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**The Influence Polygraph and Rape Expert
Testimony has on the Verdicts of Jurors
in a Simulated Sexual Assault Trial**

**by
Daniel J. Egarhos**

**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
October, 1993
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**"THE INFLUENCE POLYGRAPH AND RAPE EXPERT
TESTIMONY HAS ON THE VERDICTS OF JURORS
IN A SIMULATED SEXUAL ASSAULT TRIAL"**

Submitted by Daniel J. Egarhos, B.A.

in partial fulfilment of the requirements for
the degree of Master of Arts

Thesis Supervisor

Chair, Department of Psychology

Carleton University
October, 1993

Abstract

Mock Jurors (N=279), viewed a simulated rape trial and deliberated in groups to a verdict. In each condition, the defendant pled not guilty, claiming that the intercourse between the complainant and himself had been consensual. Juries viewed a case in which a rape expert either testified or did not testify. Within Rape Expert conditions juries viewed one of the three following polygraph conditions: i) No Polygraph, ii) Polygraph Lying (polygrapher testified that the defendant was lying regarding the sexual assault), or iii) Polygraph Truthful (polygrapher testified that the defendant was truthful regarding the sexual assault). At both the jury and juror levels, exposure to the testimony of a Rape Expert resulted in more guilty verdicts than in conditions where the testimony of a Rape Expert was not presented. Subjects who viewed the polygraph evidence voted guilty more often than those who did not, regardless of whether the polygrapher testified that the defendant was lying or that he was telling the truth. However, Polygraph evidence was much less potent than the Rape Expert's testimony at influencing jury and juror verdicts.

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Throughout history, attempts have been made to detect deception on the part of persons suspected of wrongdoing. In the middle ages in Europe, trial by combat, trial by ordeal, and physical torture were all widely used methods of determining guilt (Ben-Shakhar & Furedy, 1990). In China, suspects were forced to chew rice powder and to spit it out, if the powder was dry, then this confirmed the person's guilt. This practice was based on the belief that lying caused a change in the body's physiological activity such as a reduction in saliva due to altered autonomic nervous system activity (Abrams, 1977; Bull, 1988).

Cesare Lombroso a 19th century Italian physiologist, is credited with being the first to scientifically ascertain deception through a measure of physiologic functioning (Abrams, 1977). William Moulton Marston, who appears to have coined the term "lie detector", believed that lying is accompanied by a transitory increase in systolic or peak blood pressure (Ferguson & Miller, 1974; Lykken, 1985). Marston should probably be credited with beginning the era of modern american polygraphy, when he reported a 96% accuracy rate using blood pressure as the single measure for detecting deception (Abrams, 1977; Ben-Shakhar& Furedy, 1990).

These early attempts at ascertaining deception led to the widespread use of the polygraph, or lie detection test both in the legal realm, where a crime has been perpetrated and in employment screening procedures where no specific crime has been identified (Carroll,1988; Fingerhut, 1978; Iacono & Patrick, 1988; Sackett & Decker, 1979).

The polygraph is alleged by some (Podlesny & Raskin, 1978) to be a neutral, accurate scientific measurement device that accurately measures various bodily activities such as heart rate, blood pressure, respiration and palmar sweating. Certain changes on these physiological indexes purportedly reflect lying. The ability of the polygraph to correctly identify untruthful persons has been supported by some investigators and questioned by others (Barland & Raskin, 1975; Herzvath, 1977; Raskin, 1977; Brooks, 1985; Carroll, 1988; Kleinmuntz & Szucko, 1984a; Lykken, 1988). At the heart of the controversy is the question of validity; whether physiological measures can actually assess truthfulness and deception (Saxe, Dougherty & Cross, 1987).

Proponents of the polygraph maintain that both its accuracy and reliability can be quite high if the tests are conducted by competent examiners (Abrams, 1977; Raskin, 1987). Proponents cite laboratory studies suggesting a global accuracy rate of approximately 80% (Carroll, 1988). Supporters also claim that scientific criticisms of the polygraph are no longer justifiable due to standardization improvements and scientific advancements in the field (Abrams, 1977).

Opponents of the lie detector stress its lack of validity, the lack of standardized assessment and its internal inconsistency (Blinkhorn, 1988; Kleinmuntz & Szucko, 1982). It is also suggested that the subtle physical and mental countermeasures taken by subjects during the polygraph interrogation to avoid detection pose a potentially serious threat to the validity of polygraph techniques (Gudjonsson, 1988; Honts, Raskin & Kircher, 1983; Honts & Hodes, 1982; Dawson, 1980). Other critics of the polygraph have cited well designed field studies that have shown the lie detector to be frequently inaccurate

(Blinkhorn, 1988; Lykken, 1988). These studies indicate alarmingly high false positive levels which are said to arise in part from the emotional stress involved in submitting to a polygraph test (Lykken, 1981, 1988).

Proponents of the polygraph have attempted to prove its validity through laboratory testing procedures (Podlesny & Raskin, 1978; Raskin & Podlesny, 1979). As pointed out by Saxe, Dougherty and Cross (1987), however, the various laboratory studies attempting to assess polygraph validity differ dramatically in the overall percentage of correct decisions obtained. As a result of these inconsistencies, some investigators have argued that the validity issue can properly be investigated only in the real life situation for it is impossible in the laboratory to simulate the emotional concerns that affect the physiological reactions of persons being tested under actual field conditions (Ben-Shakhar, Furedy, 1990; Lykken, 1988).

The alleged limitations of the lie-detector lend credence to an oft-cited criticism of its use: There are fears that if polygraph evidence is allowed into the courtroom it may mislead the jury, invade its province (United States vs. Stromberg, 1974) and usurp its function (Richardson, 1961). These concerns are based on the hypothesis that polygraph testimony, which presents the procedure as scientific in nature, may overly impress a jury and thus receive greater weight than it deserves (Lykken, 1985). Hence, strict admissibility criteria have been formulated by both the Canadian and American legal systems. These criteria include the requirements that polygraph tests be administered by competent examiners under proper conditions, and that a polygrapher's testimony be open to cross-examination (Abrams, 1977). It is also required that a polygrapher's testimony

be permitted into the courtroom only when the information provided is beyond the knowledge of the ordinary juror, (Frazier & Borgida, 1985) and the material to be discussed within this context is deemed to be non-prejudicial (Greene, Schooler, & Loftus, 1985).

Summary of laboratory polygraph studies

Pursuant to the scientific and legal contentions concerning the forensic use of the polygraph, a number of studies have attempted to investigate the extent to which polygraph testimony influences jury decisions. Studies by Koffler (1957), and Carlson, Pasano & Januzzo (1977) showed that subjects were influenced to a significant degree by post-deliberation information stating that the defendant had failed a polygraph test. The percentage of subjects that subsequently changed their votes was positively correlated with the stated accuracy level of the polygraph test. In both of these studies, the polygraph evidence was presented following deliberation. Such timing of evidence would never occur in a real trial, and the unusual timing may have rendered the polygraph evidence more salient than it would otherwise have been.

Later studies attempted to remedy this procedural shortcoming by including the polygraph testimony into the trial process (Cavoukian & Heslegrave, 1980; Markwart & Lynch, 1979). Predictably, these studies found an increase in the percentage of guilty verdicts when the polygraph evidence was unfavourable to the accused. Surprisingly though, an increase in guilty votes was also observed when the polygraph evidence was favourable to the accused.

Only a few studies have compared polygraph evidence with other types of evidence. Spanos, Myers, DuBreuil and Pawlak, (1991), examined the effects of polygraph evidence alone as well as in combination with eyewitness testimony, on the perceived guilt of a defendant in a murder trial. The polygraph evidence exerted no effects on verdicts but the eyewitness evidence significantly influenced the jurors' perceived guilt of the defendant. A possible reason for the lack of a polygraph effect on the jurors' verdicts in this study, may have been the fact that the polygraph expert who testified was female. The authors suggested that subjects may have found this incongruent with their tacit views concerning the gender of criminalist experts. The finding by Spanos, Myers et al (1991) that eyewitness evidence for the prosecution significantly increased guilty votes is consistent with a good deal of research which indicates that jurors do indeed weigh eyewitness testimony heavily despite its high degree of potential fallibility (Loftus, 1980; Saunders et al., 1983).

Subjects in the Spanos, Myers et al (1991) study heard brief synopses of a trial but then saw videotapes of the polygraph and eyewitness testimony. Only the Polygraph and eyewitness testimony portions of the proceedings were videotaped, and the increased salience associated with such selective presentation may have distorted the effects of the testimony in ways that remain unclear. To date no study has examined the effects of polygraph testimony in the context of a videotaped trial presentation.

The studies discussed thus far focused primarily on polygraph evidence and its influence on jury decisions in murder, theft, and assault cases. At present, there is no published research assessing the impact on jurors of a polygrapher's testimony during a

sexual assault trial. Polygraph evidence might be expected to have a strong impact in such cases because the credibility of the defendant is often of paramount importance.

The nature of sexual assault

Unlike most serious crimes, the victims in sexual assault cases are frequently blamed for their own victimization. Moreover, in sexual assault cases, the alleged assailant is often an acquaintance of the victim (Amir, 1971; Burt, 1991). Acquaintance rapes are said to occur quite commonly as a result of men misinterpreting nonsexual cues emitted by women (Abbey, 1991). However, it is the woman in such cases who is, frequently, blamed for her role in the assault (Jones & Aronson, 1973; Kanekar, Kolsawalla & D'Souza, 1981; Calhoun & Townsley, 1991). Because they fear such blame, many victims may delay reporting the crime, or, as is often the case, will not report it at all (Hyde, 1985). False beliefs about rape are relatively common, and a number of studies indicate that persons who ascribe to fewer false beliefs about rape also hold relatively profeminist attitudes. In addition, men are less likely than women to hold profeminist attitudes and more likely than women to endorse false beliefs about rape (Field, 1978, 1980). Burt (1991) hypothesized that false beliefs about rape are used to justify dismissing an incident of sexual assault from the category of "real" rape. As a result of classifying assaults as not being real rapes, prosecution becomes more problematic, the victim's recovery more difficult, and the assailant's actions safer.

