issues, and questions raised by the students (see Appendix H). In addition, all students were provided with a list of contact numbers (see Appendix I), which consisted of services for general matters (eg: legal aid), and services specifically for battered women, and abusers.

Results

Premeasures

An exploratory factor analysis was performed on the 32 item questionnaire that pertained to attitudes toward victims of wife assault and batterers. Utilizing principal components, 10 factors emerged. Based on scree criteria and the eigenvalue 1 rule, 2

factors were subsequently forced into the analysis using Principal Factors and Varimax Rotation. Approximately 26% of the variance was accounted for. Items which loaded + .25 on a factor were retained. The first factor included 15 items and was labelled Abuse Supportive Beliefs (ASB). The second factor included 9 items and was labelled Respect for Women (RFW). Within each scale, items were summed to yield an Abuse Supportive Belief and Respect for Women score for each subject. Cronbach's alpha reliability coefficients generated for the scales, indicated that the scales were reliable, scale 1, Alpha = .84; scale 2, Alpha = .73.

A MANOVA was performed on the two scales with Gender as the independent variable. Results indicated a significant main effect for Gender, $F(2,236) = 8.41$, $p < .001$. Univariate F-tests were significant for each of the scales, ASB, $F(1,237) = 13.89$, $p < .001$, RFW, $F(1,237) = 9.71$, $p < .01$ (see Table 1). On the Abuse Supportive Belief Scale, males ($M = 25.66$, $SD = 10.59$) scored significantly higher than females ($M = 20.97$, $SD = 8.74$). Means generated for the Respect for Women scale revealed that females ($M = 54.82$, $SD = 8.70$) scored significantly higher than males ($M = 51.37$, $SD = 8$

Jury Composition

The ratio of males and females in a jury was computed in order to assess the impact of jury composition on jury verdicts. Jury verdicts were analyzed using a 2 x 2 ANCOVA, with Instruction (Objective vs. Subjective) and Abuse Imminence (Non-Confrontation vs. Confrontation) as the independent variables, and the ratio of males to females in a jury as a covariate. This analysis indicated that the proportion of males to

Table 1: Summary Table for MANOVA on Abuse Supportive Beliefs (ASB) and Respect for Women Scales (RFW) by Gender.

Effect...Gender

Multivariate Tests of Significance (S = 1, M = 0, N = 117)

<u>Test Name</u>	<u>Value</u>	<u>Exact F</u>	<u>Hypoth DF</u>	<u>Error DF</u>	<u>Sig. of F</u>
Pillais	.07	8.41	2.00	236.00	.001*
Hotellings	.07	8.41	2.00	236.00	.001*
Wilks	.93	8.41	2.00	236.00	.001*
Roys	.07				

Univariate F-tests (1,237) DF

<u>Variable</u>	<u>Hypoth SS</u>	<u>Error SS</u>	<u>Hypoth DF</u>	<u>Error DF</u>	<u>F</u>	<u>Sig. of F</u>
ASB	1310.63	22363.92	1310.63	94.36	13.89	.001*
RFW	707.10	17264.06	707.10	72.84	9.71	.01*

females in a jury failed to significantly influence verdicts, $F(1,35) = .25, p < .05$ (see Table 2). Subsequent analysis involving the ratio of females to males was therefore disregarded.

Jury Verdicts

Final jury verdicts of guilty (scored 2), hung (scored 1) and not-guilty (scored 0), were analyzed using a 2 x 2 ANOVA with Instruction (Objective vs. Subjective) and Abuse Imminence (Non-confrontation vs. Confrontation) as the independent variables. The frequency of verdict outcome appears by type of Instruction and Imminence in Table 3. Results indicated a significant main effect for Instruction, $F(1,36) = 12.37, p < .01$ (see Table 4). Juries rendered verdicts of not-guilty more frequently in the subjective test conditions ($M = .20, SD = .41$) than in the objective test conditions ($M = .85, SD = .74$). The frequencies of guilty, not-guilty and hung verdicts involved in this main effect are graphically depicted in Figure 1.

Juror Verdicts

Individual juror verdicts of guilty (scored 1) and not-guilty (scored 0) were collected prior to, and following deliberation proceedings. Verdicts were analyzed using a 2 x 2 x 2 x 2 nested Mixed ANOVA with Instruction, Abuse Imminence and Gender as the between-subject variables, and Interval (guilt/not-guilty for pre-& post deliberation) as the within variable. Juries were nested within treatment. Results indicated significant main effects for Instruction, $F(1,169) = 35.70, p < .001$; Imminence, $F(1,169) = 4.07, p < .05$ and Gender, $F(1,169) = 16.67, p < .001$ (see Table 5). The main effect for gender was qualified by a significant Gender by Interval

Table 2: Summary Table for Results from ANCOVA on Jury Verdicts

Source	SS	DF	MS	F	Sig. of F
Ratio	.09	1	.09	.25	.62
Instruction	4.18	1	4.18	11.91	.01*
Abuse Imm.	.24	1	.24	.67	.42
Instruction x Abuse Imm.	1.18	1	1.18	3.36	.07
Residual	12.28	35	.35		
Total	17.97	39	.46		

Table 3: Jury Verdicts

Frequency of guilty, not guilty and hung juries as a function of Instruction and Abuse imminence

Type of Instruction					
Objective			Subjective		
Abuse Imminence	Non-Confrontation	Confrontation	Non-Confrontation	Confrontation	Totals (%)
Not Guilty	2	5	9	7	23 (57.5%)
Hung	5	4	1	3	13 (32.5%)
Guilty	3	1	0	0	4 (10%)
Totals	10	10	10	10	40

Table 4: Summary Table for ANOVA on Jury Verdicts by Instruction and Abuse Imminence

Source	SS	DF	MS	F	Sig. of F
<u>Main Effects</u>					
Instruction	4.23	1	4.23	12.37	.01*
Abuse Imm.	.23	1	.23	.66	.42
<u>2-Way Interactions</u>					
Instruction x Abuse Imm.	1.23	1	1.23	3.59	.07
Residual	12.30	36	.34		
Total	17.98	39	.46		

Figure 1: The frequencies of Jury Verdicts are presented as a function of Instruction.

Table 5: Summary Table for Mixed ANOVA on Juror Verdicts by Instruction, Abuse Imminence, Gender, Interval and Nest

Source	SS	DF	MS	F	Sig. of F
<u>Between</u>					
Instruction	6.49	1	6.49	35.70	.001*
Abuse Imm.	.74	1	.74	4.07	.05*
Gender	3.03	1	3.03	16.67	.001*
Nest	8.25	9	.92	5.05	.001*
Instruction x Abuse Imm.	2.87	1	2.87	15.77	.001*
Instruction @ Abuse Imminence					
Non-Conf.	5.70	1	5.70	31.67	.01*
Confront.	.21	1	.21	1.17	n.s.
Abuse Imminence @ Instruction					
Objective	2.32	1	2.32	12.89	.01*
Subjective	.11	1	.11	.61	n.s.
Instruction x Gender	.15	1	.15	.81	.37
Instruction x Nest	5.19	9	.58	3.17	.001*
Abuse Imm. x Gender	.02	1	.02	.11	.74
Abuse Imm. x Nest	4.73	9	.53	2.89	.01*
Gender x Nest	1.22	9	.14	.75	.67

Source	SS	DF	MS	F	Sig. of F
Instruction x Abuse Imm x Gender	.37	1	.37	2.06	.15
Instruction x Abuse Imm. x Nest	3.52	9	.39	2.15	.05*
Instruction x Gender x Nest	1.53	9	.17	.93	.50
Abuse Imm. x Gender x Nest	2.00	9	.22	1.23	.28
Instruction x Abuse Imm. x Gender x Nest	.47	9	.05	.29	.98
Error	30.71	169	.18		
<u>Within</u>					
Interval	.13	1	.13	1.81	.18
Instruction x Interval	.36	1	.36	4.90	.05*
Abuse Imm. x Interval	.09	1	.09	1.27	.26
Gender x Interval	.75	1	.75	10.08	.01*
Gender @ Interval					
Pre	3.75	1	3.75	28.85	.01*
Post	.76	1	.76	5.85	.01*
Pooled Error			.13		
Interval @ Gender					
Females	.77	1	.77	11.00	.01*
Males	.03	1	.03	1.00	n.s.

Source	SS	DF	MS	F	Sig. of F
Nest x Interval	1.41	9	.16	2.11	.05*
Instruction x Abuse Imm. x Interval	.28	1	.28	3.78	.05*
Interval x Instruction @ Non-Conf.	.87	1	.87	12.43	.001*
Interval @ Instruction Objective	.38	1	.38	5.43	.05*
Interval @ Instruction Subjective	.50	1	.50	7.14	.01*
Instruction @ Interval Pre	3.00	1	3.00	23.00	.01*
Instruction @ Interval Post	9.33	1	9.33	71.77	.01*
Pooled Error			.13		
Interval x Instruction @ Confrontation	.02	1	.02	.28	n.s.
Instruction x Gender x Interval	.02	1	.02	.33	.56
Instruction x Nest x Interval	.56	9	.06	.84	.58
Abuse Imm. x Gender x Interval	.00	1	.00	.06	.81
Abuse Imm. x Nest x Interval	1.44	9	.16	2.16	.05*
Gender x Nest x Interval	.72	9	.08	1.08	.38
Instruction x Abuse Imm. x Gender x Interval	.03	1	.03	.41	.52

Source	SS	DF	MS	F	Sig. of F
Instruction x Abuse Imm. x Nest x Interval	1.55	9	.17	2.32	.05*
Instruction x Gender x Nest x Interval	1.21	9	.13	1.80	.07
Abuse Imm. x Gender x Nest x Interval	.33	9	.04	.49	.88
Instructions x Abuse Imm. x Gender x Nest x Interval	.37	9	.04	.55	.84
Error	12.54	169	.07		

interaction, $F(1,169) = 10.08, p < .01$. The means associated with this interaction are presented in Table 6, and is displayed in Figure 2.

Analysis of the simple effects of Interval across Gender, indicated a significant effect for males, $F(1,169) = 11.00, p < .01$. Males rendered significantly more not-guilty verdicts at post-deliberation ($M = .30, SD = .46$) than at pre-deliberation ($M = .41, SD = .49$). Simple effects performed on Gender at each level of Interval, revealed significant effects at pre-deliberation, $F(1,287) = 28.85, p < .01$, and at post-deliberation, $F(1,287) = 5.86, p < .01$. Males rendered significantly more guilty verdicts ($M = .41, SD = .49$) than females at pre-deliberation ($M = .16, SD = .37$). At post-deliberation, males again returned verdicts of guilty ($M = .30, SD = .46$) more frequently than females ($M = .19, SD = .39$).

A significant Instruction x Abuse Imminence interaction, $F(1,169) = 15.77, p < .001$ and Instruction x Interval interaction, $F(1,169) = 4.90, p < .05$ were also identified. These findings however were qualified by a marginally significant 3-way interaction between Instruction, Abuse Imminence and Interval, $F(1,169) = 3.78, p < .053$ which accounted for little variance. As such, the 2-way interaction between Instruction and Abuse Imminence, which was highly significant will be described in detail. The means associated with the 2-way interaction are presented in Table 7 and displayed in Figure 3.

Analysis of the simple effects of Abuse Imminence across levels of Instruction, indicated a significant simple main effect for the objective condition, $F(1,169) = 12.89, p < .01$. When given objective instructions jurors rendered significantly more guilty

Table 6: Pre, and Post-Deliberation Verdicts x Gender

Means and standard deviations of Verdicts are presented as a function of Gender and Pre, Post-Deliberation Verdicts.

Gender			
Deliberation	Females	Males	Means
Pre	<u>M</u> = .16 <u>SD</u> = .37	<u>M</u> = .41 <u>SD</u> = .49	.29 <u>SD</u> = .45
Post	<u>M</u> = .19 <u>SD</u> = .39	<u>M</u> = .30 <u>SD</u> = .46	.25 <u>SD</u> = .43
Means	.17 <u>n</u> = 122	.36 <u>n</u> = 127	

Figure 2: The means for Pre and Post Deliberation Verdicts are presented as a function of Gender.

Table 7: Juror Verdicts: Instruction x Abuse Imminence

Means and standard deviations of Juror Verdicts are presented as a function of Instruction and Abuse Imminence.

Abuse Imminence	Type of Instruction		Means
	Objective	Subjective	
Non-Confrontation	$M = .53$ $SD = .41$	$M = .11$ $SD = .26$	.32 $n = 129$
Confrontation	$M = .25$ $SD = .40$	$M = .17$ $SD = .33$	.21 $n = 120$
Means	.39 $SD = .43$ $n = 125$	.14 $SD = .29$ $n = 124$	

Figure 3: The means for Juror Verdicts are presented as a function of Instruction and Abuse Imminence.

verdicts when the defendant killed under non-confrontational conditions ($\underline{M} = .53$, $\underline{SD} = .41$) as opposed to confrontational conditions ($\underline{M} = .25$, $\underline{SD} = .40$). Simple effects performed on Instruction at Abuse Imminence, indicated a significant effect within the non-confrontation condition, $\underline{F}(1,169) = 31.67$, $p < .01$. In the non-confrontational condition, jurors given objective instructions ($\underline{M} = .53$, $\underline{SD} = .41$), rendered significantly more guilty verdicts than those given subjective instructions ($\underline{M} = .11$, $\underline{SD} = .26$).

The 3-way interaction was broken down by Abuse Imminence into 2-way simple interactions involving Instruction and Interval. The means involved in this interaction are provided in Table 8, and graphically depicted in Figure 4. A significant simple main effect was reported for Instruction, $\underline{F}(1,287) = 88.08$, $p < .001$ at the non-confrontation condition. This finding was qualified however by a significant simple interaction between Instruction and Interval, $\underline{F}(1,169) = 12.43$, $p < .01$. Simple main effect analyses of Interval at both the objective level of Instruction, $\underline{F}(1,169) = 5.43$, $p < .05$ and the subjective level, $\underline{F}(1,169) = 7.14$, $p < .01$ were significant. Jurors given objective instructions returned verdicts of not-guilty more frequently at pre-deliberation ($\underline{M} = .48$, $\underline{SD} = .50$) as opposed to post-deliberation ($\underline{M} = .59$, $\underline{SD} = .49$). In the subjective condition however verdicts of not-guilty were rendered more frequently at post-deliberation ($\underline{M} = .05$, $\underline{SD} = .21$) than at pre-deliberation ($\underline{M} = .17$, $\underline{SD} = .38$). These findings were confirmed by the significant interactions involving Instruction at both pre-deliberation, $\underline{F}(1,287) = 23$, $p < .01$, and post-deliberation, $\underline{F}(1,287) = 71.77$, $p < .01$. At pre-deliberation, verdicts of not-guilty were returned significantly more often

Table 8: Juror Verdicts: Instruction x Abuse Imminence x Interval

Means and standard deviations of verdicts are presented as a function of Instruction and Pre, Post-Deliberation Verdicts. Groups are broken down according to Abuse Imminence.

**NON-CONFRONTATION
Deliberation Interval**

Instruction	Pre	Post	Means
Objective	<u>M</u> = .48 <u>SD</u> = .50	<u>M</u> = .59 <u>SD</u> = .49	.53 <u>n</u> = 65
Subjective	<u>M</u> = .17 <u>SD</u> = .38	<u>M</u> = .05 <u>SD</u> = .21	.11 <u>n</u> = 64
Means	.33 <u>SD</u> = .47 <u>n</u> = 129	.32 <u>SD</u> = .48 <u>n</u> = 129	

**CONFRONTATION
Deliberation Interval**

Instruction	Pre	Post	Means
Objective	<u>M</u> = .28 <u>SD</u> = .45	<u>M</u> = .22 <u>SD</u> = .42	.25 <u>n</u> = 60
Subjective	<u>M</u> = .22 <u>SD</u> = .42	<u>M</u> = .12 <u>SD</u> = .32	.17 <u>n</u> = 60
Means	.25 <u>SD</u> = .44 <u>n</u> = 120	.17 <u>SD</u> = .37 <u>n</u> = 120	

Figure 4: The means for Pre and Post Deliberation Verdicts are displayed as a function of Instruction. Graphs are broken down according to Abuse Imminence.

in the subjective condition ($\underline{M} = .17$, $\underline{SD} = .38$) than the objective condition ($\underline{M} = .48$, $\underline{SD} = .50$). At post-deliberation, verdicts of not-guilty were again rendered more frequently in the subjective condition ($\underline{M} = .05$, $\underline{SD} = .21$) than in the objective condition ($\underline{M} = .59$, $\underline{SD} = .49$).

The 2-way simple interaction involving Instruction and Interval in the confrontation condition, resulted in a significant simple main effect for Interval, $F(1,169) = 6$, $p < .05$. In this condition, juror verdicts of guilty declined significantly from pre-deliberation to post-deliberation ($\underline{M} = .25$, $\underline{SD} = .44$ vs $\underline{M} = .17$, $\underline{SD} = .37$).

Credibility Ratings

The credibility of the defendant and expert witness were assessed on a 5 point scale (5 = very credible; 1 = not at all credible). Credibility ratings of the witnesses were analyzed individually using a 2 x 2 x 2 ANOVA, with Instruction, Abuse Imminence and Gender as between subject variables.

Results of the credibility rating for the defendant indicated a significant main effect for Gender, $F(1,240) = 4.54$, $p < .05$, and a significant interaction involving Instruction and Abuse Imminence, $F(1,240) = 7.50$, $p < .01$ (see Table 9). Females rated the defendant as more credible ($\underline{M} = 4.16$, $\underline{SD} = .73$) than males ($\underline{M} = 3.97$, $\underline{SD} = .83$). The means associated with the Instruction x Abuse Imminence interaction are presented in Table 10, and is graphically displayed in Figure 5.

Simple main effect analysis performed on Abuse Imminence at each level of Instruction yielded a significant effect for the objective Instruction condition, $F(1,240) = 4.36$, $p < .05$. Jurors given objective instructions rated the defendant as more credible

Table 9: Summary Table for Credibility Rating of Defendant by Instruction, Abuse Imminence and Gender

Source	SS	DF	MS	F	Sig. of F
<u>Main Effect</u>					
Abuse Imm.	.04	1	.04	.06	.80
Gender	2.70	1	2.70	4.54	.05*
Instruction	1.24	1	1.24	2.08	.15
<u>2-Way Interactions</u>					
Abuse Imm. x Gender	1.07	1	1.07	1.80	.18
Abuse Imm. x Instruction	4.46	1	4.46	7.50	.01*
Abuse Imm. @ Instruction					
Objective	2.60	1	2.60	4.36	.05*
Subjective	1.90	1	1.90	3.19	.05
Instruction @ Abuse Imm.					
Non-Conf.	5.27	1	5.27	8.86	.01*
Confront.	.53	1	.53	.89	n.s.
Gender x Instruction	.02	1	.02	.03	.86
<u>3-Way Interaction</u>					
Abuse Imm. x Gender x Instruction	.42	1	.42	.70	.40
Residual	142.77	240	.60		
Total	152.69	247	.62		

Table 10: Credibility Rating of Defendant : Instruction x Abuse Imminence

The means and standard deviations for Credibility Ratings of Defendant are presented as a function of Instruction and Abuse Imminence.

Type of Abuse Imminence			
Instruction	Non-Confrontation	Confrontation	Means
Objective	<u>M</u> = 3.86 <u>SD</u> = .92	<u>M</u> = 4.15 <u>SD</u> = .68	4.01 n = 125
Subjective	<u>M</u> = 4.27 <u>SD</u> = .68	<u>M</u> = 4.02 <u>SD</u> = .80	4.15 n = 123
Means	4.06 <u>SD</u> = .83 n = 129	4.08 <u>SD</u> = .74 n = 119	

Figure 5: The means associated with Credibility Rating of the Defendant are displayed as a function of Instruction and Abuse Imminence.

in the confrontation condition ($M = 4.15$, $SD = .68$) than in the non-confrontation condition ($M = 3.86$, $SD = .92$). The simple main effect analyses of Instruction at each level of Abuse Imminence revealed a significant effect in the non-confrontation condition, $F(1,240) = 8.86$, $p < .01$. Jurors given subjective instruction rated the defendant as more credible ($M = 4.27$, $SD = .67$) than jurors given objective instructions ($M = 3.86$, $SD = .92$).

Results for the credibility of the expert witness indicated a significant main effect for Gender, $F(1,240) = 4.96$, $p < .05$, which was qualified by a significant interaction involving Gender and Abuse Imminence, $F(1,240) = 4.85$, $p < .05$ (see Table 11). The means associated with this interaction are presented in Table 12 and is displayed in Figure 6.

Simple main effect analysis performed on Abuse Imminence at each level of Gender did not result in any significant effects. Simple main effect analysis of Gender at each level of Abuse Imminence did however indicate a significant effect in the confrontation condition, $F(1,240) = 9.73$, $p < .01$. Females rated the expert as more credible ($M = 4.21$, $SD = .79$) than males ($M = 3.69$, $SD = .97$).

Justification/Reasonableness Ratings

Subjects completed scales rating the degree to which they found the actions of the defendant to be justified and reasonable. Scales ranged from 1 (definitely not justified /reasonable) to 4 (definitely justified/reasonable).

A 2 x 2 x 2 nested ANOVA was performed on Justification Rating with Instruction, Abuse Imminence and Gender as the independent variables. Results

Table 11: Summary Table for Anova of Credibility Rating of Expert Witness by Instruction, Abuse Imminence and Gender

Source	SS	DF	MS	F	Sig. of F
<u>Main Effect</u>					
Abuse Imm.	.26	1	.26	.31	.57
Gender	4.07	1	4.07	4.96	.05*
Instruction	.04	1	.04	.05	.82
<u>2-Way Interactions</u>					
Abuse Imm. x Gender	3.98	1	3.98	4.85	.05*
Abuse Imm. @ Gender					
Females	1.11	1	1.11	1.35	n.s.
Males	3.05	1	3.05	3.72	n.s.
Gender @ Abuse Imm.					
Non-Conf.	.01	1	.01	.01	n.s.
Confront.	7.98	1	7.98	9.73	.01*
Abuse Imm. x Instruction	.42	1	.42	.51	.48
Gender x Instruction	.01	1	.01	.02	.90
<u>3-Way Interaction</u>					
Abuse Imm. x Gender x Instruction	.25	1	.25	.31	.58
Residual	196.85	240	.82		
Total	205.86	247	.83		

Table 12: Credibility Rating of Expert Witness:
Abuse Imminence x Gender

Means and standard deviations associated with Credibility Rating of Expert Witness as a function of Gender and Abuse Imminence.

Type of Abuse Imminence			
Gender	Non-Confrontation	Confrontation	Means
Males	<u>M</u> = 4.00 <u>SD</u> = .88	<u>M</u> = 3.69 <u>SD</u> = .97	3.84 n = 126
Females	<u>M</u> = 4.02 <u>SD</u> = .93	<u>M</u> = 4.21 <u>SD</u> = .79	4.12 n = 122
Means	4.01 <u>SD</u> = .91 n = 129	3.94 <u>SD</u> = .92 n = 119	

Figure 6: Means associated with Credibility Rating of the Expert Witness are displayed as a function of Gender and Abuse Imminence.

indicated significant main effects for Gender $F(1,169) = 6.76, p < .01$; Abuse Imminence $F(1,169) = 11.68, p < .001$ and Instruction, $F(1,169) = 12.46, p < .001$ (see Table 13). Males ($M = 3.04, SD = .92$) rated the defendants' actions as less justified than females ($M = 3.28, SD = .87$). The main effects for Instruction and Abuse Imminence were qualified by a significant Instruction by Abuse Imminence interaction, $F(1,169) = 14.88, p < .001$. The means associated with this interaction are presented in Table 14 and is displayed in Figure 7.

Simple main effect analyses of Abuse Imminence across each level of Instruction, revealed significant effects in both the objective, $F(1,169) = 26.79, p < .01$ and subjective instruction conditions, $F(1,169) = 17.51, p < .01$. Jurors given subjective instructions rated the defendants' actions as more justified in the non-confrontation condition ($M = 3.34, SD = .67$) than in the confrontation condition ($M = 3.32, SD = .79$). Jurors given the objective instructions however, rated the defendants' actions as more justified in the confrontation condition ($M = 3.37, SD = .68$) as opposed to the non-confrontation condition ($M = 2.63, SD = 1.15$). These findings are substantiated by the simple main effect analyses of Instruction at each level of Abuse Imminence. The significant effect found in the non-confrontation condition, $F(1,169) = 26.02, p < .01$, reveals that the defendants' actions were rated as more justifiable in the subjective condition ($M = 3.34, SD = .67$) than in the objective condition ($M = 2.63, SD = 1.15$).

A 2 x 2 x 2 nested ANOVA was performed on Reasonableness Ratings with Instruction, Abuse Imminence and Gender as the independent variables. Results

Table 13: Summary Table for ANOVA on Justification Rating by Instruction, Abuse Imminence, Gender and Nest

Source	SS	DF	MS	F	Sig. of F
<u>Main Effects</u>					
Abuse Imm.	7.37	1	7.37	12.46	.001*
Instruction	7.87	1	7.87	11.68	.001*
Gender	4.27	1	4.27	6.76	.01*
Nest	12.83	9	1.43	2.26	.02
<u>2-Way Interactions</u>					
Abuse Imm. x Instruction	9.39	1	1.24	14.88	.001
Abuse Imm. @ Instruction					
Objective	16.88	1	16.88	26.79	.01*
Subjective	11.03	1	11.03	17.51	.01*
Instruction @ Abuse Imm.					
Non-Conf.	16.39	1	16.39	26.02	.01*
Confront.	.06	1	.06	.09	n.s.
Instruction x Gender	.14	1	.14	.22	.64
Instruction x Nest	9.69	9	1.08	1.71	.09
Abuse Imm. x Gender	.00	1	.00	.00	.94
Abuse Imm. x Nest	14.87	9	1.65	2.62	.01

Source	SS	DF	MS	F	Sig. of F
Gender x Nest	2.71	9	.30	.48	.89

3-Way Interactions

Instruction x Abuse Imm. x Gender	1.99	1	1.99	5.16	.08
Instruction x Abuse Imm. x Nest	8.40	9	.93	1.48	.16
Instruction x Gender x Nest	3.97	9	.44	.70	.71
Abuse Imm. x Gender x Nest	9.34	9	1.04	1.64	.11

4-Way Interaction

Instruction x Abuse Imm. x Gender x Nest	4.78	9	.53	.84	.58
Residual	106.68	169	.63		
Total	202.89	248	.82		

Table 14: Justification Rating: Instruction x Abuse Imminence

Means and standard deviations for Justification Ratings are presented as a function of Instruction and Abuse Imminence.

Type of Abuse Imminence			
Instruction	Non-Confrontation	Confrontation	Means
Objective	<u>M</u> = 2.63 <u>SD</u> = 1.15	<u>M</u> = 3.37 <u>SD</u> = .69	2.98 <u>n</u> = 125
Subjective	<u>M</u> = 3.34 <u>SD</u> = .67	<u>M</u> = 3.32 <u>SD</u> = .79	3.33 <u>n</u> = 120
Means	2.98 <u>SD</u> = .95 <u>n</u> = 129	3.34 <u>SD</u> = .74 <u>n</u> = 120	

Figure 7: Means of Jusitification Ratings are displayed as a function of Instruction and Abuse Imminence.

indicated main effects for Gender, $F(1,169) = 21.18, p < .001$; Instruction, $F(1,169) = 7.40, p < .01$ and Abuse Imminence, $F(1,169) = 15.87, p < .001$ (see Table 15). Females ($M = 3.20, SD = .88$) rated the defendants' actions as more reasonable than males ($M = 2.76, SD = .99$). The main effects for Instruction and Abuse Imminence were qualified by a significant Instruction x Abuse Imminence interaction, $F(1,169) = 8.73, p < .01$. The means associated with this interaction are presented in Table 16 and displayed in Figure 8.

The simple interaction for males indicated a significant simple main effect for Instruction, $F(1,169) = 11.03, p < .01$. This finding was qualified however by a significant simple interaction between Instruction and Abuse Imminence, $F(1,169) = 10.53, p < .01$. Simple simple main effect analyses of Abuse Imminence at the objective level of Instruction was significant, $F(1,169) = 8.82, p < .01$. Males rated the defendants' actions as less reasonable in the non-confrontation condition ($M=2.23, SD=1.21$) than in the confrontation condition ($M=2.84, SD=.86$). The simple simple main effect analyses of Instruction involving each level of Abuse Imminence, indicated a significant main effect for the non-confrontation condition, $F(1,169) = 22.22, p < .01$. Males hearing the subjective instructions, rated the defendants' actions as more reasonable ($M=3.19, SD=.75$) than males hearing the objective instructions.