Rape victims often suffer serious psychological consequences as a result of being assaulted (Riger & Gordon, 1981). This reaction is commonly referred to as rape trauma

syndrome. As originally defined by Burgess & Holmstrom (1974), rape trauma syndrome consists of behavioural, somatic, and psychological reactions that occur as a result of forcible rape or attempted forcible rape. This disorder typically consists of an initial acute stage followed by a long-term process of reorganization.

Sexual assault and the jury

According to some investigators, societal misconceptions concerning rape may generalize to the courtroom and influence the beliefs and decisions of jurors (Borgida & Brekke, 1984). According to this hypothesis, misconceptions about rape are particularly likely to sway the jury against the complainant when the evidence is ambiguous and involves two divergent versions of the events.

Sexual assault, being almost exclusively a gender specific offense, often results in a polarization of beliefs on the part of male and female jurors (Field, 1980). This may further complicate the decision process and further highlights the differing views males and females hold on sexual assault. This gender polarization is demonstrated in research which indicates that female jurors in rape cases are more likely than male jurors to find the defendant guilty (Brekke & Borgida, 1988; Davis, Kerr, Atkins, Holt & Meek, 1975; Spanos, Dubrueil & Gwynn, 1991).

Rape expert testimony

In order to dispel some of the misconceptions that jurors may hold concerning sexual assault, experts on rape have been admitted as witnesses in a number of criminal

trials. The rationale for the admission of such testimony is to assist jurors in making informed decisions about innocence or guilt without relying on personal biases and false beliefs. Rape experts almost always testify for the prosecution, and typically in trials where the defendant admits that sexual intercourse occurred but claims that the complainant was a willing participant (Frazier & Borgida, 1985). Juror decisions can be influenced both by the order in which a rape expert's testimony is introduced in a trial relative to the other testimonies as well as the explicitness with which the expert's testimony refers to the case under consideration (Brekke & Borgida, 1988). Spanos, Dubreuil et al (1991) assessed the impact on jurors' beliefs of an examination and cross-examination of a rape expert in a sexual assault trial. The cross-examination in this study was intended to delegitimize the relevance of the expert's generalizations to the case at hand. Jurors who heard only the expert's direct examination showed an increase in guilty verdicts. However, jurors who saw the cross-examination as well as the direct examination of the expert did not vote guilty any more frequently than jurors who saw no expert at all.

The present study was designed to extend previous research on polygraphy by comparing polygraph evidence to the testimony of a rape expert in a sexual assault trial. We assessed whether and to what extent a rape expert's testimony reinforced or overshadowed the evidence provided by a polygrapher. This study also examined the attitudes and beliefs of male and female jurors by administering attitudes towards women as well as rape supportive beliefs questionnaires. Individual juror verdicts were also examined.

METHOD

Subjects

A total of 142 male and 137 female Carleton University undergraduate students volunteered to participate in a trial in which a woman accused a man of sexual assault. All subjects received experimental credit for their participation.

Procedure

The present study consists of a 2x3 (rape expert/no rape expert x polygrapher-defendant truthful/polygrapher-defendant deceptive/no polygrapher) between-subjects factorial design. Juries were randomly assigned to one of 6 cells with 7 juries per cell. Juries ranged in size from 5 to 8 members depending on the number of subjects who arrived for their appointments. Upon their arrival, all subjects were informed that they would be witnessing a videotaped recording of a simulated sexual assault trial. Subjects were also instructed to pay close attention to the evidence and informed that they would be deliberating as a jury to a unanimous verdict upon completion of the videotaped presentation. The order in which the characters in the trial were presented to the jurors will depended upon which of the 6 conditions juries were randomly assigned to:

Condition-1: polygraph truthful/rape expert- Opening Statements, rape expert's testimony, complainant's testimony, prosecution's witnesses, polygrapher's testimony, defendant's testimony, closing statements, judge's charge.

Condition-2: polygraph truthful/no expert-Opening statements, complainant's testimony, prosecution's witnesses, polygrapher's testimony, defendant's testimony, closing statements, judge's charge.

Condition-3: polygraph lying/rape expert - same order as condition-1.

Condition-4: polygraph lying/ no expert - same order as condition-2

Condition-5: no polygraph/rape expert-Opening statements, rape expert's testimony, complainant's testimony, prosecution's witnesses, defendant's testimony, closing statements, judge's charge.

Condition-6: No polygraph/No rape expert-Opening statements, complainant's testimony, prosecution's witnesses, defendant's testimony, closing statements, judge's charge.

After the closing statements, every jury witnessed a judge's charge that summarized the evidence presented during the trial and instructed the jury that the defendant was to be considered innocent until proven guilty beyond a reasonable doubt. In the expert conditions, the judge's charge included statements concerning the admissibility and the potential shortcomings of the polygraph as well as a brief reminder of the purpose of the rape expert's testimony.

Once the videotaped trial proceedings had ended, jurors selected a foreperson amongst themselves and were allotted a period of 60 minutes to reach a unanimous verdict. If at the end of the deliberation period a unanimous verdict had not been reached, then a hung jury was declared.

The case scenario

The initial meeting between the complainant and defendant was described as having taken place on the night of October 10, 1990, in a North Bay tavern. From that point on, the jurors were exposed to two divergent versions of the events of that night.

The complainant testified that the interaction between herself and Mr. Simons was friendly, but otherwise platonic. Whereas the defendant claimed that Ms. Henry flirted with him throughout the night by rubbing his leg underneath the table. After having left the tavern and gone home, Ms. Henry alleged that Mr. Simons came to her apartment, forced his way inside, pushed Ms. Henry into her bedroom and forced her, against her will, to submit to sexual intercourse with him. Ms. Henry also testified that Mr. Simons tied her wrist to the bedpost with a belt in order to subdue her. She also claimed that she bruised her wrist in her desperate attempts to free herself from the belt.

In Mr. Simons' depiction of the events, Ms. Henry voluntarily invited him into her apartment for coffee. He testified that she initiated the sexual advances which led to their entering her bedroom where consensual coitus took place. Mr. Simons also testified that Ms. Henry asked to be tied up during sex in order to increase her pleasure and that she bruised her restrained wrist as a result of her overwhelming sexual arousal and not in an attempt to free herself.

Jurors were then told that 2 days after the alleged sexual assault, Ms. Henry informed the police of what occurred. This resulted in Mr. Simons being taken into custody and charged with the sexual assault of Ms. Ellen Henry.

Rape expert's testimony

In 3 of the 6 conditions, Juries were shown the examination and cross-examination of an expert psychological witness who testified as to the various myths surrounding rape, the characteristics persons who commit rape as well as the various symptoms that result from having been sexually assaulted. Under cross-examination this expert admitted that the symptoms associated with rape can vary greatly from case to case, and it is possible for women to fake the clinical symptoms of sexual assault in order to legitimize false accusations towards the men with whom consensual intercourse had taken place. The expert also admitted that some women may seek revenge as a result of having been betrayed by a man.

Polygrapher's testimony

In 4 of the 6 conditions jurors witnessed the examination and cross-examination of a polygraph or "lie-detection" expert, who stated either that Mr. Simons was truthful or that he was deceptive when questioned as to whether or not he forced Ms. Henry, against her will, to have sexual intercourse with him. This expert also described in lay terms the theory behind lie-detection as well as the basic workings of the polygraph. When asked, this expert stated that he has administered over 3000 polygraph tests during his career.

Under cross-examination this expert conceded that he did not have a college degree or university training in psychology or psychiatry. He also conceded that the polygraph test is not infallible and that it's accuracy rate can be as low as 80%. The

polygrapher also acknowledged that the majority of errors committed during testing are known as false- positives, that is, actually innocent persons being deemed deceptive.

Measurement instruments

Prior to the viewing of the trial, jurors were administered a 25 item "attitudes towards women" (ATW) questionnaire (Spence, Helmreich & Stapp, 1973). Jurors were also given a 32 item "Vixen Seductress" scale. Each is scored on a 5-point Likert subscale. The items assess the extent to which women are seen as using sexuality to manipulate men. The Vixen Seductress scale includes 3 subscales: 1) Vixen Traditional- This subscale assesses traditional views towards women, 2) Vixen Sexuality- This subscale assesses the view that women use sexuality to manipulate men, 3) Vixen Protector- This subscale assesses views concerning men's role as protectors of women.

During the trial proceedings, jurors were administered, on 4 occasions, a one-item scale that assessed private beliefs as to the innocence or guilt of the defendant. The first administration was after the opening statements, the second after the defendant's testimony, the third after closing statements and the last after the deliberation process had been completed. Private beliefs of guilt were measured using an 11-point scale ranging from -5: "Positive that he is not guilty" through 0: "Undecided" to +5: "Positive that he is guilty".

Individual juror verdicts were assessed before and after deliberations. At these points in the trial subjects were given tally sheets (see appendix H) which asked them

whether, on the basis of the evidence, they thought the defendant to be guilty or not guilty.

Subjects were administered a number of questionnaires contained within a post deliberation package. In the polygraph conditions subjects were asked to rate their confidence in the polygraph evidence by selecting one of four alternatives ranging from "no confidence in the Polygraph" to "complete confidence in the Polygraph". In the rape expert conditions subjects were also asked to rate their confidence in the rape expert's testimony using the same alternatives as for the confidence in Polygraph questionnaire. Two 7-point Likert scales were administered to assess the extent to which jurors believed that the complainant voluntarily engaged in sexual intercourse with the defendant (ranging from 1: Completely voluntary to 7: Completely involuntary) and the degree to which they believed she enjoyed the sexual intercourse with the defendant (ranging from 1: She derived no enjoyment from the sexual intercourse to 7: She greatly enjoyed the sexual intercourse).

RESULTS

JURY VERDICTS

The frequency of guilty, not guilty and hung verdicts is presented in Table 1. Jury verdicts were coded as 2 (guilty), 1 (hung), and 0 (not guilty), and were analyzed using a 3x2 ANOVA with polygraph (no polygraph x polygraph lying x polygraph truthful) and Rape Expert (no rape expert x rape expert) as the independent variables. Results indicated a significant main effect for rape expert, $F(1,41) = 9.32$, $p < .01$, (see Table 2). Juries that saw the Rape Expert, $M = 1.24$, $sd = .94$, attained higher guilt scores than did juries that did not see the rape expert, $M = .43$, $sd = .75$.

JUROR VERDICTS

The verdicts of individual jurors were assessed before and after jury deliberations (see Table 3), using a 2 (Rape Expert/No Rape Expert) x 3 (Polygraph Truthful/Polygraph Lying/ No Polygraph) x 2 (Gender) x 2 (Interval) mixed ANOVA with juries nested under treatments. The main effects for Rape Expert $F(1,195) = 71.21$, $p < .001$ and Gender $F(1,195) = 21.23$, $p < .001$ attained significance (see Table 4).

A Rape Expert by Polygraph interaction was significant $F(2,195) = 19.32$, $p < .01$. The means for this interaction are shown in Table 6b. Analysis of the simple effects for this interaction indicated a significant simple main effect for Polygraph $F(2,195) = 7.69$, $p < .05$. Post hoc comparisons (SNK), indicated that jurors in the Polygraph guilty condition voted the defendant guilty significantly more often than in the Polygraph truthful or No Polygraph conditions. Simple effects performed on Rape Expert

at each level of Polygraph revealed significant effects at Polygraph truthful, $F(1,195)=26.53$, $p<.05$, and No Polygraph, $F(1,195)=32.46$, $p<.05$. Post hoc comparisons indicated that jurors in the Polygraph truthful condition and jurors in the No Polygraph condition, voted guilty significantly more often in the Rape Expert than in the No Rape condition. Jurors in the Polygraph Lying condition did not differ in their frequency of guilty verdicts at the two Rape Expert levels.

The Rape Expert by interval interaction was also significant, $F(1,195)=12.07$, $p<.01$. Analysis of the simple effects of Interval indicated significant effects in the No Rape Expert conditions, $F(1,195)=50.37$, $p<.05$, and the Rape Expert conditions $F(1,195)=5.25$, $p<.05$. Jurors in both the Rape Expert and No Rape Expert conditions returned significantly more guilty verdicts at pre-deliberation than at post-deliberation. Simple effects performed on Rape Expert at each level of Interval, revealed significant effects at pre-deliberation, $F(1,267)=27.90$, $p<.05$, and at post-deliberation, $F(1,267)=94.60$, $p<.05$. Jurors in the Rape Expert conditions rendered significantly more guilty verdicts at both pre and post deliberation than subjects in the No Rape Expert conditions.

In order to further examine the Rape Expert by interval interaction, juries in the Rape Expert and No Rape Expert conditions were assessed separately (see Table 5). For each condition, juries were divided into 3 categories. Those in which the majority voted guilty at predeliberation, those in which the majority voted not guilty at predeliberation and those in which subjects were equally split between guilty and not guilty at predeliberation. In both the Rape Expert and No Rape Expert conditions, in every one

of the juries that voted predominantly not guilty at predeliberation, all of the jurors voted not guilty at postdeliberation. In other words, the subjects in juries that voted predominantly not guilty at predeliberation, exhibited complete polarization to not guilty at postdeliberation. A polarization effect was also evident for juries that voted predominantly guilty at predeliberation. In this case however, the polarization effect was somewhat weaker than in the juries where not guilty verdicts were predominant.

The main effect for Gender was qualified by a significant Gender by Interval interaction, $F(1,195) = 13.44, p < .001$ (see Table (6a) of means). Analysis of the simple effects of Interval indicated a significant effect for women, $F(1,195) = 59.00, p < .01$ (see Table 7). Women rendered significantly more guilty verdicts at pre-deliberation than at post-deliberation. Men did not differ significantly in their verdicts at pre or post deliberation. Simple effects performed on gender at each level of interval, revealed a significant effect at pre-deliberation, $F(1,267) = 36.30, p < .05$. Women rendered significantly more guilty verdicts than did men at pre-deliberation. There were no significant differences between men and women at post-deliberation.

In order to further examine the gender by interval interaction, juries were divided into those in which the majority of members (regardless of gender) voted guilty at predeliberation, and those in which the majority of members voted not guilty at predeliberation. Male and female verdicts, within each jury, were examined separately (see Tables 8a and 8b). Men and women were divided in terms of those who changed their verdicts to not guilty at postdeliberation, those who changed their verdicts to guilty

at postdeliberation, and those who did not change their verdicts at postdeliberation (stayed the same). Regardless of gender, most jurors at postdeliberation chose the verdict that the majority of jurors had selected at predeliberation. In other words, jurors of both sexes tended to move in the direction of the predeliberation majority. Women were more likely than men to vote guilty at predeliberation when the majority in the jury voted not guilty. For this reason women, more frequently than men, changed their vote to not guilty at postdeliberation.

A Polygraph by Interval interaction was also significant, $F(2,195) = 36.91$, $p < .001$. Simple effects analyses performed on Polygraph condition at pre-deliberation was nonsignificant. A significant effect was found at post-deliberation, $F(2,195) = 4.95$, $p < .05$. Post hoc comparisons (SNK) indicated that at post-deliberation jurors returned significantly more guilty verdicts in both the Polygraph Lying and Polygraph Truthful conditions than in the No Polygraph condition.

Analysis of simple effects for Interval indicated significant effects in the No Polygraph conditions $F(1,195) = 43.12$, $p < .01$, and the polygraph Lying conditions $F(1,195) = 8.37$, $p < .01$. In both cases, jurors returned significantly more guilty verdicts at pre-deliberation than at post-deliberation. Jurors in the Polygraph Truthful conditions did not differ at pre and post deliberation.

Private Beliefs in the Defendant's Guilt

Recall that jurors' private beliefs regarding the defendant's guilt were assessed at four intervals 1) following the opening statements from the prosecution and the defense

2) following the prosecution and defense witnesses 3) following the closing statements and the judge's charge 4) following deliberations.

Private beliefs were assessed with a 2 x 3 x 2 x 4 (rape expert x polygraph x gender x rating interval) Mixed ANOVA with juries nested under treatments which revealed a significant main effect for rape expert, $F(1,195) = 33.83, p < .001$, and gender, $F(1,195) = 12.07, p < .001$ (see Table 9). A two-way Polygraph by Rape Expert interaction was significant $F(2,195) = 6.25, p < .001$ (The means for this analysis are shown in Table 10). The simple main effect of Rape Expert in the No Polygraph condition, $F(1,195) = 3.9, p < .05$, and in the Polygraph Truthful condition $F(1,195) = 7.34, p < .05$ attained significance (see Table 11). Jurors in the Rape Expert condition believed more strongly in the defendant's guilt than jurors in the No Rape Expert condition when exposed to polygraph testimony stating that the defendant was truthful or to No Polygraph testimony. Jurors did not differ between Rape Expert and No Rape Expert in the Polygraph lying condition.

The simple main effect of interval in the no rape expert, $F(3,269) = 7.50, p < .001$, and rape expert conditions, $F(3,269) = 24.94, p < .001$, also attained significance. Post hoc comparisons (Newman Keuls) indicated that jurors in the No Rape Expert condition believed less strongly in the defendant's guilt at post deliberation (rating 4) than at either predeliberation (rating 3) or after the defense witnesses (rating 2). Jurors also believed less strongly in the defendant's guilt after the opening statements (rating 1) than after the defence witnesses. In the Rape Expert conditions, jurors' private beliefs in the defendant's guilt failed to differ at pre and post deliberation, but were significantly higher

at these two rating intervals than they were after the opening statements. Jurors also displayed higher guilt ratings at postdeliberation than at the post witness interval. Juror ratings did not differ between the opening statements interval and the post witness interval.

The simple main effect of Rape Expert within each interval reached significance after the defense witnesses, $F(1,269) = 7.43, p < .05$, at predeliberation, $F(1,269) = 17.66, p < .05$, and at postdeliberation, $F(1,269) = 72.13, p < .05$. At all three intervals, jurors in the Rape Expert conditions believed more strongly in the defendant's guilt than did jurors in the No Rape Expert condition. The two groups did not differ after opening statements.

The two-way gender by interval interaction also attained significance, $F(3,801) = 20.92, p < .01$ (see Table 12). The simple main effects of interval for both females, $F(3,269) = 15.75, p < .001$, and males, $F(3,269) = 4.85, p < .001$ were significant. Post hoc comparisons (Newman Keuls) indicated that women's ratings of guilt were significantly lower after the opening statements than at all subsequent rating intervals. At post deliberation, female ratings of guilt decreased slightly from predeliberation but were still significantly higher than at the first rating interval (after opening statements). Male ratings of guilt were significantly higher at post deliberation than after the opening statements. There were no other significant differences between intervals for men.

The simple main effect of gender at each interval reached significance after the defense witnesses, $F(1,269) = 12.74, p < .05$, and at predeliberation, $F(1,269) = 21.52, p < .05$. After having been exposed to the prosecution and defense witnesses as well as

to the judge's charge, female jurors' ratings of guilt were significantly higher than were male jurors' ratings. This difference however was not found after opening statements nor at postdeliberation.

Juror perceptions of the complainant

Recall that after deliberations, all jurors were asked to rate (on two single 7-point Likert scales) the degree to which they believed the complainant had consented to, as well as the degree to which she enjoyed the sexual encounter with the defendant. The measures consent and enjoy were both subjected to a 3 x 2 x 2 (Polygraph Lying/ Polygraph Truthful/ No Polygraph) multivariate analysis of variance with juries nested under treatments. The only main effect to attain significance was for Rape Expert, $F(2,194) = 29.84$, $p < .001$. The Univariate analyses indicated that the Rape Expert influenced jurors' perceptions of the extent to which the complainant consented, $F(1,194) = 50.38$, $p < .01$, and enjoyed, $F(1,194) = 49.15$, $p < .01$, the relations (see Table 13).

Jurors who were exposed to the testimony of a rape expert were more likely to rate the complainant as not having consented to the sexual act, $M = 5.74$, $sd = 1.80$, than jurors who did not see the Rape Expert, $M = 4.33$, $sd = 2.08$. In addition, jurors who saw the Rape Expert were less likely to rate the complainant as having enjoyed the sexual intercourse, $M = 2.19$, $sd = 1.88$, than jurors who did not see the Rape Expert's testimony, $M = 3.59$, $sd = 2.11$.

Confidence in Experts

Following the deliberations, jurors who saw the Polygrapher and/or the Rape Expert were asked to provide confidence ratings for these experts. Confidence in Polygrapher was analyzed with a 2 x 2 x 2 (Polygraph truthful/ Polygraph lying x Rape Expert/ No Rape Expert x Gender) ANOVA with juries nested under treatments. Significant main effects were obtained for Rape Expert condition, $F(1,180) = 7.01, p < .01$ and Polygraph condition, $F(1,180) = 4.96, p < .05$ (see Table 14).