The 2-way simple interaction involving Instruction and Abuse Imminence for females, resulted in a significant main effect for Instruction, $F(1,269)= 89.38, p < .05$ and Abuse Imminence, $F(1,169)=8.38, p < .01$. Females hearing objective instructions rated the defendants' actions as less reasonable ($M=3.05, SD=.98$) than females hearing

Table 15: Summary Table for ANOVA on Reasonableness Ratings by Instruction, Abuse Imminence, Gender and Nest

Source	SS	DF	MS	F	Sig. of F
<u>Main Effects</u>					
Abuse Imm.	4.94	1	4.94	7.40	.01*
Instruction	10.60	1	10.60	15.87	.001*
Gender	14.15	1	14.15	21.18	.001*
Nest	17.49	9	1.94	2.91	.01†
<u>2-Way Interactions</u>					
Abuse Imm. x Instruction	5.83	1	5.83	8.73	.01*
Abuse Imm. x Gender	.74	1	.74	1.11	.29
Instruction x Gender	1.26	1	1.26	1.89	.17
Instruction x Nest	11.61	9	1.29	1.93	.05*
Abuse Imm. x Nest	14.99	9	1.67	2.49	.01*
Gender x Nest	5.36	9	.59	.89	.54
<u>3-Way Interactions</u>					
Instruction x Abuse Imm. x Gender	2.71	1	2.71	4.06	.05*

Source	SS	DF	MS	F	Sig. of F
Instruction x Abuse Imm. @ Males	7.27	1	7.27	10.53	.01*
Instruction @ Abuse Imm. Non-Conf	14.89	1	14.89	22.22	.01*
Confront.	.01	1	.01	.01	n.s.
Abuse Imm. @ Instruction Objective	5.91	1	5.91	8.82	.01*
Subjective	1.95	1	1.95	2.91	n.s.
Instruction x Abuse Imm. @ Females	.53	1	.53	.77	n.s.
Instruction x Abuse Imm. x Nest	13.28	9	1.47	2.21	.02*
Instruction x Gender x Nest	3.38	9	.37	.56	.83
Abuse Imm. x Gender x Nest	6.55	9	.73	1.09	.37
<u>4-Way Interaction</u>					
Instruction x Abuse Imm. x Gender x Nest	4.72	9	.52	.79	.63
Residual	112.87	169	.67		
Total	228.90	248	.92		

Table 16: Reasonableness Ratings: Instruction x Abuse Imminence x Gender

Means and standard deviations of Reasonableness Ratings are presented as a function of Instruction and Abuse Imminence. Groups are broken down according to Gender.

MALES
Type of Abuse Imminence

Instruction	Non-Confrontation	Confrontation	Means
Objective	<u>M</u> = 2.23 <u>SD</u> = 1.21	<u>M</u> = 2.84 <u>SD</u> = .86	2.52 <u>SD</u> = 1.09
Subjective	<u>M</u> = 3.19 <u>SD</u> = .75	<u>M</u> = 2.84 <u>SD</u> = .82	3.01 <u>SD</u> = .80
Means	2.69 <u>SD</u> = 1.12 <u>n</u> = 65	2.84 <u>SD</u> = .83 <u>n</u> = 62	

FEMALES
Type of Abuse Imminence

Instruction	Non-Confrontation	Confrontation	Means
Objective	<u>M</u> = 2.77 <u>SD</u> = 1.09	<u>M</u> = 3.34 <u>SD</u> = .77	3.05 <u>SD</u> = .98
Subjective	<u>M</u> = 3.21 <u>SD</u> = .78	<u>M</u> = 3.52 <u>SD</u> = .69	3.35 <u>SD</u> = .75
Means	3.00 <u>SD</u> = .96 <u>n</u> = 64	3.43 <u>SD</u> = .73 <u>n</u> = 58	

Figure 8: Means of Reasonableness Ratings are displayed as a function of Instruction and Abuse Imminence. Graphs are broken down according to Gender.

subjective instructions. Moreover, females rated the defendants' actions as less reasonable within the non-confrontational condition ($M=3.00, SD=.96$) than in the confrontational condition ($M=3.43, SD=.73$).

Abuse Experience

Subjects were asked to respond to two questions pertaining to their experience with abusive relationships. Subjects indicated either yes (scored 1) or no (scored 2) in response to the following questions, i) have you ever been involved in an abusive relationship, and ii) have you ever known anyone who has been involved in an abusive relationship. These questions were asked in order to ascertain whether such experience would have an impact on their pre, post-deliberation verdicts. The frequency of Abuse Experience (Personal & Other) is presented as a function of Gender in Table 17.

Approximately 16% of the subjects indicated that they had personal experience in an abusive relationship. As the frequency of males who responded positively to this question was low ($n = 9$), they were excluded from subsequent analysis. It was noted as well that approximately 66% of subjects reported that they knew someone in an abusive relationship. In order to control for women who had personal experience with abusive relationships and were counting themselves in response to the second question, women who responded positively to both questions were excluded from the analyses involving 'Other' Experience.

To assess pre- & post deliberation verdicts, a 2 x 2 Mixed ANOVA was performed with Interval (pre-post deliberation verdict) as the within subject variable and Personal Experience as the independent variable. No significant findings emerged (see

Table 17. Frequencies of Abuse Experience

Frequencies of Abuse Experience (Personal & Other) are presented as a function of Gender.

Gender	Personal		Other	
	Yes	No	Yes	No
Females	31	91	89	33
Males	9	116	73	52
Total (%)	40 (16.2%)	207 (83.8%)	162 (65.6%)	85 (34.4%)

Table 18).

A 2 x 2 x 2 Mixed ANOVA was performed on Interval (pre post deliberation verdict) as the within subject variable and Other Experience and Gender as the independent variables. A main effect was found for Gender $F(1,203) = 10.04, p < .01$ and was qualified by a significant interaction between Gender and Interval $F(1,203) = 5.07, p < .05$ (see Table 19). As these findings were dealt with in previous analyses, they will not be examined here.

Correlations

Pearson product moment correlation coefficients were computed for the following variables as a function of gender: Pre & Post Deliberation Verdicts, Credibility of Defendant, Credibility of Expert, Justification Rating, Reasonableness Rating, Abuse Supportive Belief Scale (ASB) and Respect for Women Scale (RF-W). Correlations are presented in Tables 20 and 21. Correlations for the Abuse Supportive Scale and Respect for Women Scale with the aforementioned variables are presented as a function of gender in Table 22.

For both males and females, pre-deliberation verdicts were highly correlated with post-deliberation verdicts. As well, pre-deliberation verdicts correlated negatively with the credibility of the defendant and expert witness, justification ratings and reasonableness ratings regardless of gender. These findings suggest that the less credible the defendant and expert were viewed, and the lower the beliefs in justification and reasonableness, the more likely subjects were to render verdicts of guilty. Also evident, for both males and females were negative correlations between post deliberation verdicts,

Table 18: Summary Table for Mixed ANOVA on Juror Verdicts by Personal Experience and Gender

Source	SS	DF	MS	F	Sig. of F
<u>Between</u>					
Personal Exp.	.08	1	.08	.35	.56
Error	27.84	120	.23		
<u>Within</u>					
Interval	.00	1	.00	.03	.87
Personal Exp. x Interval	.07	1	.07	1.09	.30
Error	7.40	120	.06		

Table 19: Summary Table for Juror Verdicts by Other Experience and Gender

Source	SS	DF	MS	F	Sig. of F
<u>Between</u>					
Other Exp.	.04	1	.04	.13	.72
Gender	2.98	1	2.98	10.04	.01*
Other Exp. x Gender	.16	1	.16	.54	.46
Error	60.22	203	.30		
<u>Within</u>					
Interval	.15	1	.15	1.56	.21
Other Exp. x Interval	.03	1	.03	.33	.56
Gender x Interval	.49	1	.49	5.07	.05+
Other Exp. x Gender x Interval	.02	1	.02	.18	.67
Error	19.64	203	.10		

Table 20: Correlations

Pearson product moment correlations for 6 variables are presented as a function of Gender.

Females

	Pre-Deliberation	Post-Deliberation	Credibility of Defendant	Credibility of Expert	Justification Rating	Reasonable Rating
Pre-Deliberation	1.00	.58**	.29**	.34**	.50**	.48**
Post-Deliberation		1.00	.18	.20*	.49**	.37**
Credibility of Defendant			1.00	.18*	.22*	.12
Credibility of Expert				1.00	.28**	.19*
Justification Rating					1.00	.49**
Reasonableness Rating						1.00

** p < .01
* p < .05

Table 21. Correlations

Pearson product moment correlations for 6 variables were presented as a function of Gender.

Males

	Pre-Deliberation	Post-Deliberation	Credibility of Defendant	Credibility of Expert	Justification Rating	Reasonable Rating
Pre-Deliberation	1.00	.50**	.33**	.24**	.37**	.37**
Post-Deliberation		1.00	.22*	.08	.44**	.52**
Credibility of Defendant			1.00	.21**	.41**	.29**
Credibility of Expert				1.00	.14	.03
Justification Rating					1.00	.55**
Reasonableness Rating						1.00

** p < .01

* p < .05

Table 22: Correlations

Pearson product moment correlations for Abuse Supportive Belief Scale (ASB) and Respect for Women Scale (RFW) with 6 variables are presented as a function of Gender.

Females

	Pre-Deliberation	Post-Deliberation	Credibility of Defendant	Credibility of Expert	Justification Rating	Reasonableness Rating
ASB	.14	.04	-.22**	-.18	-.06	-.03
RFW	-.05	-.07	.29**	.17	.14	-.04

Males

	Pre-Deliberation	Post-Deliberation	Credibility of Defendant	Credibility of Expert	Justification Rating	Reasonableness Rating
ASB	.07	.06	-.13	-.04	-.06	.37**
RFW	-.23**	-.26**	.14	.11	.26**	.52**

** p < .01
* p < .05

justification and reasonableness ratings. Again, final juror verdicts of guilty were more likely to be rendered when the defendants' actions were rated as less justified and unreasonable. Different patterns of correlations were observed in the two sexes. For males, the credibility of the defendant was significantly correlated with justification and reasonableness ratings. For females, the credibility of the expert was significantly correlated with the justification ratings. As well, justification and reasonableness ratings were found to be highly correlated with one another in both sexes.

The Abuse Supportive Belief Scale was not significantly correlated with most variables for either males or females. However, for females, a small negative correlation between ASB scores and credibility rating of the defendant was significant. This suggests therefore, that females who held beliefs supporting abuse were more likely to view the defendant as less credible. Patterns of correlations for the Respect for Women Scale differed significantly according to gender. For males, the scale was negatively and significantly correlated with pre- and post-deliberation verdicts. Thus, verdicts of guilty were more likely to be rendered when scores on the Respect for Women Scale were low. Moreover, the scale was significantly correlated with reasonableness ratings. Thus, the higher males scored on the scale, the more reasonable the defendants actions were viewed. For females, the only significant correlation for the Respect for Women Scale was with credibility of the defendant. Thus, higher scores on the RI-W scale were related to higher credibility ratings of the defendant.

Discussion

At the jury level, the major finding of this study indicated that the use of a

subjective standard led to significantly fewer guilty verdicts than did use of an objective standard. At the individual juror level, our findings were more complex. The objective/subjective variable continued to exert a substantial effect on verdicts, but its influence was moderated in interactions with other variables. Most importantly, objective /subjective instructions interacted with whether the defendant killed her husband in a confrontational or non-confrontational context. Under a subjective standard, jurors rarely found the defendant guilty regardless of the abuse imminence level. However, when using an objective standard, guilty verdicts were rendered much more frequently in the non-confrontational than in the confrontational context. At the juror level, gender also exerted an influence on verdicts. These and other findings will be discussed in terms of the effects of the major independent variables.

Instruction

The element of 'reasonableness' and the instructions that define its parameters, play a fundamental role in the determination of whether a case is indeed one of self-defense. Typically, jurors are instructed to compare the actions of the defendant against what a hypothetical person would or would not have done. Put forth as a 'value-free' assessment of a defendant's reasonableness, the objective instruction standard has been traditionally relied upon in self-defense cases (Crocker, 1985). Criticized as emanating from a male perspective of what is 'reasonable', the objective standard has been viewed by some to be particularly oppressive in self-defense cases where battered women kill their abusers (Crocker, 1985; Kinports, 1988). Critics of the objective standard have recommended the implementation of a subjective standard, which they maintain, would

allow for an individualized inquiry into the perceptions of the defendant (Schneider, 1980). However, as few courts have relied upon a purely subjective reasonableness standard, the actual success of such instructions in terms of acquittal rates has yet to be determined.

Proponents of subjective instructions posit that such a standard is vital to a battered woman's self-defense claim. By explicitly instructing jurors to take into account the surrounding circumstances of the defendant's actions, the reasonable person would now, it is claimed, be correctly placed into the context of the defendant's social reality (Kinports, 1988; Sagawa, 1987; Schneider, 1980). In the present study significantly more not-guilty verdicts were rendered at both the jury and juror level when subjects were administered subjective as opposed to objective instructions. This finding supports the hypothesis that instructions which encourage jurors to carry out an inquiry from the perspective of the defendant leads to more acquittals than traditional objective instructions.

While the success of the subjective instructions in obtaining high acquittal rates may be viewed as a positive step, concern regarding such a standard is warranted. For instance, it is feared that the application of a subjective standard of reasonableness may be used to justify acts which are prompted by sexism or racism (Sagawa, 1987). In the case of the *People v. Goetz* for example, a subjective standard was applied and resulted in the acquittal of a white man who shot four black youths. Despite the possibility that Goetz's perceptions were based on racist assumptions, his belief of danger and consequent action were nevertheless deemed as reasonable. Indeed, by narrowly defining

the 'reasonable person' to correspond almost identically to the particular characteristics and experiences of the defendant being judged, a jury, given a subjective standard might have little alternative but to regard almost any response as reasonable (Creach, 1982). Future research is warranted therefore on the effects of the subjective self-defense standard in a wide range of cases.

The objective test may not be as distinct from the subjective test as it is sometimes purported to be. While the objective test professes to compare the defendant to a 'hypothetical reasonable person', those characteristics ascribed to that person will inevitably be subjectively determined by the jurors (Sagawa, 1987). Nevertheless, the objective standard does limit the extent to which jurors may introduce the defendant's characteristics, circumstances and perspective into the definition of the reasonable person (Kinports, 1988). In the present study, requiring jurors to judge the reasonableness of the defendant's actions within such constraints, may in part explain the relatively low number of acquittals in the objective standard condition relative to the subjective standard condition.

More juries were hung in the objective conditions than is typical in real court cases and other similar jury simulations (Ewing, 1987; Follingstad et al., 1989; Kasian, Spanos, Terrance, & Peebles, in press). This finding may indicate that jurors were reluctant to find a woman guilty of a crime that has recently drawn so much political and media attention. Thus, while jurors may have believed that the defendant was guilty as defined by the law, the current social climate concerning wife abuse may have made them reluctant to apply the law. Whether such a finding reflects an actual change in

individual's attitudes toward battered women however remains inconclusive.

Abuse Imminence

As previously discussed, the issue of "imminent danger" is a key factor to be considered with regard to the self-defense plea. Frequently, when a battered woman kills her abuser, the action is taken during a lull in the violence, and often while the abuser is sleeping or otherwise incapacitated (Ewing, 1987; Jones, 1980). Thus, because these situations do not meet the definition of 'imminence', acquittals in such cases have been relatively infrequent (Ewing, 1987). Our findings at the juror level were consistent with this interpretation. Jurors provided with traditional objective instructions, rendered more guilty verdicts when the abuse scenario preceding the shooting was non-confrontational as opposed to confrontational. Moreover, jurors given objective instructions, rated the defendant's actions as more reasonable and justified when the abuse imminence was confrontational rather than non-confrontational.