Jurors in the Polygraph lying condition had more confidence in the Polygrapher's testimony, $M = 1.33, sd = .79$, than jurors in the Polygraph truthful condition, $M = 1.09, sd = .80$. Jurors who did not see the Rape Expert's testimony provided higher Polygrapher confidence ratings, $M = 1.37, sd = .81$, than jurors who saw the Rape Expert, $M = 1.06, sd = .77$.

A 2 x 3 x 2 (Rape Expert/ No Rape Expert x Polygraph Truthful/ Polygraph Lying/ No Polygraph x Gender) ANOVA with juries nested under treatments assessed the extent to which jurors had confidence in the Rape Expert's testimony. None of the effects in this analysis attained significance (see Table 15).

Correlations

Gender

For males, none of the attitudinal subscales correlated significantly with postdeliberation verdicts. Whereas for females, all but one (ATW) of the attitudinal subscales correlated with postdeliberation verdicts. The correlations here ranged from .25

to .27. For females, confidence in the Rape Expert's testimony correlated significantly with the extent to which they believed the complainant consented to and enjoyed the sexual intercourse as well as with their predeliberation verdicts. Male juror confidence in the Rape Expert did not correlate significantly with these variables. For both males and females, Attitudes Towards Women correlated significantly with the extent to which jurors believed the victim consented to and enjoyed the sexual intercourse. As profeminist attitudes increased, belief that the complainant enjoyed and consented to the sexual encounter decreased. This was also the case for the 3 Vixen Seductress subscales, but only for women.

Gender Across Rape Expert Conditions

For both males and females, the first private belief interval (after opening statements) was correlated with the second, third, and fourth private belief intervals in the No Rape Expert condition but not in the Rape Expert condition (correlations ranging from .24 to .45 in the No Rape Expert condition and .07 to .17 in the Rape Expert condition for males and from .33 to .45 in the No Rape Expert condition and .06 to .26 in the Rape Expert condition for females). Exposure to the Rape Expert's testimony (which was presented after private belief-1) resulted in private belief ratings that were significantly different from the first rating interval. When jurors were not exposed to the Rape Expert, their private beliefs did not change as the trial progressed.

For males, in the No Rape Expert condition, the attitudinal variables were more highly correlated with private beliefs than in the Rape Expert condition (Correlations

ranging from .12 to .43 in the No Rape Expert and .05 to .29 in the Rape Expert condition). This was the case, but to a lesser degree for females. (correlations ranging from .11 to .36 in the No Expert and .04 to .38 in the Rape Expert condition). When jurors did not see the testimony of a Rape Expert, their profeminist attitudes as well as their perceptions of female sexuality and women's roles were more closely related to their private beliefs in the defendant's guilt than in conditions where jurors saw the Rape Expert testify.

For males, the attitudinal variables were correlated with the perceived degree to which the complainant consented to and enjoyed the sexual intercourse, but only in the No Rape Expert condition (correlations ranging from .17 to .37 in the No Rape Expert and from .01 to .16 in the Rape Expert condition). For females, the correlations were only slightly higher in the No Expert condition, (correlations ranging from .24 to .38 in the No Rape Expert and from .18 to .33 in the Rape Expert condition). In the No Rape Expert condition, profeminist attitudes increased as beliefs in the degree to which the complainant consented to and enjoyed the sexual encounter decreased. This did not occur in the Rape Expert condition.

Discussion

Jurors in the present study were significantly influenced by the Rape Expert's testimony. At both the jury and juror levels, subjects who saw the rape expert assigned higher levels of guilt than those who did not see a rape expert. Recall that Spanos, DuBreuil and Gwynn (1991) found that the testimony of the rape expert only increased guilty verdicts when the expert was not cross-examined. However, we found significant increases in guilty verdicts even though the expert was always cross-examined. Perhaps the differences obtained in these studies were related to the fact that subjects in the Spanos, DuBreuil & Gwynn study did not see a complete trial. Instead, those subjects heard a synopsis of a trial and saw a videotape of the expert's examination and cross-examination. This procedure may have made the cross-examination of the expert particularly salient and thereby particularly influential in subjects' decisions. At any rate, the present findings, like those of Brekke & Borgida (1988), indicate that testimony concerning rape trauma syndrome can significantly increase jury and juror votes of guilty.

The Rape Expert's testimony also had a significant effect on juror perceptions of the victim. When jurors were exposed to a Rape Expert, they were less likely to believe that the victim enjoyed the sexual encounter or that she engaged in the sexual intercourse voluntarily. This demonstrates that the Rape Expert influenced not only how jurors of both sexes considered the evidence, but also how they considered the victim.

Females rendered significantly more guilty verdicts at pre-deliberation than males. this result is consistent with those of numerous studies (e.g. Spanos, DuBreuil & Gwynn, 1991) that found women rendering guilty verdicts in rape trials more frequently than men. At post deliberation, females declined significantly in their frequency of voting guilty to the point where there was no difference found between the two sexes at postdeliberation. This finding suggests that group influence processes during the deliberation period may have had a telling effect on the individual verdicts of females. The decline in guilty verdicts among women at postdeliberation may be explained parsimoniously in terms of a polarization effect. Polarization occurs in group decision making situations when the majority of group members convince the minority to adopt the position ascribed to by the former. In the present study, female jurors voted guilty at predeliberation against the majority more frequently than males. At postdeliberation, most jurors of both sexes voted in terms of the initial majority for their jury. Consequently, women were particularly likely to change their votes from guilty to not guilty.

Group induced attitude polarization may also account for the effects found for predeliberation and postdeliberations verdicts in the Rape Expert conditions. Every jury in which the majority voted not-guilty at predeliberation in both the Rape Expert and No Rape Expert conditions, polarized to non-guilt at postdeliberation. When the majority in a jury voted guilty at predeliberation, the dissenters usually voted guilty at postdeliberation. However, this polarization toward guilt was not as strong as the polarization toward non-guilt. A number of juries arrived at not-guilty verdicts even

when the majority had voted guilty at predeliberation. In part, this finding may be explained in terms of the reasonable doubt criterion. This criterion biases jurors to vote not-guilty. Moreover, during deliberations, it may be invoked by dissenting jurors who vote not guilty to convince the majority that, despite their personal beliefs, the evidence is not strong enough to warrant conviction. Occasionally such arguments may override an initial tendency to vote toward guilty in terms of the majority. Unlike the Spanos, Myers et al (1991) study, which obtained null results, we found that polygraph evidence significantly influenced verdicts at the juror level. Spanos, Myers et al. suggested that having a woman portray the criminalist expert was incongruent with jurors' tacit views concerning the gender of expert testifiers and that this may have been partly responsible for the absence of a polygraph effect. In the present study however, the experts were men, and this may have resulted in the presence of a polygraph effect. Since there have been no studies assessing a gender effect for Rape Expert testifiers it is unclear whether the gender of the expert was in fact the cause of our Polygraph effect. In order to clarify this issue, studies that vary the gender of both polygraph and rape expert testifiers may be warranted.

On the whole, the effects produced by polygraph evidence were relatively small. Polygraph evidence was much less potent than expert testimony concerning rape at influencing jury and juror verdicts. Interestingly, jurors in the No Rape Expert condition who saw the polygrapher provided significantly higher confidence ratings in the polygrapher than jurors who saw the polygrapher in the Rape Expert condition. This

suggests that the Rape Expert's testimony overshadowed any potential influence or credibility that the polygrapher may have had on Juror beliefs and verdicts.

At the individual juror level, the polygraph condition interacted with the Rape Expert condition in influencing juror verdicts. When jurors heard the Rape Expert, polygraph evidence had no effect on verdicts. However, in the absence of a Rape Expert, jurors informed by the polygrapher that the defendant was lying voted guilty more often than jurors in either the Polygraph truthful or No Polygraph condition. In fact, jurors in the Polygraph lying condition who did not see a Rape Expert voted the defendant guilty as often as jurors in the Polygraph lying condition who did see a Rape Expert.

Subjects who saw polygraph evidence voted guilty at post-deliberation more often than those who did not, regardless of whether the polygrapher testified that the defendant was lying or that he was telling the truth. In other words, polygraph evidence led to an increase in guilty verdicts even when that evidence favoured the accused. Similar findings were obtained by Markwart & Lynch,(1979) and Cavoukian & Heslegrave, (1980) and therefore this paradoxical effect appears to be fairly robust. One possible reason for this effect may be related to the finding that jurors had less confidence in the polygrapher when he testified that the defendant had been truthful (ie., was not guilty) than when he testified that the defendant had been lying.

This finding suggests that jurors may be willing to believe polygraph evidence only when it indicates guilt. When it indicates innocence, jurors may become suspicious of its validity, and believe that the defendant somehow faked a positive result. In short, polygraph evidence of innocence, in the absence of other exonerating evidence, may

reinforce a negative stereotype of the defendant and thereby increase rather than decrease the frequency of guilty votes. Studies that assess subjects views concerning the accuracy of the polygraph when it indicates innocence rather than guilt could prove constructive in this regard.