Interestingly, abuse imminence had no impact on juror verdicts in subjective test conditions. Jurors hearing subjective instructions, were equally likely to render not guilty verdicts in the confrontational and non-confrontational conditions. In the non-confrontational scenario, jurors given an objective standard found the defendant guilty much more frequently than jurors given a subjective standard. However, in the confrontational, scenario guilty verdicts were equally uncommon in both the objective and subjective conditions. In other words, subjective instructions appear to be particularly effective in obtaining acquittals when the death scenario is least consistent with traditional imminence standards. These findings indicate that, when given subjective

instructions. jurors viewed the defendant's fear of imminent danger as a reasonable belief even though a physical attack was not underway at the time of the shooting. Indeed, jurors hearing subjective instructions rated the defendant's actions as significantly more justified within the non-confrontational as opposed to the confrontational conditions.

Gender

Gender differences were noted on pre- and post- deliberation verdicts, credibility ratings of both the defendant and expert, and on reasonableness ratings of the defendant's actions. Females returned significantly more not-guilty verdicts than males at both deliberation intervals. In addition, credibility ratings and reasonableness ratings were significantly higher for females than males. These findings are consistent with previous studies which obtained similar gender differences (Kasian, Spanos, Terrance & Peebles, in press; Spanos, DuBreuil & Gwynn, 1991). These findings suggest that females were better able than males to identify with, and relate to the perceptions of a battered woman (Spanos, DuBreuil & Gwynn, 1991).

Gender differences were noted as well on the Abuse Supportive Belief (ASB) and Respect for Women (RFW) Scales. While females scored significantly higher on the Respect for Women scale, males scores were higher on the Abuse Supportive Belief Scale. These gender differences in part account for the previously noted gender differences.

With the exception of the RFW scale for males, no significant correlations were obtained between predictors and pre/post deliberation verdicts. Similar negative findings have been documented in previous investigations of attitudinal variables and deliberation

verdicts (Follingstad et al. 1989; Spanos, DuBreuil & Gwynn, 1991). When correlations have been reported, they were most often low and have typically been found to exist only with pre-deliberation verdicts. It has been suggested that other variables (ie: conformity pressures during deliberation) have a stronger influence on final juror verdicts (Spanos, DuBreuil & Gwynn, 1991). Indeed, results from this study indicated that jurors' verdicts often changed following the deliberation process.

Conclusions

Subjective instructions resulted in a significantly higher acquittal rate than traditional objective instructions, and this was particularly the case when the shooting took place in a non-confrontational setting. Nevertheless, apprehension remains regarding the potential misapplication of subjective standards. The major concern is that the subjective standard would be successful for any self-defense plea regardless of its legitimacy (Sagawa, 1987). Consequently future studies that include a wider range of self-defensive scenarios is warranted.

Related to the objective/subjective debate, is discussion surrounding the issue of excuse vs. justification in self-defense cases. Typically, courts have construed self defense as a justification based plea (Creach, 1982). Rosen (1986) however, suggested that particularly in cases where battered woman have killed their abusers, self defense should be characterized as an excuse rather than a justification. While either theory of self-defense could potentially result in an acquittal of the defendant, important and controversial distinctions between excuse and justification exists (Schneider, 1980)

In treating a self-defensive action as justified, the act is perceived as legally and

PM-1 3½"x4" PHOTOGRAPHIC MICROCOPY TARGET
NBS 1010a ANSI/ISO #2 EQUIVALENT

socially correct and reasonable. Viewed as an excuse however, the act is recognized as wrong, but is nonetheless legally tolerated based on the external and internal pressures acting upon the defendant at the time of the killing (Creach, 1982). It has been suggested that conceptualizing self-defense as an excuse would benefit battered women in that acquittals would be more easily secured (Rosen, 1986). Despite this claim, feminist theorists have maintained that an excusable self-defense would be a detriment to the rights of battered women who kill their spouses. That is, 'excusing' the self defensive actions of battered women, would serve only to perpetrate views of the irrationality of their responses (Schneider, 1980). Justifiable homicide on the other hand allows for a legal and societal recognition that the woman's actions were reasonable and legitimate (Crocker, 1985). However, since it remains in dispute how a jury would in fact respond to these opposing interpretations of self-defense, future investigations into this area are required.

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Appendix A

Informed Consent Form

The purpose of an informed consent is to insure that you understand the purpose of the study and the nature of your involvement. The informed consent must provide sufficient information such that you have the opportunity to determine whether you wish to participate in the study.

You are about to see a videotape of a simulated trial wherein the defendant, an allegedly abused wife, has killed her husband. Some people may find the issue of wife assault, along with the aspects of the trial, to be offensive and you are under no obligation to continue with this study. You may withdraw at any time without losing credit. As part of the procedure you will be required to fill out a series of questionnaires pertaining to the guilty or innocence of the defendant. After viewing the videotape, as part of the jury, you will be required to spend up to a maximum of 90 minutes in deliberation. The purpose of this study is to examine how juries reach decisions in such trials. It is hoped that your participation will give us some insight into the matter. I am aware that my participation in this study is voluntary. If for any reason, at any time, I wish to leave the experiment, I may do so without having to give an explanation and with no penalty whatsoever. Furthermore, I am also aware that the data gathered in this study is confidential and anonymous with respect to my personal identity.

I have read the above form and with the understanding that I can withdraw at any time and for whatever reason, I consent to participate in today's jury simulation experiment.

Participant's signature

Investigator's Signature

Appendix B

Informed Consent

Your task as a jury will be to reach a unanimous decision concerning the guilty or innocence of the defendant. You will attempt to reach a decision during deliberations in which you and the other members of the jury discuss the case. The experimenter will not be present during the deliberations.

Very little is known about how juries reach their decisions because, by law, jury deliberations are held in secret, and justifications for jury verdicts are not demanded. In order to understand this process more fully we would like to videotape your deliberations

I understand that I am completely free to withdraw at this point in time (without penalty) or at any subsequent time during or following deliberations.

Furthermore, I am also aware that the deliberation videotapes will be kept completely confidential and anonymous with respect to my personal identity.

I have read the above form and with the understanding that I can withdraw at any time, I consent to the videotaping of the deliberations.

Participant's Signature

Investigator's Signature

Appendix C

Attitudes Toward Wife Abuse Questionnaire

Name: _____

Sex: male female

Age: _____

strongly
disagreestrongly
agree

1. Sometimes a man is justified in hitting a woman to keep from being henpecked.	1	2	3	4	5	6	7
2. Women respect a strong man who listens to their opinions but, in the end is the one who lays down the law.	1	2	3	4	5	6	7
3. A woman who cheats on her husband deserves to get beaten.	1	2	3	4	5	6	7
4. No man should ever give his wife a serious beating, however an occasional slap when she will not stop nagging is justified.	1	2	3	4	5	6	7
5. A man is never justified in hitting his wife.	1	2	3	4	5	6	7
6. Couples should try to resolve their differences rationally but, when a wife continues to argue and nag irrationally a man is justified in hitting her to quiet her down.	1	2	3	4	5	6	7
7. A woman who is hit by her husband during an argument should always call the police and have him charged, even if she is not seriously hurt.	1	2	3	4	5	6	7

	strongly disagree						strongly agree
8. If a man occasionally gets so angry at something his wife says or does that he loses control and hits her, his wife should try to change her behavior so that she no longer antagonizes him.	1	2	3	4	5	6	7
9. Women should feel free to talk back to their husbands without fear of being hit or slapped.	1	2	3	4	5	6	7
10. Even if a woman belittles her husband and puts him down, he has no right to slap or hit her.	1	2	3	4	5	6	7
11. If a married woman openly flirts with another man, her husband has a right to hit her so that she will know that she has overstepped the bounds.	1	2	3	4	5	6	7
12. Women do not mind being hit by their husbands if they know that they have done something to deserve it.	1	2	3	4	5	6	7
13. A man who makes derogatory comments toward his wife is abusing her even if he doesn't hit her.	1	2	3	4	5	6	7
14. A woman should leave the home if her husband beats her.	1	2	3	4	5	6	7
15. There is something wrong with a man who hits his wife.	1	2	3	4	5	6	7
16. It is alright for a man to hit his wife to keep her in her place.	1	2	3	4	5	6	7
17. A woman should never have to worry that her husband might hit her.	1	2	3	4	5	6	7

	strongly disagree						strongly agree
18. Abuse involves derogatory comments as well as physical abuse.	1	2	3	4	5	6	7
19. A man who beats his wife was beaten as a child.	1	2	3	4	5	6	7
20. There is something wrong with a woman who stays in a home where she is abused.	1	2	3	4	5	6	7
21. If a man calls his wife fat and stupid, he is abusing her.	1	2	3	4	5	6	7
22. Women that are beaten by their husbands usually hit their husbands first.	1	2	3	4	5	6	7
23. If a woman is severely and repeatedly beaten by her husband, she has a right to kill him even when he is asleep.	1	2	3	4	5	6	7
24. A husband should not be allowed to hit his wife under any circumstances.	1	2	3	4	5	6	7
25. A wife has the right to defend herself with deadly force against her husband who is beating her.	1	2	3	4	5	6	7
26. If talking fails, a husband has to have some way of disciplining his wife.	1	2	3	4	5	6	7
27. A husband has the right to slap and physically restrain his wife to calm her down.	1	2	3	4	5	6	7
28. Women enjoy being shown who is in charge every once in awhile.	1	2	3	4	5	6	7

	strongly disagree							strongly agree
29. Women have the right to protection from an abusive spouse.	1	2	3	4	5	6	7	
30. A little violence between spouses is normal.	1	2	3	4	5	6	7	
31. Women who kill their spouses should be given the maximum sentence under the law.	1	2	3	4	5	6	7	
32. Battered women need laws that will protect them.	1	2	3	4	5	6	7	
33. Have you ever been in an abusive relationship?	Yes							No
34. Do you know anyone who has been or is currently in an abusive relationship?	Yes							No

Appendix D

Juror Number: _____

Credibility Rating**How believable were each of the trial participants testimony on a scale of 1 to 5 ?****NOT Credible****VERY Credible**

Judy Richards	1	2	3	4	5
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Expert Witness	1	2	3	4	5
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Appendix E

DUTIES OF THE FOREPERSON (foreperson should read this aloud to the jury)

Before beginning any deliberations I, as foreperson will tally the jury for their opinions concerning the guilt or innocence of the defendant. I will do this by asking all of the jurors to indicate on their ballot if they believe the defendant to be guilty or not guilty. I, as the foreperson, will also participate in this vote by indicating on my ballot if I think that the defendant is guilty or not guilty.

Afterwards, the deliberations will begin and will continue until we reach a unanimous decision concerning the guilt or innocence of the defendant. At various times during the deliberation, I will tally the jury for their opinions concerning the guilt or innocence of the defendant. We can take as many tallies as we need in order to reach a unanimous decision. At the end of the deliberation we will take a final written ballot of our individual decisions.

Appendix F

Tally Sheet

JUROR NUMBER: _____

TALLY NUMBER: _____

On the basis of the evidence, my vote is that

Mrs. Richards is **GUILTY** _____

Mrs. Richards is **NOT GUILTY** _____

Appendix G

Juror Number _____

Reasonableness/Justification Rating

1. To what extent do you believe that the woman's actions were reasonable?

1	2	3	4
Definitely NOT	Probably NOT	Probably Reasonable	Definitely Reasonable

2. To what extent do you believe that the woman's actions were justified?

1	2	3	4
Definitely NOT Justified	Probably NOT Justified	Probably Justified	Definitely Justified

Appendix H

Debriefing Information

I would like to thank you for participating in this study. Your participation will help us understand more about how jurors make decisions in trials involving abused wives that have killed their husbands and will offer a new contribution to this field. This study and others like it assist those individuals who are involved in this type of litigation.

I would like to emphasize that both wife abuse and murder are serious crimes, yet wife abuse often goes unnoticed. Victims of wife abuse suffer severe psychological trauma as well as the more obvious physical effects of the abuse. Unfortunately, many people still believe a number of falsehoods or myths about abuse. First, it is important to realize that abuse does not occur solely in marital relationships. Women in dating or common law relationships may also become victims of abuse. Second, people often believe that battered women are responsible for the abusive action of their partners. This belief is false. Women are not responsible for the abuse, rather they are the victims of violence. Relatedly, women who do not leave abusive relationships are often seen as more responsible for the abuse and their claims of abuse are often seen as less credible. Many barriers make it difficult for a woman to leave an abusive relationship. For example, financial constraints, the welfare of children, and psychological trauma due to the abuse are mediating factors in a battered woman's decision to leave the relationship. To reiterate, under no circumstances should a woman be blamed for her abusive partner's actions. Women are the victims of domestic violence and in no way 'ask for' or 'deserve' abuse.

The purpose of the study in which you have just participated is to investigate the factors that influence the decisions that jurors make in these trials. In this study the circumstances surrounding the abuse were manipulated as well as the instructions given by the judge. We wanted to see if changes in these variables affected the dependent variable, jury verdicts. We appreciate your taking the time to answer the questionnaires. Also, please note that the trial presented on videotape to you is a completely simulated trial; that is, it is a totally fictional scenario. The characters you saw were actors and actresses who volunteered their time and effort to this study. There are a couple of discrepancies between the procedure used in this study and the procedure used in actual criminal trials. In this study ALL mock jurors who agreed to take part in the study sat on the jury. However, in actual trials potential jurors would be questioned by the Defense and Crown attorneys before the trial proceedings. This process is called the jury selection procedure and all individuals who arrive for jury duty are not selected to sit on the jury. Another difference between the procedure used in this study and actual criminal trials is the artificial time limit placed on the deliberations. In actual trials the length of the deliberations are not limited. However, the literature indicates that the majority of juries that try cases involving charges of sexual assault reach a verdict within 90 minutes.

The forms of social violence depicted in this study receive the concern and commitment of this university so that a better understanding of the motives behind murder, abusive relationships, and violence against women may be achieved.

We understand that the scenarios may be upsetting and anxiety provoking and for these reasons we stress that you contact myself or one of the agencies listed if you have

any concerns regarding this study or the issues referred to in this study. This list of contacts includes agencies within both the university and community that are available for men and women.

Due to the nature of this research, we ask you not to discuss the subject matter with potential participants until testing is complete - approximately April of 1992. If you wish to discuss any aspect of this research, I will be available for appointments. You may contact me, Cheryl Terrance, in room A304 Loeb, or by phoning 788-2600 x2683. You may also contact my academic advisor, Dr. Nicholas Spanos by phoning 788-2600 x2683.

Thank you again for your participation. If you have any comments that you feel might be helpful or informative, I would appreciate them.

If you have any questions or ethical concerns regarding this experiment, please contact any or all of the following faculty members,

Dr. L. Paquet, 788-2689; Loeb A537 (Chair of the Ethics
Committee)

Dr. W. Jones, 788-2648; Loeb B559 (Chair of the
Department)

Appendix I

Contact Sheet**Police Phone Numbers****Emergency 911**

Ottawa	230-6211
Nepean	820-5000
Kanata	592-6061
Gloucester	745-7000
O.P.P.	828-9171

Victim Assistance Program
236-0311 x 367

24 Hour Distress Lines

Distress Centre	238-3311
Salvation Army Crisis Centre	236-7977
Rape Crisis Line	238-6666
Sexual Assault Centre	234-2266
A.A.	523-9977

Individual Family Counselling

Catholic Family Centre	Family Service Centre
200 Isabelle St., 4 floor	119 Ross St., 2 floor
Ottawa 233-8478	Ottawa 725-3601
sliding pay scale	sliding pay scale
French and English	English

Divorce and Custody Mediation

Catholic Family Services	233-8478
Family Service Centre	725-3601
Family Court Clinic	724-6513
Family and Divorce Mediation	233-4926

Legal Help

Community Legal Services	238-7008
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Legal assistance for low income families with problems related to housing; the landlord and tenants act.

Legal Aid
238-7931
Legal assistance to low income individuals who need help with criminal matters.

University of Ottawa
Canadian Legal Aid Society
564-5855

Ottawa Law Information Line

236-3893

Referral to appropriate services

Help for Victims of Sexual Abuse and their Families

Family Service Centre	725-3601
The Sexual Assault Support Centre	234-2266
Children's Hospital for Eastern Ontario	737-7600
Children's Aid Society	737-1700

Services for Battered Women

If you need to talk:

English: Gloucester Services for Abused Women	745-4818
Interval House	234-5181
Lanark County Interval House	1-800-267-7946
French: Services de Gloucester	745-3665
La Presence	233-8297
Maison D'Amitie	234-7204

Temporary Refuges for Women and Children

Interval House	234-5181
Lanark County	1-800-267-7946
Maison D'Amitie	234-7204
La Presence	233-8297

Counselling Services

Pinecrest Queensway Community Centre	820-4922
Dalhousie Community Centre	238-8210
Ottawa S.E. Community Centre	521-1023
Lower Town Community Centre	238-1784
Vanier Community Centre	744-2592
Gloucester Community Centre	741-6025
Overbrook-Forbes Community Centre	745-0073

Counselling Services for Men

New Direction	233-8478
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Appendix J

Trial Script

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* Testimony reflecting non-confrontation condition is in bold, confrontation is underlined.

** Statements pertaining to the objective instructions are in italics, and are underlined and in bold for subjective instructions.

Judge's Opening Statements

The Court is now in session and we will hear case #3462, the Crown vs Judy Richards. Members of the jury, Mrs. Judy Richards is charged with the 2nd degree murder of her husband, the late Douglas Richards. Under s. 229(a) of the Canadian Criminal Code, this code reads as follows - culpable homicide is murder when the person who causes the death of a human being means to cause his death. Furthermore, under s 231 (1) (2) of the C.C.C., murder is 1st degree murder or 2nd degree murder when it was planned and deliberate. The court recognizes 2nd degree murder is distinct from manslaughter in that in the case of 2nd degree murder, the act is not committed in the heat of passion or caused by sudden provocation.

At the initial arraignment on June 26, 1989, Mrs. Richards pleaded not guilty to the charge of 2nd degree murder by reason of self-defense. In order for the plea of self-defense to be accepted under the law, s 34 states that two conditions must be met. First, the defendant must have believed that they were in imminent danger of death or serious physical harm, and second, that the defendant used reasonable force in order to protect themselves from such a threat.

Your duty, members of the jury will be to listen to all the arguments presented by both the crown prosecutor and defense attorney. Before arriving at a decision regarding the validity of Mrs. Richards plea, you must remember Judy Richards is presumed innocent of the charge, and the burden of proof is on the prosecutor. Mrs. Richards' is entitled to a fair trial by her peers, and you the jury have been selected to fulfil this role. If at anytime during the trial you no longer feel you are able to carry out

your duties as a jury person because of prejudices or unfair biases against the accused, you are asked to inform the court immediately. We will now hear the opening statements from the prosecutor and defense.

Opening Statements for the Prosecution

Members of the jury - You are about to hear the case of the Crown vs. Mrs. Judy Richards. You will hear how she was badly abused and mistreated by her husband, the deceased Douglas Richards, for a period of 3 years. You will hear evidence presented by the defense as to how he inflicted not only physical damage upon her person, but also how he subjected her to incidents of mental torture and cruelty. You will hear how she tried to do everything in her power to stop him from hurting her and her baby, and how in the end, the defense will suggest that the only way she found to stop him was to shoot him. A very heart wrenching and emotional story indeed. One that I'm sure the defense will want you to keep in mind.

The prosecution concedes that Mr. Richards was not an ideal husband and that the evidence surrounding the case suggests that at times Mr. Richards lost his temper with his wife. The crown also concedes the possibility that Mr. Richards might have needed counselling to help him learn to control his temper and to communicate more effectively with his wife. But Mr. Douglas Richards is not on trial here. It is Mrs. Richards that is on trial for murder...second degree murder...planned and deliberate homicide. What you must remember throughout this trial, and what you ultimately must use to make your final decision in this case are the facts, and once the facts of this case become known, the law is clear.

The first fact of this case is that Mrs. Richards killed her husband. We know this by Mrs. Richards own admission. So the question in this trial is not one of who killed Mr. Richards. The question, rather, is whether or not Mrs. Richards is legally culpable

in the death of her husband. She states that she killed him in self-defense. But I'll ask you, jurors, to keep in mind throughout this trial the definition of self-defense. Self-defense is a tenable plea if and only if : the defendant was in imminent danger of death or serious bodily harm at the time of the incident and that reasonable force was used to protect herself from such a threat.

I intend to prove to you that Mrs. Richards was not in imminent danger of death or serious bodily harm at the time of her husband's death and I will do this by examining the facts of the case. Now, as I stated before, we know that Mrs. Richards killed her husband and we know that she killed him during a dispute. However, while the Crown concedes that Mr. Richards was angry and perhaps even aggressive, Mrs. Richards was at no time during the argument in imminent danger of death or serious bodily injury (**she killed him while he was asleep**). Secondly, I intend to prove that even if Mrs. Richards believed she was in danger, she did not use reasonable force. Mrs. Richards pulled the trigger of a gun on her unarmed (sleeping) husband not just once, or even twice, not three times but on four separate occasions fired a long rifle, hollow point bullet into her husband's body. The prosecution maintains that this is, indeed, excessive force.

The self-defense plea offered by Mrs. Richards is not appropriate. Mrs. Richards, by her own admission had thought about ridding herself of her husband at least 12 hours prior to the act. It could hardly be said either, that Mrs. Richards was in imminent danger of death at the time of the shooting (**because her husband was sleeping**). While a punch may result in bruises, it is hardly likely that it would result in death or serious physical injury. There are many legal alternatives open to women in

abusive marital situations and Mrs. Richards could have pursued these routes instead of cutting her husband in two with a semi-automatic rifle.

The Crown will present evidence showing that Mrs. Richards was in full control of the situation at the time of the murder and consequently, with deliberate mal-intent, killed her husband in cold blood. For these reasons, members of the jury, I ask you to find Mrs. Judy Richards guilty of murder in the second degree.

Opening statement for defense

Members of the jury, my learned colleague, Mr. Lewis, has told you that Judy Richards was beaten and psychologically abused by her husband prior to his death. He has also told you Mr. Richards could have benefited from counselling to help him quell his nasty temper, and finally, he has also suggested that Judy Richards should have used the legal system or simply left her husband in order to avoid being beaten and abused by him

In a normal situation, with normal individual's, even I might agree with what Mr. Lewis recommends. But, what the defense will show is that the activity in the Richards' household was not that of a normal family. Mr. Richards had more than a nasty temper as suggested by my colleague. Mr. Douglas Richards treated his wife Judy much the same way political prisoners are treated in third world countries. She was literally a prisoner in her own home, and consequently was subjected to what amounts to torture. Because of such treatment Judy felt she was in a sense at war...Hardly a normal situation.

On the night of her husband's death, Judy Richards' life had been threatened - her husband had told her he was going to kill her and had shown her the weapon he was going to use to do it. I want you to imagine the psychological terror that such a threat would evoke. Based on his past behaviour, Judy believed this was no idle threat, and she believed that she was in imminent danger of death. Indeed, moments before her husband's death Judy was being confronted with yet another physical beating

Why didn't she go to the police at this point Judy will tell you why she didn't enlist the help of the police - She did not believe the police had the power to stop her

husband from doing whatever it was he wanted, even if that meant killing her. Confronted with her husband's threats and his obvious overpowering strength, Judy did only what was necessary to protect herself (Judy did not feel the police would be able to protect her in the long run or, for that matter, take her present complaint seriously).

Why didn't she just leave? Judy could not leave her situation earlier because she had a baby, no money and nowhere to go. Besides, her husband had threatened to track her down and bring her back even if she did leave. Members of the jury, there are many documented cases of violent husbands tracking down wives who tried to leave them, and these same husbands eventually killing them.

Again, I ask you to imagine what life would be like if you had to run and hide from someone who you believed would kill you if they found you. Imagine the terror of such an existence. Judy believed her husband's threats, she was terrified for her life and she felt she had no one to turn to for help. To escape in the heat of the beating would have been impossible for Judy. Judy's husband had her in the kitchen, was beating her and threatening to kill her - so she did what she had to in order to protect herself.

Did she use excessive force? At the time of her husband's death, Judy was suffering from the physical consequences of her husband latest attack. She was physically exhausted, feeling trapped in a hopeless situation, and terrified of her husband. Terrified for her life and the life of her baby's. Members of the jury, Judy knew that she had to ensure she would not suffer retribution from her husband...She knew that if

he survived, she would ultimately die from his hand.

When Judy fired the trigger of that gun, her husband had threatened to kill her and was beating her. Though her husband did not have any weapons in the traditional sense, he was using his fists as weapons. Every year women have been killed by their husbands who used nothing but their fists. Judy had no other means available to her in order to protect herself. She certainly could not have successfully defended herself with her fists - and therefore had to rely on a method that would secure her safety. Indeed, Judy's terror ran so deep she was not even sure she had killed him even after she fired 4 bullets.

The defense maintains that Judy Richards killed her husband in self-defense. She believed her life was in imminent danger, and she did what she thought was necessary to protect herself and her baby's life from her husband's wrath. For this reason, I ask you to find Judy Richards not guilty by reason of self-defense.

Testimony of Officer Burke

Pro: Please state your name and occupation for the record.

Off: My name is James Burke and I'm presently an officer with the Gloucester Police Force.

Pro: Please tell the court Officer Burke what happened on the morning of June 25, 1990.

Off: Well, my partner and I, Officer MacGuinness, received a call about 2:11 a.m. on the radio to respond to a possible homicide at 3212 Bilberry Road. When we approached the house everything seemed quiet and dark. Because of the nature of the call we had our weapons drawn and proceeded into the house. We could see into the front livingroom.

Pro: Please tell the court what happened next.

Off: Well, that woman, (indicating Judy) Mrs. Richards was sitting in a chair holding a rifle.

Pro: Was this the weapon Officer Burke? (holds up rifle).

Off: Yes, it looked like that.

Pro: The prosecution offers this as exhibit A. Please proceed.

Off: Well, I told her to put down the weapon and move away from it. At first she didn't seem to hear me so I repeated the statement. She just kept looking at me. At this time I had my gun pointed directly at her and was moving slowly towards her. She didn't move at all and just kept staring. By this time I was close enough to grab the gun. She released the gun to me without a struggle. I gave the gun to my partner to hold. At that point she said "He's in the bedroom" (in the kitchen). I told my partner to stay with her and I went in the direction she had indicated.

Pro: What happened once you were in the bedroom (in the kitchen)?

Off: I could see a body covered in blood lying on the bed (floor). I felt for a pulse but there didn't seem to be much point. His head was shattered and he was bleeding profusely from the chest. I then left the bedroom (kitchen), and phoned the precinct for a homicide squad and an ambulance. I read Mrs. Richards her rights in the presence of my partner and took her down to the station.

Pro: Did Mrs. Richards say anything to you at this time?

Off: She asked me who would look after the baby. She seemed concerned about this because the baby was sick and she thought he needed to see a doctor.

Pro: Did she show any remorse or concern for what she had done?

Off: Well...

Pro: Was Mrs. Richards crying on the way to the station?

Off: No.

Pro: Did Mrs. Richards wring her hands or appear agitated or give any indication to you that she was upset?

Off: No.

Pro: That is all Officer Burke.

Cross-examination of Officer Burke

Def: Officer Burke, when you entered the house you stated that you actually approached Mrs. Richards even though she had a weapon. Isn't that an unusual way to proceed?

Off: Yes, it is. The gun was pointed down the hallway, away from me though, towards the bedroom (kitchen), and I just didn't think she was going to do me any harm. She seemed so dazed...

Def: What do you mean by dazed?

Off: She had kind of a far away look in her eyes and wasn't responding to the questions I was asking her.

Def: No further questions your Honor.

Testimony of Coroner

Pro: Please state your name and occupation for the record.

Cor: I am Dr. Learner of the Ottawa Coroner's Office.

Pro: Please describe for the jury Dr. Learner, the extent of Mr. Richards's wounds and the resulting consequences.

Cor: The deceased, Mr. Richards, died of blood loss as a result of sustaining 2 gunshot wounds to the left temporal lobe and 2 bullets to the left chest cavity.

Pro: At what range were the bullets fired?

Cor: I would estimate that the bullets to the head were fired at extremely close range, maybe 10 cm., while the wounds to the chest cavity were fired from maybe 50 cm.

Pro: Which bullet finally killed him Dr. Learner?

Cor: Oh, the first shot fired would have been enough to kill him.

Pro: Thank you Dr. No further questions.

Cross-examination of Coroner

Def: Dr. Learner, from your report it appears that at the time of his death, Mr. Richards had a blood alcohol count of .24. Is this considered high?

Cor: Well, the legal limit is .08, so I would estimate that he was fairly intoxicated at the time of his death.

Def: Was there any evidence that Mr. Richards was an alcoholic?

Cor: Judging from the condition of his liver and spleen, I would conclude that he was a fairly heavy drinker.

Def: As well, Dr. Learner, your report states that there were bruises on Mr. Richards right hand. Were these sustained recently?

Cor: Yes, I would say prior to 48 hours of his death.

Def: Was it possible that these bruises were the result of Mr. Richards having hit his fist against something? Say for example, Mrs. Richards head?

Cor: It's possible. He would have had to hit her pretty hard though for that to be the cause of those bruises.

Def: That's all for now Dr. Learner.

Testimony of Office mate: Mark Branswell

Pro: Please state your name and your relationship to the deceased.

M: My name is Mark Branswell, and I worked in the Sales Department with Doug at The Bay.

Pro: How would you describe Mr. Richards, Mark?

M: Well, he was a quiet guy, he worked hard. He kept to himself pretty much.

Pro: Did he ever say anything about his wife or his family to you?

M: Well, he didn't seem too happy with his homelife.

Pro: How do you know that?

M: Well, we would often go out for a drink or something after work and he told me that he thought his wife was a little crazy.

Pro: A little crazy...I see...What else did he tell you about his home life?