Table 1

**Frequency Counts for Jury Verdicts
Verdicts x Condition**

	<u>Guilty</u>	<u>Not Guilty</u>	<u>Hung</u>
Polygraph Truthful:			
Rape Expert	5	2	0
No Rape Expert	1	6	0
Polygraph Lying:			
Rape Expert	3	2	2
No Rape Expert	2	3	2
No Polygraph:			
Rape Expert	4	3	0
No Rape Expert	0	6	1

Table 2

**Anova Summary Table for Final Jury Verdicts at
Polygraph Condition and Rape Condition**

Source	SS	DF	MS	F	Sig of F
<u>Main Effects</u>					
Polygraph	.905	2	.452	.613	n.s.
Rape expert	6.88	1	6.88	9.32	$p < .01$
<u>2-Way Interactions</u>					
Polygraph Rape	1.48	2	.738	1.0	n.s.
Explained	9.26	5	1.86	2.5	n.s.
Residual	26.57	41	.738		

Table 3

**Frequency Counts for Individual Juror Verdicts
Predeliberation postdeliberation x Condition**

	<u>Predeliberation</u>		<u>Postdeliberation</u>	
	<u>Guilty</u>	<u>Not Guilty</u>	<u>Guilty</u>	<u>Not Guilty</u>
Polygraph				
Truthful:				
Rape Expert	32	16	33	15
No Rape Expert	15	29	6	38
Polygraph				
Lying:				
Rape Expert	27	21	24	24
No Rape Expert	26	16	18	24
No Polygraph:				
Rape Expert	36	12	27	21
No Rape Expert	21	28	5	44

Table 4

**Anova Summary Table for Juror Verdicts: Pre & Postdeliberation By
Polygraph, Rape Expert and Gender**

Source	SS	DF	MS	F	Sig of F
Whithin Cells	24.51	195	.13		
Polygraph	.54	2	.27	2.14	n.s.
Rape condition	8.95	1	8.95	71.21	<i>p</i> < .001
Gender	2.67	1	2.67	21.23	<i>p</i> < .001
Polygraph x Rape	4.86	2	2.43	19.32	<i>p</i> < .001
Polygraph x Gender	.69	2	.34	2.74	n.s.
Rape cond. x Gender	.13	1	.13	1.01	n.s.
Polygraph x Rape x Gender	.41	2	.20	1.63	n.s.
Whithin Cells	16.47	195	.08		
Interval	3.12	1	3.12	36.91	<i>p</i> < .01
Poly x Interval	1.21	2	.607	.16	<i>p</i> < .01
Rape x Interval	1.02	1	1.02	12.07	<i>p</i> < .01
Gender x Interval	1.14	1	1.14	13.44	<i>p</i> < .01
Polygraph x Rape x Interval	.11	2	.05	.65	n.s.
Polygraph x Gender x Interval	.15	2	.07	.86	n.s.
Rape x Gender x Interval	.01	1	.01	.15	n.s.

Table 5

**Frequency Count of Predeliberation and Postdeliberation
Verdicts x Rape Expert Condition**

		<u>No Rape Expert</u>								
		Guilty			Split			Not Guilty		
		-----			-----			-----		
Predeliberation		6			1			13		
		-----			-----			-----		
		N	H	G	N	H	G	N	H	G
		-----			-----			-----		
Postdelib.		2	0	4	0	0	1	13	0	0
		-----			-----			-----		

		<u>Rape Expert</u>								
		Guilty			Split			Not Guilty		
		-----			-----			-----		
Predeliberation		14			3			4		
		-----			-----			-----		
		N	H	G	N	H	G	N	H	G
		-----			-----			-----		
Postdelib.		3	0	11	0	2	1	4	0	0
		-----			-----			-----		

Note: N= Not Guilty. H= Hung Jury. G= Guilty.
 The values for "predeliberation represent the frequency of juries that voted predominantly guilty, or predominantly not guilty, or that were evenly split between guilty and not guilty. The values for postdeliberation represent unanimous guilty and not guilty juries as well as juries that did not reach a unanimous verdict (Hung).

Table 6a

**Means for juror verdicts: Gender x Interval, Rape Expert x
Interval and Polygraph x Interval Interactions**

		Pre	Post
<u>Gender</u>			
Males	<i>M</i>	.45	.39
	<i>sd</i>	.49	.49
Females	<i>M</i>	.67	.41
	<i>sd</i>	.47	.49
<u>Rape Expert Cond.</u>			
Expert	<i>M</i>	.66	.58
	<i>sd</i>	.47	.49
No Expert	<i>M</i>	.46	.21
	<i>sd</i>	.50	.41
<u>Polygraph Cond.</u>			
No Pol.	<i>M</i>	.59	.33
	<i>sd</i>	.49	.47
Truthful	<i>M</i>	.51	.43
	<i>sd</i>	.50	.49
Lying	<i>M</i>	.59	.47
	<i>sd</i>	.49	.50

Table 6b**Means for Juror Verdicts: Polygraph by Expert Interaction**

	Rape expert		No Rape Expert	
	M	sd	M	sd
No Polygraph	65	.41	.27	.32
Polygraph Lying	.52	.44	.52	.44
Polygraph Truthful	.68	.42	.24	.33

Table 7

Anova Summary Table for Simple Effects (Juror Verdicts)

Source	SS	DF	MS	F	Sig of F
Gender @ Pre	3.63	1	3.63	36.30	$p < .05$
Gender @ Post	.03	1	.03	.30	n.s.
Interval @ Females	4.72	1	4.72	59	$p < .05$
Interval @ Males	.18	1	.18	2.25	n.s.
Rape Expert @ Pre	2.79	1	2.79	27.90	$p < .05$
Rape Expert @ Post	9.46	1	9.46	94.60	$p < .05$
Interval @ Rape Exp.	.42	1	.42	5.25	$p < .05$
Interval @ No Exp.	4.03	1	4.03	50.37	$p < .05$
Polygraph @ Pre	.44	2	.22	.20	n.s.
Polygraph @ Post	.99	2	.49	4.95	$p < .05$
Interval @ Pol Truth	.26	1	.26	3.25	n.s.
Interval @ Pol Lying	.67	1	.67	8.37	$p < .05$
Interval @ No Pol	3.45	1	3.45	43.12	$p < .05$
No Pol @ Rape Exp.	3.45	1	3.45	26.53	$p < .05$
Poly Lying @ Rp Ex	0	1	0	0	n.s.
Poly Truth @ Rp Ex	4.22	1	4.22	32.46	$p < .05$
Rape Exp @ Poly.	.73	2	.365	2.81	n.s.
No Rape Exp @ Poly	2	2	1	7.69	$p < .05$
Pooled Error		195	.10		

Note: Pre. = Predeliberation verdicts, Post. = Postdeliberation verdicts.

Table 8a

**Frequency Counts for Juror Verdicts at Predeliberation
and Postdeliberation x Females**

Majority Guilty																
JU	1	2	4	6	11	12	14	15	16	18	19	20	21	22	23	25
G-NG	3		3									3		3		
S	6	1	2		3	2	2	2	4	3	4	2	2		2	1
NG-G			1		1			1					1			1

JU	26	27	31	32	33	37	38	39	41
G-NG1				4		1		2	
S	2	3	3	1	4	1	3		2
NG-G									1

Majority Not-Guilty																	
JU	3	5	7	8	9	10	13	17	25	28	29	30	34	35	36	40	42
G-NG2	2	3	1	1		2				1		1	3	1	1	1	1
S	3	7	1	2	2	2	3	2	1	1	3	2	1		1	2	1
NG-G																	

Note: Majority Guilty= Majority of jurors per jury voted guilty. Majority Not-Guilty= Majority of jurors per jury voted not-guilty. G-NG= Number of juror verdicts in the that went from guilty to not-guilty. S= Number of verdicts that stayed the same. NG-G= Number of verdicts that went from not-guilty to guilty. JU= Jury number.

Table 8b

**Frequency Counts for Juror Verdicts at Predeliberation and
Postdeliberation x Males**

Majority Guilty

JU	1	2	4	6	11	12	14	15	16	18	19	20	21	22	23	24
G-NG21				1				1				1		1		
S		1	4	2	4	2	3	4	1	4	4		3	3	3	3
NG-G						2	1								1	1
JU	26	27	31	32	33	37	38	39	41							
G-NG				2				4								
S	2	1	3			4	6	1	2	1						
NG-G	2							2		2						

Majority Not-Guilty

JU	3	5	7	8	9	10	13	17	25	28	29	30	34	35	36	40	42
G-NG	1				1	1			1		1	1		1	1	2	
S	1	1	2	3	2	2	3	4	3	4	2	2	3	3	4	2	6
NG-G																	

Note: Majority Guilty= Majority of jurors per jury voted guilty. Majority Not-Guilty= Majority of jurors per jury voted not-guilty. G-NG= number of juror verdicts in the jury that went from guilty to not-guilty. S= number of verdicts that stayed the same. NG-G= number of verdicts that went from not-guilty to guilty. JU= Jury number.

Table 9

**Table for Results of Mixed ANOVA on Private
Belief Intervals**

Source	SS	DF	MS	F	Sig of F
Whithin Cells	2840.44	195	14.57		
Polygraph cond.	79.25	2	39.62	2.72	n.s.
Rape Expert cond.	492.76	1	492.76	33.83	$p < .001$
Gender	175.86	1	175.86	12.07	$p < .01$
Polygraph x Rape	182.22	2	91.11	6.25	$p < .01$
Polygraph x Gender	29.09	2	14.54	1.00	n.s.
Rape x Gender	1.25	1	1.25	.09	n.s.
Polygraph x Rape x Gender	23.30	2	11.65	.80	n.s.
Within Cells	1835.48	585	3.14		
Interval	172.45	3	57.48	18.32	$p < .01$
Poly @ Interval	31.58	6	5.26	1.68	n.s.
Rape @ Interval	216.47	3	72.16	23.00	$p < .01$
Gender @ Interval	60.22	3	20.07	6.40	$p < .01$
Polygraph x Rape x Interval	35.04	6	5.84	1.86	n.s.
Polygraph x Gender x Interval	21.77	6	3.63	1.16	n.s.
Rape x Gender x Interval	6.63	3	2.21	.70	n.s.
Polygraph x Rape x Gender x Interval	29.85	6	4.98	1.59	n.s.

Table 10

**Mean Ratings for Private Beliefs in the Defendant's guilt
Rape Expert x Interval Interaction**

		<u>Rating-1</u>	<u>Rating-2</u>	<u>Rating-3</u>	<u>Rating-4</u>
<u>No Expert</u>	M	-.28	.50	.31	-.52
	SD	1.71	2.65	3.54	3.81
<u>Expert</u>	M	.31	1.42	1.73	2.34
	SD	1.50	2.53	3.11	3.39

Note: Rating-1 = After opening statements, Rating-2 = After witnesses, Rating-3 = After closing statements, Rating-4 = After deliberations.