M: One night we were talking about women, you know...and he said that ever since the baby had come his wife didn't want to have sex anymore and that she didn't look after the house like she used to...and I could tell that made him mad. He also thought that she might have been seeing somebody else but that he didn't have any proof. I think he really cared about her though. He used to phone her about 5 times a day when he was at work.

Pro: You said that some things his wife did made him mad. What did he do on these occasions?

M: Well, often he would call me to come meet him at the bar for a drink because he was mad and so he had left the house.

Pro: He left the house when he was mad. I see. Did he ever talk about hitting his wife Mr. Branswell?

M: He mentioned a few times that he had pushed her around just to remind her who was boss but he never really said too much.

Pro: Did he ever talk about killing his wife Mark?

M: No, never to me.

Pro: Mr. Branswell, I understand that you and the deceased also went hunting on occasion.

M: Yes, we had licences for that.

Pro: Were you planning a hunting trip prior to the day he was killed.

M: Well we were planning to go and shoot some targets at the range that Sunday.

Pro: So that would account for why Mr. Richards had been cleaning his gun on the night that he was killed. Thank you Mr. Branswell, that will be all.

Cross Examination of Mark Branswell

Def: You stated, Mr. Branswell, that you and the deceased would meet occasionally for a drink. Did the two of you ever get into arguments with other patrons at the bar?

M: Well, once or twice maybe.

Def: Weren't you both, in fact, thrown out of the bar for beating up another man?

M: Yes, but the guy had it coming to him.

Def: Mr. Branswell, would you describe Mr. Richards as a violent man?

M: Well, he's not the kind of guy I would like to cross, if you know what I mean. Most of the time he was just very reserved though.

Def: No further questions your Honor.

Dispute Officer: Officer Montgomery

Def: Please state your name, occupation and relationship to the accused.

Off: My name is Officer Montgomery and I am a police officer with the Ottawa Police Force. I first met Mrs. Richards in August of 1990.

Def: How did this meeting come about?

Off: My partner and I were responding to a domestic dispute call at the Richards house.

Def: What happened after you arrived?

Off: Well, Mr. Richards answered the door and asked me what the matter was. When I told him we received a call from his wife asking for help he laughed and said that they had just been having a little argument but it was nothing serious and that everything was alright. I asked to speak to Mrs. Richards and he said that wouldn't be necessary. I insisted however, and he called her to the front door. I could tell she had been crying and there appeared to be swelling under her right eye. Mr. Richards had his arm around her and was being very affectionate and soothing towards her. She was hesitant about talking to me at first. She kept looking at her husband. I asked her why she had called and eventually the story came out that he had hit her a couple of times and she was worried because she was pregnant. Mr. Richards started getting a bit agitated at this point and insisted that she was lying.

Def: Go on Officer Montgomery.

Off: When I asked him about her eye he said that she had slipped and hit the door frame and added that she was generally very clumsy. When I asked her what had happened she started to cry and her husband started to yell at her to tell the truth. He also called her a stupid cow and a bitch. At this point I asked Mrs. Richards if she wanted to press assault charges. I could see she was afraid to say anything while her husband was there so I told her my partner would take her husband out for awhile and she could decide.

Def: What happened after Mr. Richards was out of the house?

Off: After they had left I told Mrs. Richards that it was within her rights to have her husband arrested for assault. She asked me what would happen to him if she did that. I told her usually, in cases like this, he would spend the night in jail and be let out on bail the following morning.

Def: Could Mr. Richards have returned home at this point?

Off: Yes. At this time, in Canada, we have no legal jurisdiction to prevent him from entering his place of residence and consequently he would be able to return home the following day. The only way to prevent him from returning home would be for Mrs. Richards to ask a court judge to issue a peace bond. However, peace bonds do not insure that the husband will no longer be violent. Besides, it would have taken a couple of days for that process to occur.

Def: Wouldn't that have left Mrs. Richards in a very vulnerable position? Afterall, her husband was a very violent man.

Off: Unquestionably, but there is little else that could be done.

Def: What happened, Officer Montgomery, after your partner returned with Mrs. Richards to the house?

Off: Well, Mr. Richards seemed calm upon entering the house and he told his wife that he was sorry and asked her to forgive him. I again asked if she wanted to lay charges and she said no. I gave her the name and number of Interval House, a shelter for battered women and told her to call them, or us again if she felt the need. Then we left.

Def: In cases of domestic dispute, are women required to press charges in order for their spouse to be removed?

Off: No. However, if she doesn't there is little hope of the case going to trial.

Def: Officer, why did you not lay assault charges?

Off: We need the woman to cooperate and testify against her husband. Many women are hesitant to do that, either because they are afraid of their husband retaliating or, because by the time the trial comes around, they've forgiven him. Often men in these situations pressure their wives to ask to have the charges dropped. In addition, financially it is often hard on the whole family if the husband ends up in jail. The woman ends up having to pay for his court costs and many of them just don't have the financial resources to cope. We get a lot of calls from women that eventually decide not to lay charges or have the charges dropped after proceedings have begun.

Def: Thank you Officer. No further questions your Honor.

Cross Examination of Officer Montgomery

Pro: Officer Montgomery, you stated that Mr. Richards apologized to his wife for his behavior. Did you have any reason to believe that his remorse was not genuine?

Off: No sir I did not.

Pro: No further questions your Honor.

Testimony of Dr. Tast

Def: Please state your name, occupation and relationship to the accused.

Dr: I am Dr. Tast, an intern at the emergency unit at the Ottawa General Hospital. I met the defendant after she was admitted to our unit on August, 9, 1989.

Def: What was she admitted for?

Dr: She had two broken back molars, a broken left arm and her sixth rib was cracked. As well, she had severe facial lacerations that required 8 stitches. In addition, her blood pressure was weak due to blood loss.

Def: How had she sustained these injuries?

Dr: She said she had fallen down the stairs.

Def: Did you believe her?

Dr: I did not believe her.

Def: Why not?

Dr: The extent of the injuries would not be consistent with this explanation, particularly not the head injuries.

Def: Did you confront Mrs. Richards with your opinion?

Dr: Yes. But she insisted that she had fallen down the stairs and said her husband would back her up. She refused to discuss it further. She appeared very upset and agitated. I gave her a prescription for a sedative although cautioned her on the use of the drug as she was about seven months pregnant at the time.

Def: In your opinion doctor, would her injuries have been consistent with someone having beaten her up?

Dr: Yes, I thought it was highly probable.

Def: Are you not required doctor, by law, to report suspected cases of wife abuse to the police?

Dr: No. Unlike cases where child abuse is suspected, there is no mandate to report suspected wife assault to the police. We try to do everything in our power, however, to help a woman in cases such as this to feel at ease and to trust us.

Def: Was that everything doctor?

Dr: Well, there wasn't a lot more we could do for her medically at the time because of the pregnancy. I asked her to return after she had the baby for a more complete physical and recommended to her that she see a dentist about her teeth. To my knowledge, however, she did not return at that time.

Def: Did you see Mrs. Richards again though?

Dr: Yes. I saw her on the early hours of Sunday morning, June 25, 1990.

Def: Why?

Dr: She was brought in by a police officer and they wanted her examined.

Def: What did you find?

Dr: The defendant seemed to be in a state of shock. Her affect was poor and she could not respond coherently to questions. At this point I made an appointment for her to see Dr. Johnson, a psychiatrist, who is part of the family violence unit at the hospital.

Def: What was her physical condition?

Dr: She had numerable contusions above her left ear, a severely swollen jaw, 2 cracked ribs and bruises on her left thigh. I also thought that she had suffered some internal damages. Subsequent x-rays showed that she had a severely bruised right kidney and had sustained some internal bleeding.

Def: Were these injuries recent?

Dr: Yes. Probably within 24 hours.

Def: Thank you doctor. No more questions your Honor.

Cross Examination of Dr. Tast

Pro: Dr. Tast, after your initial contact with Mrs. Richards, you said that you thought she lied about her injuries. Why would she do that?

Dr: There could be many reasons but often in cases like this the women don't say anything because they are afraid of their husbands.

Pro: Did you ask her husband about her injuries?

Dr: Yes I did.

Pro: ...and what did he say?

Dr: He said she fell down the stairs.

Pro: Was he upset...did he seem concerned at this time?

Dr: Oh yes. As a matter of fact, he insisted on being present during her whole examination. He never left her side, even when I performed an internal on her to check on the condition of the fetus. In cases such as this we always attempt to interview the woman without the husband present. Mr. Richards was very hesitant about leaving though.

Pro: No further questions your Honor.

Testimony of Mrs. Richards

Def: Mrs. Richards, please tell the court your age and how long you had known your husband.

J: I am 23 and had been married to Doug for 3 years.

Def: How did you meet your husband?

J: After I finished high school I took a full time job working at the Bay in Edmonton. Doug was in the sales office and he used to come by and make some comment all the time to me, kinda funny like. One day he asked me if I would go for lunch with him and I said sure. Well, after that we started dating although I couldn't see him that often because my mother was pretty strict and I was still living at home. I didn't have any brothers or sisters and after my dad died I think my mom relied on me a lot. Doug didn't like my mom much though. He thought she controlled my life too much. Anyway, one night, about 6 months after we had been going steady, he asked me if I would marry him and move to Ottawa as he could get a transfer out here really easy. He said I wouldn't have to work and could just stay home and relax. It sounded pretty good to me. My mother was pretty upset about the whole thing and I didn't hear from her for a long time. I found out later, much later, that she had been writing me but since we had moved a lot, I never got her letters. Doug refused to let me call her as he said she was a bitch and all she had done was shit all over him.

Def: So you had no contact with your family after you moved to Ottawa?

J: Actually, about 8 months after we were married, I did phone her when Doug was at work and we talked for awhile. I had been feeling rather lonely being in a new place and everything...I hadn't really met anybody and didn't have anybody to talk to. Anyway, when the phone bill came at the end of that month, there was the call on it. Since Doug opened all the mail, he had the proof...there was no denying that I had gone behind his back and phoned her. That was the first time beat me really bad.

Def: You mean he wasn't violent with you at all before this?

J: Oh he'd push me around a bit, and once he threw an ashtray at me, but no, that was the first time he really let me have it. I was in bed for two days before I could even get up and make myself a cup of coffee.

Def: How did he treat you after that incident?

J: Actually the next day he told me he was sorry that he had lost his temper and I

felt kinda guilty because I knew that I wasn't supposed to talk to my mom so we just kinda forgot about it. Everything was o.k. for about a month or so and then he started accusing me of having an affair.

Def: And were you?

J: Oh no. Even if I had wanted to I couldn't have...I mean..He always knew where I was. He would do things like time me when I went to get the groceries and stuff. If I took longer than he thought I should have he would just stand there and belt me in the stomach or something when I came in the door. He would never give me any freedom. At first, I thought this showed how much he loved me, his being jealous and all, but after a while, I started to think he was crazy. He didn't even like me to close the door when I went to the bathroom.

Def: It sounds like your husband was quite a jealous man Mrs. Richards. How often would you say, he hit you in the year prior to the night he died?

J: Do you mean hit me hard?

Def: Yes, hard enough to cause a bruise.

J: After that time I ended up in the hospital, it was probably once or twice a month.

Def: Mrs. Richards, did you ever try to leave him?

J: Yes once after I had a miscarriage.

Def: Tell us about that please.

J: Well, about 6 months after that time he got so upset at me for calling my mom I found out I was pregnant. Doug really wanted to have kids so I thought this would make him really happy. After I told him he didn't seem too interested, he just kinda ignored me. Later that night, he went out with some of his friends and came back at about 2 or so. He woke me out of my sleep and started just wailing on me. He said I was nothing but a whore and that the baby didn't belong to him. He kicked me in the stomach and there was no way I could stop it. He stormed out shortly after this and I felt awful. I started getting cramps and I guess at that point I must have miscarried.

Def: Did you see a doctor?

J: No. I didn't want Doug to get any angrier with me than he already was. When I told him I thought I lost the baby he told me I killed it. That was the first time he threatened to kill me for what I had done. I was pretty upset and after

thinking about it, I decided to leave him. I actually packed a little bag and hid it under the bed. I figured the next time he gave me grocery money I would use it to get on a bus and head for home. I thought maybe if I gave Doug a little time alone to think about how he had been treating me he might change. I cared a lot about the guy and really though he needed me, but I just didn't seem to be able to make him happy.

Def: Did you leave him?

J: He found the bag I had packed and knew right away that I was thinking of leaving him. He just exploded, and that's when he actually got the gun out. He told me would track me down and shoot me so full of holes that I wouldn't be recognized. I just felt so scared. I remember I just sat there and cried and cried. I felt so useless. Anyway, Doug calmed down and the whole issue was dropped. I was still pretty tense though and I felt like my nerves were shot. I just didn't know what to do. I still loved Doug, but I was so afraid of him too. My feelings about my own safety were starting to override any feelings I had for him. I just wanted him to stop hurting me and I didn't know how to get him to.

Def: Did you believe that he would kill you if you left him?

J: Without a doubt. If you could have seen him...

Def: How were things between you after you had tried to leave him?

J: Well, I thought if I could just try harder to be a better wife it would be o.k. I found out about 3 months after all that, I was pregnant again.

Def: Was there anybody you could talk to?

J: No not really. Doug just didn't like me to talk or get friendly with anybody. It just ended up being worse for me if I did. One time he tied me to a chair all night and took punches at me after he saw me talking to a neighbour. He was convinced that I had been bad mouthing him. No matter how much I denied it, he wouldn't believe me.

Def: We heard from Officer Montgomery about the evening you called the police and how you subsequently had ended up in the hospital. Why hadn't you told the doctor that you're husband had beaten you up?

J: Well, after the police left, Doug didn't say anything to me for awhile. Then, he started with the names and going on about how ungrateful I had been, and if I really wanted to know what bad was he'd show me. He started out apologizing to me and then started to beat the shit out of me. I didn't know who was more

crazy - me or him. Well, you heard what he eventually did to me- the broken bones, the stitches. He told me if I ever told anybody about what had happened he would kill me. He said he would track me down, no matter how long it took him, and kill me. He made me swear not to say anything before he'd take me to the hospital. I just didn't want anymore beatings, so I thought it would be better not to say anything. Besides, I was so embarrassed - I felt stupid. What would those people think of me?

Def: Couldn't you have confided in your Dr.?

J: Well, after I figured out I was pregnant, about 2 months later, I snuck out of the house and went down to the clinic to make sure. The Dr. I saw there didn't ask me about anything and I was just as glad. I was just too afraid. The next time I saw the doctor I was 7 months pregnant, the night that Doug really hurt me bad after the police left.

Def: Tell us what happened on the night your husband died.

J: He had threatened to kill me so many times and I really thought that this time he meant it. There was just something a little bit different than the other times. He was just so wild and crazy...the look in his eyes terrified me.

Def: Judy, could you tell the court what happened on that weekend?

J: Well, Doug came home from work on Friday and started right in on me. The baby had been sick and I didn't have time to make a dinner and that was all the reason he needed. He hit me the chest with his fist, which knocked me to the floor and told me to forget the kid and get him his dinner. I gave the baby, who is only 8 months old, half of one of my sleeping pills. I knew I shouldn't have done that, but I had to keep him quiet or Doug might have really hurt him. By the time I got some dinner for Doug, he had a few beers. All the time I was getting dinner ready, he kept calling me names and telling me what a terrible mother I was to have let the kid get sick, and what a terrible wife I was that I didn't have his dinner ready for him after he worked so hard all day. After I put the dinner on the table he refused to eat it because I had taken so long. At that point he threw the plate against the wall and left the house, saying he'd go out to get something to eat. I knew he was probably going to the bar, but I was just glad he was out of the house. I was a little worried that he would still be pissed off when he came home, though I hoped maybe if he had a good time he would be in a better mood. I cleaned up around the house, cause I knew how much a messy house pissed him off, checked the baby and went to bed around 10.

Def: What happened next?

J: I don't know what time it was, I guess around midnight or so, when I heard him coming in. I was in bed and thought I would pretend to be asleep. It didn't do me any good though. He just hauled off and punched me in the back of the head and I started feeling dizzy. Then he dragged me from the bed by my leg and proceeded to punch me every where. Everytime I fell, he'd haul me up to my feet and hit me again. I kept telling him to stop and I tried to calm him down a bit, but it didn't do any good. At one point I fell down and he was kicking me in the head. I must have blacked out because the next thing I knew was that he was standing over me with the gun, pointing it at my head telling me how he was going to blow my brains out. He was calling me every dirty name he could think of and had a really crazy look in his eyes. I was just paralysed with fear. All I could really think of was what was going to happen to my baby if I'm not here. Then he hit me with the butt end of the gun and I guess I lost consciousness again.

I stayed on the floor of the bedroom all night I guess. I felt really lousy when I got up and though I might have broken some ribs or something because I was having difficulty breathing. The baby was crying so I tried to look after him. Doug wasn't in the house, and I didn't know where he had gone and I just didn't care. I gave the baby something to eat and tried to get myself cleaned up a bit but it hurt too much so I went back to bed. I sat there in bed thinking about all the times he'd hit me, and how I just couldn't take it no more. He hadn't hit the baby at least, but I didn't think that would last for long. I kept thinking about how I could get out but I didn't have any money or any way to get away. Besides, I was so sick at the time I could hardly get out of bed. I thought about calling the police, but I remembered what happened last time I did.

After thinking about that, I started thinking about killing myself, that's really what I felt like doing...but then I kept thinking of the baby and how I couldn't leave the baby to him. I knew what I really wanted was for him to be gone - out of my life forever, but even thinking that made me feel scared.

Def: Tell us what happened next Judy.

J: Well, Doug came back about 5 o'clock and was just ignoring me. He didn't mention anything about the night before and I was trying to avoid upsetting him, so I didn't say anything. He had started drinking beer and later, at about 9 o'clock, he got out the gun again. I had given the baby the other half of the sleeping pill because I knew Doug was still in a bad mood and I didn't want the baby to upset him. Doug was cleaning the gun and he kept looking at me. He'd look at me and say he had a big job to do with the gun and wanted to make sure it was working properly. I just knew he meant he was going to kill me with it and I felt a little panicked. He kept describing how powerful the gun was and how sometimes the only solution to some problems was to get rid of them

permanently. Then he said "Yep, tomorrow's the day". Then he started telling me how lousy I looked, as if it was my fault, and then he got mad at me because he said I kept staring at him. I told him I wasn't feeling too good and he suggested that if I felt that bad, I should use the gun on myself. I just looked at him and he said he knew I didn't have the guts, that's why he'd have to take care of the problem himself.

I finally went to bed around 11 and was still feeling pretty lousy. He followed me in and wanted to have sex, but I said I was just too sore. I tried to tell him that but he wasn't listening so I just shut up and did my best to get it over with. He fell right asleep afterwards. I got up and went to the kitchen. Although I usually don't drink much, I thought I'd have a drink of scotch to soothe the pain in my chest. The gun was sitting on the table just like he'd left it there for me. I started thinking again about my situation and how he was going to kill me. Things got a bit hazy for me at this point but I remember thinking "I've just got to escape".

The next thing I knew, Doug came storming out of the bedroom...He was screaming and banging on the walls - he looked so crazy. I tried to get out of the kitchen, so I could avoid him, but it was too late - he was blocking the entrance way. He raised his hand and yelled "This is it bitch - you're really going to get it this time." He hit me on the head and knocked me up against the counter. I don't really remember what happened next - except I remember thinking - this is it he's going to kill me. Things got a bit hazy - I was all confused - I just knew I had to escape. The next thing I knew I had grabbed the gun on the counter. He kept coming towards me and went to hit me again - I guess it was at that point that I fired the gun.

From this point on it was like I was watching a movie of myself doing things. I watched myself pick up the gun and take the safety catch off. I still didn't know at this point that I was going to kill him. I just kept looking at the gun and thinking about what a bastard he was. I poured another drink and was still holding the gun. I felt all confused, between the scotch and the pain. It was just like a dream where everything is moving in slow motion. Once again I was watching myself move towards the bedroom door and walk into the room. I walked to the bedroom door with the gun and stood there staring at him. After that I don't remember too much, things get really hazy. I guess I must have put the gun to his head and pulled the trigger, but I can't really remember what happened. It was like somebody else was doing this and I was just watching.

I don't really remember firing the other shots but I remember thinking that "if he catches me he's going to kill me" I know that sounds dumb, but I just kept thinking "I'm really going to get it for this".

Once the gun was empty, I guess, I went back into the livingroom (kitchen). I really don't remember much at this point. I still had the gun and I remember I was shaking really bad when I went to pour another drink. (I took it into the livingroom) and sat in the chair facing the hallway to our kitchen (bedroom). Everything seemed so quiet, almost peaceful like. I kept thinking, any minute now he's going to burst out of that kitchen (bedroom) and beat the shit out of me. I remember looking down at the gun and wondering what it was doing in my hands. Then I thought, maybe nothing really happened...It is all so hazy and my thought at this time were very confused. It was at this point, I guess, that I called the police.

Def: Thank you Judy. No further questions your Honor.

Cross-Examination of Mrs. Richards

Pro: Mrs. Richards, You stated that you killed your husband and that you believed that you had no choice except to do so. We have heard according to your testimony, how he had physically abused you on a number of different occasions and how on one of these occasions you had phoned the police. Did Officer Montgomery tell you that she would arrest your husband for assault the next time he hit you if you wished to press charges?

J: Yes.

Pro: But you didn't phone the police even though you thought your husband was going to kill you?

J: No, I knew arresting him wasn't going to stop him.

Pro: Mrs. Richards, Officer Montgomery also said she had given you the number for a woman's shelter, and suggested you call there if you needed assistance. Why didn't you do that?

J: I forgot she told me. Besides what good would that have done?

Pro: Mrs. Richards, you said your husband had beaten you on a number of occasions. Is that right?

J: Yes.

Pro: You didn't like to be hit like that did you?

J: No.

Pro: Did you think your husband was justified in hitting you?

J: No. I didn't do anything to deserve getting hit.

Pro: Well Mrs. Richards. If he kept hitting you when you didn't deserve it you must have gotten pretty mad didn't you?

J: I couldn't get mad because if I did he would have hit me even more.

Pro: But you must have gotten mad inside even if you didn't let it show..isn't that true Mrs. Richards?

J: Yes I got mad but didn't do anything about it.

Pro: But you did do something about it, didn't you. When you finally got mad enough you killed him isn't that right?

J: I killed him because I was afraid he was (going to wake up) and kill me.

Pro: But you must also have been mad enough at him to kill him weren't you?

J: I don't know. I was just really scared and confused at the time.

Pro: But you had been mad at him before?

J: Yes.

Pro: Mrs. Richards. You have told the court that you wanted your husband out of your life earlier in the day, prior to actually committing the act. You also stated that you grabbed a gun while your husband was beating you and shot your husband four times. Now you claim that you had to do this to protect yourself. Was your husband threatening you or attacking you with a weapon? (You also stated that you released the safety catch on the gun prior to going into the bedroom. Finally, you carried the gun into the bedroom and put the gun up to you sleeping husband's head. You then pulled the trigger 4 times. And yet you claim that you had to do this to protect yourself. Was your husband attacking you when you pulled the trigger?)

J: No.

Pro: Than why did you kill him?

J: I believed he was going to kill me (when he woke up).

Pro: Was he stalking you or making threatening gestures to you?

J: No.

Pro: Can you see into the future Mrs. Richards? Could you state with absolute, 100% certainty that he was going to kill you? After all - he never carried through with his previous threats.

J: Weil, I thought so...

Pro: Mrs. Richards, let's talk about something else. Did you fire the first bullet that the coroner stated killed your husband?

J: Yes, I guess so.

Pro: Did you fire the second bullet?

J: Yes.

Pro: And how about the third bullet. Did you fire the third bullet?

J: I don't remember, but I guess I must have.

Pro: And finally Mrs. Richards, did you fire the fourth bullet?

J: Yes.

Pro: So, Mrs. Richards, you fired not once, not twice or even three times, but you fired 4 bullets at close range into the unarmed (sleeping) body of your husband. Is that true?

J: Yes.

Pro: No further questions your honor.

Testimony of Dr. Johnson: Expert Witness

Def: Dr. Johnson, you have been called as an expert witness on the battered woman syndrome on behalf of Mrs. Judy Richards who had been charged with the second degree murder of her husband. Could you please state your credentials for the court.

Dr: I received my license to practice psychiatry from the University of New Hampshire where I completed extensive investigations into issues surrounding family violence with Dr. Lynn MacDonald. I have also worked with John J. Williams, a renown spokesperson and researcher into the plight of battered women. For the past three years, I have been head of the Family Violence Unit at the Ottawa General Hospital, and I am also a consultant for Interval House, a shelter for battered women here in Ottawa.

Def: Could you describe for the court what is meant by the battered woman syndrome?

Dr: The battered woman syndrome is commonly used to help explain why a woman would stay with a man after being subjected to serious and often life threatening physical abuse. A recurrent cycle of violence perpetrated by the male has the net result of effectively trapping a woman in the relationship. In the first stage of the cycle, the tension building phase, there is a gradual building of tension characterized by name calling and possibly minor abusive incidents. This is followed by the acute battering stage in which the tension erupts and often severe physical damage occurs to the woman. In the final stage, referred to as the loving contrition stage, the batterer often apologizes for the abuse and attempts to assure his victim that it will never occur again.

Def: What effect does this have on the woman?

Dr: A situation has been created reminiscent of intermittent reinforcement schedules in learning theory. What this means is that the batterers' cycle of positive and negative behaviours serves to keep the woman in the relationship by convincing her, that if she tried a little bit harder, her boyfriend or husband would stop his negative behaviour.

Def: What is the end result of such a cycle?

Dr: Initially, the woman often denies the severity of the attack and accepts her partner's apology for the attack as genuine. What is critical to the perpetuation of violence is that the cycle of violence repeats itself over and over again with less time between incidents of battering and fewer and fewer attempts made by the batterer to apologize or make amends for the abusive incident. Furthermore, battering incidents are likely to become more and more severe over time and the

woman is less likely to be able to feel that she can effectively cope with her abuser or the abuse. In addition, if there are children in the house, violence between the adults often has a profoundly disturbing effect. It is usually at this point that the woman attempts to end the relationship but often the means for her to do this are not available.

Def: What do you mean, the means are not available?

Dr: Well, often women in these situations are socially and emotionally isolated. Batterers tend to keep their victims cut off from social contacts and social support networks and ensure that they are financially dependent on them. They are often jealous and suspicious of their wife's family and friends and often try to discourage contact with them. The police and judicial system are also set up in such a way as to prevent effective intervention for battered women.

Def: Could you give us an example of what you mean?

Dr: Even if a woman does get the police to remove her husband from the house during the course of a violent episode, he is usually released the next day to await a court hearing on assault charges. Legally, he cannot be denied entry into his place of residence however, which often leaves the woman in a very dangerous position. In most situations, she has neither the financial resources nor the means of transportation to get to a woman's shelter and even if she does, chances are that the shelter will be full. We have up to a 3 week waiting period at Interval House, for example, and these are all critical cases. I would also like to mention that even if a woman does manage to gain the support of the justice system and leave her partner, this does not necessarily insure that the battering incidents will stop. 48% of women who are murdered by their spouses are not living with their spouse at the time of their death. There have been a lot of cases where the woman is battered when her husband is exercising his child visitation rights or he has simply tracked her down in an effort to persuade her, through threats, to return to him.

Def: Could you please explain to the court what, in your opinion, might lead a battered woman to kill her husband?

Dr: Well, to begin with, violence between spouses is not as uncommon as one might think. Both batterers and battered women come from all levels of social economic backgrounds and education levels. In addition, there is a common misconception that battered women somehow provoke the abuse or enjoy being beaten. No woman likes to be beaten. Research to date has clearly demonstrated that there is a lack of evidence to support the notion that certain types of women are more likely to become involved in a battering relationship, or that women who have been in one battering relationship are likely to become involved in

another. There is no personality type that is more or less prone to become involved in a battering relationship. In essence, any one sitting here in this courtroom could potentially become the victim in a battering relationship. Some researchers have estimated that anywhere from 10 to 50% of women living with a man are subjected to some form of physical violence during the course of the relationship. Furthermore, in cases where the violence escalates and a life is lost, in 60% of the cases it is a woman that dies.

Def: What might lead a woman to kill her spouse?

Dr: In cases where women have killed their husband, the differences in size and power between a man and a woman is often the reason why women so often choose a lethal means of self-defense, such as a gun. In Mrs. Richards case for example, her husband was obviously physically much larger and stronger than she was. It would have been impossible for her to defend herself from a physical attack from him without the use of a weapon. In addition, women who have been subjected to years of violent behaviour from their partner often come to see their partners as omnipotent and invincible, much like cases of political prisoners. They come to see their very existence as being in the hands of their abuser. After all, their partner has managed to have total control over their lives for a number of years. In cases such as this, a woman's mental state is often confused and her ability to think clearly is distorted.

As to your question as to why a battered woman would kill her husband, there are several factors that seem to stand out in these situations. For example, the mother's need to protect a child, the presence of weapons in the house, threats of retaliation from the batterer should the woman attempt to escape. In the present case, all of these factors were involved.

Def: Dr., you examined my client, Mrs. Richards shortly after she was charged with the murder of her husband. Is that correct?

Dr: Yes.

Def: In your opinion Dr. what was the mental state of Mrs. Richards at the time you examined her?

Dr: Well, she appeared to be of average intelligence, coherent and capable of logical thought. She manifested some symptoms of depression, minimal affect, some suicidal ideation.

Def: In your opinion, Dr. Johnson, is Mrs. Richards suffering from the battered woman syndrome?

Dr: I have interviewed Mrs. Richards at great length and I have no hesitation in

stating that she was indeed, a battered woman.