**Mean Ratings for Private Beliefs in the Defendant's guilt
Rape Expert x Polygraph Interaction**

	Rape Expert		No Rape Expert	
	M	SD	M	SD
No Polygraph	1.48	2.01	-.04	2.23
Polygraph Lying	1.36	2.21	.76	2.61
Polygraph Truthful	1.52	1.99	-.67	2.33

Table 11

**Summary Table for Simple Effects of Private Belief Interval by
Rape Expert Condition and Gender and for Polygraph by Rape**

Source	SS	DF	MS	F	Sig of F
Rape Condition @ PB1	24.58	1	24.58	3.09	n.s.
Rape Condition @ PB2	58.96	1	58.96	7.43	$p < .05$
Rape Condition @ PB3	140.10	1	140.10	17.66	$p < .05$
Rape Condition @ PB4	572.22	1	572.22	72.13	$p < .05$
Pooled Error		269	7.93		
Interval @ No Rape	94.28	3	31.43	7.50	$p < .05$
Interval @ Rape	313.56	3	104.52	24.94	$p < .05$
Residual		269	4.19		
Gender @ PB1	14.29	1	14.29	1.80	n.s.
Gender @ PB2	101.06	1	101.06	12.74	$p < .05$
Gender @ PB3	170.73	1	170.73	21.52	$p < .05$
Gender @ PB4	16.96	1	16.96	2.14	n.s.
Pooled Error		269	7.93		
Interval @ Females	197.99	3	65.99	15.75	$p < .05$
Interval @ Males	61.10	3	20.36	4.85	$p < .05$
Residual		269	4.19		
Rape Exp @ No Poly	57.05	1	57.05	3.9	$p < .05$
Rape Exp @ Poly Lying	7.86	1	7.86	.539	n.s.
Rape Exp @ Poly Truth	106.92	1	106.92	7.34	$p < .05$
Poly @ No Rape Exp	43.56	2	21.78	1.49	n.s.
Polygraph @ Rape Exp	.56	2	.28	.019	n.s.

Note: PB1 = Private Belief interval (after opening statements)

PB2 = Private Belief interval (after defense witnesses)

PB3 = Private Belief interval (after closing statements)

PB4 = Private Belief interval (after deliberations)

Table 12

**Mean Ratings for Private Beliefs in the Defendant's Guilt
Gender x Interval Interaction**

	<u>Rating-1</u>	<u>Rating-2</u>	<u>Rating-3</u>	<u>Rating-4</u>
<u>Males</u>	M -.19	.38	.27	.72
	SD1.65	2.69	3.34	3.78
<u>Females</u>	M .26	1.60	1.84	1.21
	SD1.58	2.42	3.27	3.97

Note: Rating-1 = After opening statements, Rating-2 = After witnesses, Rating-3 = After closing, Rating-4 = After deliberations.

Table 13

**Summary Table for Results of Manova on Consent Enjoy by
Polygraph, Rape Expert, Gender and Nest**

Source	SS	DF	MS	F	Sig of F
Rape Condition		2		29.84	<i>p</i> < .01
Consent	124.90	1	124.90	50.38	<i>p</i> < .01
Enjoy	122.51	1	122.51	49.15	<i>p</i> < .01
Polygraph condition		4		1.74	n.s.
Consent	12.02	2	6.01	2.42	n.s.
Enjoy	7.86	2	3.93	1.58	n.s.
Gender		2		1.91	n.s.
Consent	4.56	1	4.56	1.84	n.s.
Enjoy	9.58	1	9.58	3.84	n.s.
2-Way Interactions					
Poly x Rape:		4		1.08	n.s.
Consent	10.85	2	5.43	2.19	n.s.
Enjoy	5.09	2	2.54	1.02	n.s.
Gender x Rape:		2		2.42	n.s.
Consent	1.66	1	1.66	.67	n.s.
Enjoy	10.81	1	10.81	4.34	n.s.
Gender x Poly:		4		.88	n.s.
Consent	3.58	2	1.79	.72	n.s.
Enjoy	7.82	2	3.91	1.57	n.s.
Gender x Poly x Rape		4		.98	n.s.
Error (Consent)	483.49	195	2.48		
Error (Enjoy)	486.06	195	2.49		

Note: Consent= Degree to which thought victim consented to intercourse with the defendant. Enjoy= Degree to which jurors thought the victim enjoyed the intercourse. Poly= Polygraph conditions. Rape= Rape expert conditions.

Table 14

**Anova Summary Table for Confidence Ratings
of Polygraph Testimony by Polygraph & Rape
Expert conditions, Gender & Nest**

Source	SS	DF	MS	F	Sig of F
<u>Main Effects</u>					
Gender	.217	1	.217	.364	n.s.
Rape Expert	4.24	1	4.239	7.01	$p < .05$
Polygraph	2.96	1	2.96	4.96	$p < .05$
Nest	2.07	6	.346	.579	n.s.
<u>2-Way Interactions</u>					
Gender x Polygraph	.876	2	.438	1.11	n.s.
Gender x Nest	3.06	6	.511	1.29	n.s.
Polygraph x Nest	6.84	12	.570	1.44	n.s.
<u>3-Way Interaction</u>					
Gender x Rape x Pol.	.135	1	.135	.226	n.s.
Residual	40.33	102	.395		

Table 15

**Anova Summary Table for Confidence Ratings of Rape Expert
Testimony by Polygraph & Rape Expert Conditions, gender and Nest**

Source	SS	DF	MS	F	Sig of F
<u>Main Effects</u>					
Gender	1.19	1	1.19	3.01	n.s.
Polygraph	1.80	2	.89	2.30	n.s.
Nest	2.43	6	.405	1.02	n.s.
<u>2-Way Interactions</u>					
Gender @ Polygraph	.876	2	.438	1.10	n.s.
Gender @ Nest	3.06	6	.511	1.30	n.s.
Polygraph @ Nest	6.83	12	.570	1.44	n.s.
<u>3-Way Interaction</u>					
Gender x Pol x Nest	5.46	12	.456	1.15	n.s.
Residual	40.33	102	.395		

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Appendix A: Correlation Matrixes

Correlation Matrix: Male Jurors Within Rape Expert

	PRE	POS	PB1	PB2	PB3	PB4	CON	ENJ	POL	RAP
ATW	-.12	-.06	.13	.17	.09	-.06	-.03	-.01	-.00	.25*
VIXTRA	.03	.10	-.07	-.09	-.07	.05	.08	.04	.05	-.10
VIXSEX	-.11	-.02	-.15	-.30*	-.21	-.08	-.05	.16	-.19	-.20
VIXPRO	-.09	.06	-.18	-.30*	-.29*	-.09	-.01	.12	-.07	.01
PB1	.04	.06	1.0	.17	.07	.13	.16	-.16	.14	.00
PB2	.57**	.18	.17	1.0	.80**	.51**	.36**	.50**	.09	.10
PB3	.70**	.36**	.07	.79**	1.0	.68**	.52**	.65**	.18	.12
PB4	.52**	.62**	.14	.51**	.68**	1.0	.71**	.88**	.11	-.02
POL	-.12	-.03	.14	.10	.18	.11	.11	-.12	1.0	.24
RAP	.00	-.08	.00	.10	.12	-.02	.05	.02	.24	1.0
CON	.44**	.46**	.16	.36**	.52**	.71**	1.0	.77**	.11	.05
ENJ	-.55**	-.50**	-.16	-.50**	-.65**	-.88**	.77**	1.0	-.12	.02
PRE	1.0	.53**	.03	.57**	.70**	.52**	.44**	.55**	.12	.01
POS	.51**	1.0	.05	.18	.36**	.62**	.46**	.51**	-.03	-.08
FINAL	.48**	.95**	.06	.18	.33**	.63**	.48**	.52**	-.15	-.15

* P < .05

** P < .01

ATW= Attitudes Towards Women

Vixtra= Vixen Seductress- Traditional views towards women

Vixsex= Vixen Seductress- Views about female sexuality

Vixpro= Vixen Seductress- Views about men's role to protect women

PB1-PB4= Private beliefs in the Defendant's guilt.

Pol= Confidence rating in the Polygraph Expert's testimony.

Rap= Confidence rating in the Rape Expert's testimony.

Con= Degree to which jurors think victim consented to intercourse

Enj= Degree to which jurors think victim enjoyed the intercourse

Pre= Predeliberation verdicts

Pos= Postdeliberation verdicts

Final= Final verdicts

Correlation Matrix: Male Jurors Within No Rape Expert

	PRE	POS	PB1	PB2	PB3	PB4	CON	ENJ	POL
ATW	.08	.14	.35**	.26*	.36**	.34**	.34**	-.29*	-.04
VIXTR	.02	.02	-.28*	-.11	-.27*	-.22	-.21	.25*	-.03
VIXSE	-.04	-.03	-.33**	-.35**	-.43**	-.23	-.23	.37**	-.17
VIXPR	.09	-.12	-.16	-.19	-.25*	-.34**	-.17	.33**	-.22
PB1	.38**	.14	1.0	.44**	.45**	.24*	.25*	-.38**	.02
PB2	.57**	.40**	.44**	1.0	.74**	.61**	.38**	-.54**	-.30
PB3	.63**	.54**	.45**	.74**	1.0	.68**	.47**	-.60**	-.15
PB4	.37**	.64**	.24*	.61**	.68**	1.0	.60**	-.68**	-.10
POL	-.04	.10	.02	-.30*	-.14	-.10	-.07	.06	1.0
CON	.30*	.44**	.25*	.38**	.47**	.60**	1.0	-.59**	-.07
ENJ	-.37**	-.59**	-.38**	-.54**	-.60**	-.68**	-.59**	1.0	.06
PRE	1.0	.42**	.38**	.57**	.63**	.37**	.30*	-.37**	-.04
POS	.43**	1.0	.15	.40**	.54**	.64**	.44**	-.60**	1.0
FINAL	.20	.82**	.13	.27*	.34**	.57**	.38**	-.47**	.13