Def: Given her condition at the time of her husbands death, would you give the court your assessment on the plausibility of her plea.

Dr: After reviewing the patterns of violence between this couple, I believe that Mrs. Richards thought her husband was going to kill her, and that she had sufficient evidence to suggest that he might carry out his threat. In addition, given the nature of his violent behaviour, and the severity of his attacks, I believe that Mrs. Richards did what she thought was necessary to protect herself from him.

Def: No further questions your Honor.

Cross Examination of Dr. Johnson - Expert Witness

Pro: Dr. Johnson, you have stated that your practice and training has been almost exclusively with battered women or victims of family violence. Is that true?

Dr: Yes.

Pro: Would you say, Dr. Johnson that you feel a great deal of empathy and sympathy for victims of family violence, particularly the women and children who have suffered at the hands of a male batterer?

Dr: Yes, I do.

Pro: Could it not also be true then, Dr. Johnson that you are maybe a little bit too biased when reviewing these cases? After all, women such as Mrs. Richards have already suffered severe physical and emotional damage at the hands of their abusers, why should she be punished any further?

Dr: I try to be open minded.

Pro: OK Dr. Johnson. I would like to ask you about your interviews with Mrs. Richard. You stated that she is indeed a battered woman. Did you talk with anybody else to corroborate her stories?

Dr: I think the police reports and the medical examiner have provided plenty of evidence to corroborate her story.

Pro: Dr. Johnson, to address your testimony that Mrs. Richards is a battered women. Let us consider a little more carefully exactly what the syndrome of the battered woman is. In your opinion, would a woman who has been hit once be considered a battered woman?

Dr: It would depend on the circumstances surrounding the incident.

Pro: OK. Her husband is jealous and finds a man's phone number in her pocket. Upon questioning her he loses his temper and hits her, then apologizes. Is she a battered woman?

Dr: I would still need more information.

Pro: But Dr., the three stages of the battered woman syndrome that you mentioned are all evident in the example I gave you. There is a tension build up, an acute incident of violence and an apology afterward. What more evidence do you need? It seems to me that possibly the syndrome isn't as clearly defined as you

would have us believe...As a matter of fact Dr., isn't it true that several notable researchers in battered woman syndrome exists?

Dr: Well, yes, but differences of opinion exist largely at a practical level. The vast majority of experts in the field agree that it is not the woman who is to blame in situations of family violence but rather it is the existing social structure that maintains power predominately in male hands that needs to be altered. The battered woman syndrome is merely a way of defining a segment of our population that has largely been misunderstood and ignored for a long time.

Pro: You also state Dr. that 50% of women in cohabiting relationship, potentially could suffer physical violence at some time. Is that true?

Dr: Yes.

Pro: You also state that because of the size difference between men and women that a woman must often resort to using a lethal weapon to repel her attacker. Is that true?

Dr: Yes.

Pro: Does that mean, then Dr., that half of the women in our country are justified in killing their spouse?

Dr: Of course not. It does mean that the lethal potential is there though unless we do something to help these women.

Pro: Well, Dr. Johnson, you also stated that you are a consultant at Interval House for battered women. Is that correct?

Dr: Yes.

Pro: Were any of the battered women at Interval House severely beaten by and cruelly treated by their partners?

Dr: Yes, some of them suffered severe abuse.

Pro: Were any of those women beaten so severely that they had bones broken or teeth knocked out?

Dr: Yes, some were certainly beaten that bad.

Pro: Did the husbands of any of those women ever threaten to kill them?

Dr: Yes. It is not uncommon for battering husbands to threaten their wife with death.

Pro: Dr., you have just testified that on a daily basis you worked with women who, just like Judy Richards, were repeatedly and severely beaten by their husbands, suffered broken bones, were threatened with death by their husbands and who were severely emotionally traumatized. Now Dr., none of the severely beaten women you worked with at Interval House killed their husband did they?

Dr: No.

Pro: In other words, despite being diagnosed by you as suffering from the battered women syndrome, all of these women managed to leave their situation without killing anyone.

Dr: Yes, but the potential for violence was certainly there in many of these cases. Many of these women were extremely fortunate to have escaped from their situations. In addition, Mrs. Richards case was indeed, extreme.

Pro: But despite any such potential, these battered women realized that killing their husband was not the only option available to them and they left their situation without killing anyone. Isn't that right?

Dr: Yes.

Pro: So Dr., most battered women can manage to successfully leave a battering relationship with killing their husband. Isn't that true?

Dr: Yes.

Pro: No further questions your Honor

Closing Statements for the Defense

Members of the Jury, although Mrs. Richards is on trial for murder, she has really been the victim of an insidious crime. A crime that has been documented over and over again, but has only recently come under public scrutiny. That crime, members of the jury, is wife abuse. The home has always been considered a sanctuary from the often cold and cruel outside world...A haven from the miseries we hear about daily on the local news and from our friends and neighbours. But we have a case here, a tragic case, where the home was not a refuge, but instead a place where insult and physical punishment was handed out on a daily basis. The Richards home was dominated by a cruel and sick man, a man who instead of treating his wife with love and respect, treated her with torment and cruelty. He beat her for not bringing home the groceries on time, he beat her and hospitalized her with broken bones and caused her to miscarry, and because of his constant cruelty Mrs. Richards is left with emotional scars that will not heal for a long time.

And so, when the strain of trying to maintain her sanity became too much, when the continuation of her life and the life of her baby's were in question, she protected herself by taking her tormentor's life. Did she have a reasonable belief that she was in imminent danger of death or serious bodily harm at the time of her husband's death? He had told her that he was going to kill her the very next day and threatened her with the very weapon he was going to use. Judy Richards has stated that she believed she was going to die and based on the increasing severity of his attacks I submit to you that her belief was indeed, reasonable.

Although Mr. Richards is not on trial here, you must take into account his culpability in this case. I ask you to consider the example of a drunk driver. If an individual chooses to get into a vehicle while in the state of extreme intoxication, then drives that vehicle into a pole - we don't blame the pole for his death do we? No. The individual is held accountable for their situation. If Mr. Richards had been a kind and considerate man, would Judy have used a gun on him? Of course not. All she wanted was to lead a life that held some meaning for her..And Mr. Richards took the possibility of that life away from her. He had repeatedly threatened her life and had shown her the weapon he was going to use to kill her. He terrorized her. Judy Richards has stated that she believed she couldn't go on. She has stated that she was going to die and she believed that her husband would kill her.

Could she have gone to the police with her fears? She had gone to the police before and ended up in the hospital with a broken arm, broken ribs, severe bruises and facial lacerations that required stitches. And, even if the police could have prevented the attack on her life the next day, what about the next attempt and the next and the next? There were certainly no signs that Mr. Richards behaviour was getting any better. Indeed, the viciousness and severity of his attacks were becoming worse. The police could not have helped Judy unless they were prepared to maintain an armed guard around her for the rest of her life. And I ask you, what kind of life would that be? Finally, it would have been impossible for Judy to get to the phone to call the police while her husband was beating her - her husband had her cornered in the kitchen - she had no other way to escape.

And so instead of being killed, she turned her husband's weapon on himself. Did she use excessive force? While her husband was unarmed, Judy would have had no chance in trying to repel him by using only her fists. Doug Richards was using his fists and his overpowering strength as a weapon. (If you consider the viciousness of her husband's attacks and the extent of the injuries she had previously suffered as a result of his beatings), she had used the force necessary to stop him.

Members of the jury, I don't ask you to pity Mrs. Richards. No, instead, I ask you to give Mrs. Richards the justice that has been sadly lacking in her life. And in asking you for justice, I ask you to find Judy Richards not guilty of murder in the second degree by reason of self-defense.

Closing Statement for the Prosecution

Members of the jury, this case is actually very simple. It is, as my learned colleague suggests, very tragic, but still, it is very simple. Culpable homicide is murder when a person means to take the life of another human being. Mrs. Richards took her husband's life. She consciously thought about getting out of the relationship earlier in the day, and in the middle of a dispute, similar to previous ones that took place between the couple, Judy grabbed the gun, pulled the trigger once, again, again and finally a fourth time into the body of her unarmed (sleeping) husband. By her own actions and her own admission, she killed her husband.

Members of the jury, I want you to remember that revenge does not justify murder. The defense would have you believe that Mrs. Richards killed her husband in self-defense. However, the law is very clear on the conditions necessary for the self-defense plea to be tenable. The defendant had to believe that they were in imminent danger of death or serious bodily harm at the time of the incident and had to use reasonable force to prevent that from occurring. Mrs. Richards killed her unarmed (sleeping) husband. (Mrs. Richards killed her husband in his sleep. Member of the jury, a sleeping man cannot put anyone's life in imminent danger). Although the judge will give you further instructions as to the legal meaning of imminent danger, let me just say here that as far as the law is concerned, imminent danger means immediate danger; danger such as must be instantaneously met and cannot be guarded against by asking for the assistance of others or calling the police. (Surely, a sleeping man does not constitute an instantaneous danger).

Members of the jury, while the Crown concedes that Mr. Richards, by hitting his wife may have caused a few bruises, he certainly was not putting Judy's life in imminent danger of death or serious bodily harm. Indeed, this dispute was not different from the other ones that took place in this home. Surely if, as Mrs. Richards believed, her life was in imminent danger she had ample time to call the police before the argument that night took place. Clearly, Mrs. Richards self-defense plea, given the legal meaning of the term imminent danger, does not hold up here.

My colleague has tried throughout this trial to shift the blame of Mr. Richards death on to Mr. Richards himself. Mrs. Richards has admitted herself that her husband apologized for his behavior and attempted to make it up to her by being a better husband. He failed in his sincere attempts, and an argument ensued, and members of the jury, for that reason Mrs. Richards blew him away with a semi-automatic rifle.

The evidence presented at this trial shows clearly that Mrs. Richards did not kill her husband in self-defense, but that she knew what she was doing and had alternatives to the ultimate course of action she took. I suggest to you, members of the jury, that if Mrs. Richards gets away with murder, then we might as well declare open season on husbands everywhere.

With the facts of the case in mind, and with, as my colleague suggested, justice as our mandate, I want you to uphold the law and find Mrs. Richard guilty of murder in the second degree.

Thank you

Judge's Closing Statements

Members of the Jury, you have heard all the arguments presented by both the prosecutor and the defense attorney and are now required to come to a decision regarding the tenability of Mrs. Richards' plea of self-defense. To reiterate: Mrs. Richards has been charged with second degree murder in the death of her husband, Mr. Douglas Richards.

The counsel for the defense maintains that Mrs. Richards was not guilty by reason of self-defense. They maintain that at the time of her husband's death, Mrs. Richards had a reasonable belief that her life was in danger. They have also suggested that because of the existing legal and social structures, Mrs. Richards could not rely on the police to protect her from her violent husband or social agencies to support her if she attempted to leave her husband. The defense maintains that she had only herself to rely on and to protect herself from her husband. Consequently she relied on a means that would ensure her safety.

The prosecution, on the other hand, maintains that Mrs. Richards is legally culpable in the death of her husband. They maintain that, based on the legal definition of self-defense, that Mrs. Richards did not hold the reasonable belief that she was in imminent danger of death or serious bodily injury. The Crown further maintains that this belief was not reasonable because of the fact that her husband was unarmed and had never before placed Judy's life in imminent danger of death or serious bodily harm (was sleeping at the time of the incident). In addition, the Crown maintains that, because she fired four bullets into her unarmed (sleeping) husband, she used excessive force and

&consequently exceeds the legal plausibility of reasonable force.

In deciding the verdict you, the members of the jury, have two options available to you: first, you can find Mrs. Richards guilty as charged. In this case, I will impose sentencing as dictated by law; or, you can find Mrs. Richards not guilty by reason of self-defense.

It is my duty to remind you that under Section 34 of the Criminal Code of Canada, a self-defense plea can be entered when the defendant had a reasonable belief that they were in imminent danger of death or serious bodily harm and that the amount of force used by the defendant was necessary to repel the attacker.

Now legally, the term "imminent danger" is taken to mean, and I quote "immediate danger, such as must be instantly met, such as cannot be guarded against by calling for the assistance of others or the protection of the law." Reasonable force is taken to mean, legally, and again I quote, "that degree of force which is not excessive and is appropriate in protecting oneself."

In other words, if you the jury find that a reasonable person would have held the belief that they were in imminent danger of death or serious bodily harm and used reasonable force, then you are to find the defendant not-guilty by reason of self defense. On the other hand, if you find that a reasonable person would not have held the belief that they were in imminent danger of death or serious bodily harm, or if you believe that the defendant had used unreasonable force, then you are to find the defendant guilty of second degree murder.

The ultimate question in a self-defense case, and one which you the jury must

determine based on the evidence presented, is whether the defendant's belief of danger and her consequent action was indeed reasonable.

In deciding this question, you must base it on the standard of what the defendant considered reasonable at the time of the offense, given her mental and emotional characteristics, and given the external events at the time. That is, the defendant's actions are to be judged against her own subjective impressions, and not those which you the jury might determine to be objectively reasonable.

Your task as a jury will be to look at all the evidence and determine whether the defendant's belief that she was about to be killed or seriously injured was genuine--not whether the defendant should have believed as she did or whether some other person in similar circumstances would have. Under a subjective standard, the defendant's conduct is not to be judged by what an average person might or might not consider reasonable to do under the circumstances. Instead, the defendant's conduct is to be judged by what the defendant herself, in good faith, honestly believed, and had reasonable ground to believe was necessary in order to protect herself from death or serious injury.

In order to judge the reasonableness of the defendant's beliefs and actions, you must consider how an ordinary person, operating reasonably under the circumstances existing at the time of the alleged offense would have responded.

All jury members are reminded that in order to find the accused guilty, they must be certain that guilty has been proven beyond a reasonable doubt. Now, reasonable doubt concerning guilty is not merely the possibility of innocence. A reasonable doubt

is a doubt that would cause a reasonable and prudent person in the graver and more important affairs of life to pause and to hesitate to act upon the truth of the matter charged.

Proof beyond a reasonable doubt is not proof beyond all possible or imaginary doubt. Instead, it is proof that precludes every reasonable hypothesis except the hypothesis that it tends to support. Proof beyond a reasonable doubt is proof to a moral certainty. Proof beyond a reasonable doubt is proof strong enough to convince reasonable people who have examined the evidence before them that no other reasonable conclusion is possible.

If, after hearing all of the evidence, you possess reasonable doubt, you must find the accused not guilty. If, on the other hand, you as a juror believe that guilt has been established beyond a reasonable doubt, that is, you are satisfied to a moral certainty and are convinced, you must find the accused guilty as charged.

Members of the jury--It is important that you review carefully all of the evidence that has been presented. You should think carefully about the testimony that you have heard and you must make judgments as to the credibility of each witness. Not everything said under oath in a court of law is necessarily the complete truth. You may now converse among yourselves and discuss the evidence. The court will reconvene when you have unanimously reached one of the following decisions: "Guilty as charged" or "Not guilty for reasons of self-defense".

END

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