* P < .05

** P < .01

ATW= Attitudes towards women

Vixtra= Vixen Seductress- Traditional views towards women

Vixsex= Vixen Seductress- Views about female sexuality

Vixpro= Vixen Seductress- Views about men's role to protect women

PB1-PB4= Private beliefs in the defendant's guilt

Pol= Confidence rating in the Polygraph Expert's testimony

Con= Degree to which jurors think victim consented to intercourse

Enj= Degree to which jurors think victim enjoyed the intercourse

Pre= Predeliberation verdicts

Pos= Postdeliberation verdicts

Final= Final verdicts

Correlation Matrix: Female Jurors Within Rape Expert

	PRE	POS	PB1	PB2	PB3	PB4	CON	ENJ	POL	RAP
ATW	.03	.07	.04	.13	.16	.19	.26*	-.18	-.16	.46*
VIXTR	-.06	-.33	.12	-.16	-.21	-.27*	-.27*	.23	.01	-.22
VIXSE	-.20	-.26	.09	-.11	-.13	-.32**	-.28*	.28*	-.02	-.18
VIXPR	-.08	-.32**	.05	-.20	-.28*	-.39**	-.33**	.28*	-.00	-.25*
PB1	.00	-.21	1.0	.27*	.11	-.06	-.07	.08	-.04	.08
PB2	.53**	.31**	.26*	1.0	.75**	.55**	.59**	-.56**	-.16	.33*
PB3	.57**	.41**	.11	.75**	1.0	.70**	.68**	-.66**	-.02	.33*
PB4	.43**	.66**	-.06	.55**	.70**	1.0	.86**	-.87**	-.08	.28*
POL	-.14	-.11	-.04	-.17	-.02	-.08	-.23	.20	1.0	-.09
RAP	.28*	.15	.08	.33**	.33**	.28*	.42**	-.35**	-.09	1.0
CON	.50**	.56**	-.06	.58**	.68**	.86**	1.0	-.94**	-.23	.42*
ENJ	-.52**	-.58**	.08	-.56**	-.66**	-.87**	-.94**	1.0	.20	-.35*
PRE	1.0	.36**	.00	.53**	.57**	.43**	.49**	-.52**	-.14	.27*
POS	.36**	1.0	-.21	.31**	.41**	.66**	.56**	-.58**	-.11	.14
FIN	.28*	.93**	-.24*	.28*	.34**	.62**	.51**	.53**	.16	.12

* P < .05

** P < .01

ATW= Attitudes towards women

Vixtra= Vixen Seductress- Traditional views towards women

Vixsex= Vixen Seductress- Views about female sexuality

Vixpro= Vixen Seductress- Views about men's role to protect women

PB1-PB4= Private beliefs in the defendant's guilt

Pol= Confidence rating in the Polygraph Expert's testimony

Rap= Confidence rating in the Rape Expert's testimony

Con= Degree to which jurors think victim consented to intercourse

Enj= Degree to which jurors think victim enjoyed the intercourse

Pre= Predeliberation verdicts

Pos= Postdeliberation verdicts

Fin= Final verdicts

Correlation Matrix: Female Jurors Within No Rape Expert

	PRE	POS	PB1	PB2	PB3	PB4	CON	ENJ	POL
ATW	.24	.22	.14	.24	.35**	.36**	.28*	-.37**	-.36*
VIXTR	-.20	-.12	-.17	-.16	-.35**	-.33**	-.35**	.38**	.22
VIXSE	-.26	-.24	-.11	-.30*	-.37**	-.34**	-.32**	.33**	.22
VIXPR	-.11	-.16	-.20	.08	-.17	-.19	-.25*	.27*	-.11
PB1	.44**	.12	1.0	.35**	.45**	.33**	.42**	-.39**	-.05
PB2	.61**	.21	.35**	1.0	.78**	.58**	.49**	-.46**	-.22
PB3	.82**	.30*	.45**	.78**	1.0	.71**	.63**	-.55**	-.28*
PB4	.69**	.58**	.33**	.58**	.71**	1.0	.80**	-.75**	-.20
POL	-.34*	-.08	-.05	-.21	-.28*	-.20	-.21	.31*	1.0
CON	.60**	.60**	.42**	.48**	.62**	.80**	1.0	-.85**	-.21
ENJ	-.58**	-.57**	-.39**	-.46**	-.55**	-.75**	-.85**	1.0	.31*
PRE	1.0	.41**	.42**	.60**	.82**	.69**	.60**	-.58**	-.34*
POS	.41**	1.0	.12	.21	.30*	.58**	.60**	-.57**	-.08
FIN	.43**	.92**	.12	.18	.27*	.55**	.58**	-.55**	-.09

* P < .05

** P < .01

ATW= Attitudes towards women

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Vixsex= Vixen Seductress- Views about female sexuality

Vixpro= Vixen Seductress- Views about men's role to protect women

PB1-PB4= Private beliefs in the defendant's guilt

Pol= Confidence rating in the Polygraph Expert's testimony

Con= Degree to which jurors think victim consented to intercourse

Enj= Degree to which jurors think victim enjoyed the intercourse

Pre= Predeliberation verdicts

Pos= Postdeliberation verdicts

Fin= Final verdicts

Correlation Matrix: Males Overall

	PRE	POS	PB1	PB2	PB3	PB4	CON	ENJ	POL	RAP
ATW	-.01	.04	.26**	.21	.24**	.16	.17*	-.17*	-.02	-.25
VIXTR	.03	.08	-.18*	-.09	-.16	-.06	-.05	.12	.01	-.10
VIXSE	-.08	-.04	-.25**	-.32**	-.33**	-.16	-.15	.26**	-.17	-.20
VIXPR	-.00	-.00	-.16	-.24**	-.26**	-.18*	-.07	.20*	-.14	.01
PB1	.24**	.14	1.0	.32**	.30**	.23**	.24**	-.31**	.06	.00
PB2	.59**	.32**	.32**	1.0	.78**	.58**	.41**	-.54**	-.13	.10
PB3	.68**	.47**	.30**	.78**	1.0	.69**	.52**	-.64**	-.01	.12
PB4	.48**	.68**	.23**	.58**	.69**	1.0	.70**	-.81**	-.06	-.02
POL	-.09	-.01	.06	-.13	-.01	-.05	-.04	.05	1.0	.24
RAP	.00	-.08	.00	.10	.12	-.02	.05	.02	.24	1.0
CON	.41**	.53**	.24**	.41**	.52**	.70**	1.0	-.72	-.05	.05
ENJ	-.49**	-.61**	-.31**	-.54**	-.64**	-.81**	-.72**	1.0	.05	.02
PRE	1.0	.51**	.24**	.59**	.68**	.48**	.41**	-.49**	-.09	.00
POS	.51**	1.0	.14	.32**	.47**	.68**	.53**	-.61**	-.01	-.08
FIN	.41**	.92**	.13	.27**	.38**	.67**	.52**	-.58**	-.07	-.15

* P < .05

** P < .01

ATW= Attitudes towards women

Vixtra= Vixen Seductress- Traditional views towards women

Vixsex= Vixen Seductress- Views about female sexuality

Vixpro= Vixen Seductress- Views about men's role to protect women

PB1-PB4= Private beliefs in the defendant's guilt

Pol= Confidence rating in the Polygraph Expert's testimony

Rap= Confidence rating in the Rape Expert's testimony

Con= Degree to which jurors think victim consented to intercourse

Enj= Degree to which jurors think victim enjoyed the intercourse

Pre= Predeliberation verdicts

Pos= Postdeliberation verdicts

Fin= Final verdicts

Correlation Matrix: Females Overall

	PRE	POS	PB1	PB2	PB3	PB4	CON	ENJ	POL	RAP
ATW	.15	.15	.11	.20*	.27**	.29**	.28**	-.28**	-.26*	.45*
VIXTR	-.16	-.27**	-.06	-.18	-.31**	-.33**	-.34**	.33**	.16	-.22
VIXSE	-.23**	-.25**	-.01	-.20*	-.25**	-.32**	-.29**	.30**	.09	-.18
VIXPR	-.11	.26**	-.08	-.06	-.23**	-.28**	-.29**	.28**	-.02	-.25*
PB1	.27**	.03	1.0	.34**	.33**	.22**	.26**	-.22**	.10	.08
PB2	.59**	.30**	.34**	1.0	.77**	.58**	.55**	-.53**	-.22*	.33*
PB3	.73**	.40**	.33**	.77**	1.0	.72**	.67**	-.62**	-.20*	.33*
PB4	.60**	.66**	.22**	.58**	.72**	1.0	.85**	-.82**	-.20*	.28*
POL	-.28**	-.17	-.10	-.22*	-.21*	-.21*	-.27**	.29**	1.0	-.09
RAP	.28*	.15	.01	-.07	-.03	-.10	.42**	-.35**	-.09	1.0
CON	.58**	.62**	.08	.33**	.33**	.28*	1.0	-.90**	-.27**	.42*
ENJ	-.58**	-.61**	-.23**	-.53**	-.62**	-.82**	-.90**	1.0	.29**	-.35
PRE	1.0	.42**	.27**	.59**	.73**	.60**	.58**	-.58**	-.27**	.27*
POS	.42**	1.0	.03	.30**	.40**	.66**	.62**	-.61**	-.17	.15
FIN	.39**	.93**	.03	.28**	.36**	.64**	.59**	-.58**	-.21*	.13

* P < .05

** P < .01

ATW= Attitudes towards women

Vixtra= Vixen Seductress- Traditional views towards women

Vixsex= Vixen Seductress- Views about female sexuality

Vixpro= Vixen Seductress- Views about men's role to protect women

PB1-PB4= Private beliefs in the defendant's guilt

Pol= Confidence rating in the Polygraph Expert's testimony

Rap= Confidence rating in the Rape Expert's testimony

Con= Degree to which jurors think victim consented to intercourse

Enj= Degree to which jurors think victim enjoyed the intercourse

Pre= Predeliberation verdicts

Pos= Postdeliberation verdicts

Fin= Final verdicts

Correlation Matrix: No Polygraph Conditions

	PRE	POS	PB1	PB2	PB3	PB4	CON	ENJ	RAP
ATW	.14	.10	.31**	.34**	.39**	.23*	.23*	-.18	.34*
VIXTR	-.10	-.17	.01	.19	-.35**	-.24*	-.16	.21*	-.04
VIXSE	-.11	-.19	.03	-.33**	-.29**	-.26**	-.10	.16	-.07
VIXPR	-.21*	-.23*	-.02	-.27**	-.40**	-.34**	-.11	.26**	.05
PB1	.31**	.18	1.0	.36**	.38**	.34**	.38**	-.36**	.30*
PB2	.53**	.26*	.36**	1.0	.71**	.56**	.43**	-.60**	.19
PB3	.63**	.38**	.39**	.71**	1.0	.72**	.56**	-.65**	.12
PB4	.59**	.57**	.34**	.56**	.72**	1.0	.67**	-.77**	.09
RAP	.07	-.16	.30*	.19	.12	.09	.26*	-.15	1.0
CON	.52**	.43**	.38**	.43**	.56**	.68**	1.0	-.71**	.26*
ENJ	-.56**	-.54**	-.36**	-.60**	-.65**	-.77**	-.71**	1.0	-.15
PRE	1.0	.49**	.31**	.53**	.63**	.59**	.52**	-.56**	.07
POS	.49**	1.0	.18	.26*	.38**	.57**	.43**	-.54**	-.16
FIN	.45**	.95**	.19	.22*	.35**	.56**	.44**	-.53**	-.16

* P < .05

** P < .01

ATW= Attitudes towards women

vixtra= Vixen Seductress- Traditional views towards women

Vixsex= Vixen Seductress- Views about female sexuality

Vixpro= Vixen Seductress- Views about men's role to protect women

PB1-PB4= Private beliefs in the defendant's guilt

Rap= Confidence rating in the Rape expert's testimony

Con= Degree to which jurors think victim consented to intercourse

Enj= Degree to which jurors think victim enjoyed the intercourse. **Pre**= Predeliberation verdicts

Pos= Postdeliberation verdicts

Fin= Final Verdicts

Correlation Matrix: Polygraph Lying conditions

	PRE	POS	PB1	PB2	PB3	PB4	CON	ENJ	POL	RAP
ATW	.18	.08	.20	.34**	.36**	.23*	.18	-.18	.02	.33*
VIXTR	-.09	.03	-.24*	-.19	-.21*	-.12	-.11	.16	-.06	-.07
VIXSE	-.30**	-.23*	-.13	-.27*	-.37**	-.28**	-.34**	.42**	-.23*	-.06
VIXPR	-.01	-.03	-.28**	-.17	-.21	-.20	-.22	.20	-.14	-.15
PB1	.20	.14	1.0	.34**	.33**	.28**	.27**	-.33**	.18	.01
PB2	.57**	.32**	.34**	1.0	.79**	.62**	.50**	-.55**	.13	.15
PB3	.68**	.48**	.33**	.79**	1.0	.69**	.56**	-.62**	.34**	.24
PB4	.51**	.70**	.28**	.62**	.69**	1.0	.82**	-.82**	.16	-.01
POL	.18	.14	.18	.13	.34**	.17	.14	-.17	1.0	.26
RAP	.06	.01	.01	.15	.24	-.01	-.05	.07	.26	1.0
CON	.49**	.69**	.27**	.50**	.57**	.82**	1.0	-.89**	.14	-.05
ENJ	-.55**	-.68**	-.33**	-.55**	-.62**	-.82**	-.89**	1.0	-.17	.07
PRE	1.0	.56**	.20	.57**	.68**	.51**	.49**	-.55**	.18	.07
POS	.56**	1.0	.14	.32**	.48**	.70**	.69**	-.68**	.14	.01
FIN	.36**	.82**	.10	.22*	.28**	.63**	.61**	-.58**	.07	-.17

* P < .05

** P < .01

ATW = Attitudes towards women

Vixtra = Vixen Seductress- Traditional views towards women

Vixsex = Vixen Seductress- Views about female sexuality

Vixpro = Vixen Seductress- Views about men's role to protect women

PB1-PB4 = Private beliefs in the defendant's guilt

Pol = Confidence rating in the Polygraph Expert's testimony

Rap = Confidence rating in the Rape Expert's testimony

Con = Degree to which jurors think victim consented to intercourse

Enj = Degree to which jurors think victim enjoyed the intercourse

Pre = Predeliberation verdicts

Pos = Postdeliberation verdicts

Fin = Final verdicts

Correlation Matrix: Polygraph Truthful conditions

	PRE	POS	PB1	PB2	PB3	PB4	CON	ENJ	POL	RAP
ATW	.04	.09	.16	.11	.15	.20	.27*	-.31**	-.29**	.42*
VIXTR	-.03	-.09	-.16	-.07	-.16	-.18	-.28**	.28**	.25*	-.38*
VIXSE	-.05	-.01	-.31**	-.24*	-.22*	-.19	-.21*	.27**	.16	-.37*
VIXPR	.01	-.14	-.10	-.11	-.17	-.15	-.18	.26*	.01	-.24
PB1	.30**	-.02	1.0	.36**	.30**	.10	.13	-.18	-.20	-.05
PB2	.73**	.34**	.36**	1.0	.86**	.56**	.50**	-.48**	-.46**	.36*
PB3	.84**	.43**	.30**	.86**	1.0	.68**	.65**	-.63**	-.60**	.34*
PB4	.51**	.75**	.09	.56**	.68**	1.0	.81**	-.85**	-.48**	.33*
POL	-.56**	-.35**	-.20	-.46**	-.60**	-.48**	.50**	.53**	1.0	-.19
RAP	.27	.31*	-.05	.36*	.34*	.33*	.45**	-.41**	-.11	1.0
CON	.47**	.60**	.14	.50**	.65**	.81**	1.0	-.82**	-.50**	.45*
ENJ	-.51**	-.61**	-.18	-.48**	-.63**	-.85**	-.82**	1.0	.53**	-.41*
PRE	1.0	.37**	.30**	.73**	.84**	.51**	.47**	-.51**	-.55**	.27
POS	.37**	1.0	-.02	.34**	.43**	.75**	.60**	-.61**	-.35**	.31
FIN	.37**	1.0	-.02	.34**	.43**	.75**	.60**	-.61**	-.35**	.31

* P < .05

** P < .01

ATW= Attitudes towards women

Vixtra= Vixen Seductress- Traditional views towards women

Vixsex= Vixen Seductress- Views about female sexuality

Vixpro= Vixen Seductress- Views about men's role to protect women

PB1-PB4= Private beliefs in the defendant's guilt

Pol= Confidence rating in the Polygraph Expert's testimony

Rap= Confidence rating in the Rape Expert's testimony

Con= Degree to which jurors think victim consented to intercourse

Enj= Degree to which jurors think victim enjoyed the intercourse

Pre= Predeliberation verdicts

Pos= Postdeliberation verdicts

Fin= Final verdicts

Appendix B

Informed Consent

THE PURPOSE OF AN INFORMED CONSENT IS TO ENSURE 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.

Research Personnel

The following people are involved in this research project and may be contacted at any time: Daniel Egarhos (Principal Investigator, 788-2600, ext. 2683) and; Dr. Nicholas Spanos (Faculty Supervisor, 788-2600, ext 2682). Should you have any ethical concerns about this study then please contact Dr. Kim Matheson (Chair, Department of Psychology Ethics Committee, 788-2600, ext 7513) or; Dr. W. Jones (Chair, Department of psychology, 788-2600, ext 2648).

The present study requires that you role-play the part of a juror in a simulated trial concerning sexual assault. The simulated trial will be presented in video format. All of the characters in the trial are played by actors and actresses who have volunteered their time and efforts to the study.

During the trial you will be required to fill out some questionnaires. After reviewing the trial proceedings, you will be asked to partake in the jury deliberation process. Upon completion of this you will be asked to give your individual perceptions and judgements about the trial. The entire procedure will last between 3-4 hours.

In order to make the trial as realistic as possible, the testimonies contain explicit details concerning the alleged assault. Some people may find such details upsetting. You are free to withdraw from the study at this point in time, or at any subsequent time, for any reason and you will not be penalized in any way.

I understand that I am completely free to withdraw at this point in time (without penalty) or at any subsequent time before, during, or after the jury deliberations.

Furthermore, I am also aware that all of the data gathered 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 voluntarily consent to participate in this study.

Participants name (please print)

Participants signature

Investigators Name

Investigators signature

Date

Appendix C

Informed Consent

Your task as a jury will be to reach a unanimous decision concerning the guilt 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**

_____ **Investigator**

_____ **Date**

Appendix D

Please indicate your opinion about each statement by circling one response only; where; A = agree strongly; B = agree mildly; C = disagree mildly; & D = disagree strongly.

- | | Agree
Strongly | | | Disagree
Strongly |
|---|-------------------|---|---|----------------------|
| 1. Swearing and obscenity are more repulsive in the speech of a woman than of a man. | A | B | C | D |
| 2. Women should take increasing responsibility for leadership in solving the intellectual and social problems of the day. | A | B | C | D |
| 3. Both husband and wife should be allowed the same grounds for divorce. | A | B | C | D |
| 4. Telling dirty jokes should be mostly a masculine prerogative. | A | B | C | D |
| 5. Intoxication among women is worse than intoxication among men. | A | B | C | D |
| 6. Under modern economic conditions with women being active outside the home, men should share in household tasks such as washing dishes and doing laundry. | A | B | C | D |
| 7. It is insulting to women to have the "obey" clause remain in the marriage service. | A | B | C | D |
| 8. There should be a strict merit system in job appointment and promotion without regard to sex. | A | B | C | D |
| 9. A woman should be as free as a man to propose marriage. | A | B | C | D |
| 10. Women should worry less about their rights and more about becoming good wives and mothers. | A | B | C | D |

11. Women earning as much as their dates should bear equally the expense when they go out together. A B C D
12. Women should assume their rightful place in business and all the professions along with men. A B C D
13. A woman should not expect to go exactly the same places or have quite the same freedom of action as a man. A B C D
14. Sons in a family should be given more encouragement to go to college than daughters. A B C D
15. It is ridiculous for a woman to run a locomotive and for a man to darn socks. A B C D
16. In general, the father should have authority than the mother in the bringing up of children. A B C D
17. Women should be encouraged not to become sexually intimate with anyone before marriage, even their fiancés. A B C D
18. The husband should not be favoured by law over the wife in the disposal of family property or income. A B C D
19. Women should be concerned with their duties of childbearing and house tending, rather than with desires professional and business careers. A B C D
20. The intellectual leadership of a community should be largely in the hands of men. A B C D
21. Economic and social freedom is worth far more to women than acceptance of the ideal of femininity which has set up by men. A B C D

22. On average, women should be regarded as less capable of contributing to economic production than are men. A B C D
23. There are many jobs in which men should be given preference over women in being hired or promoted. A B C D
24. Women should be given equal opportunity with men for apprenticeship in the various trades. A B C D
25. The modern girl is entitled to the same freedom from regulation and control that is given to the modern boy. A B C D

Appendix E

For each item below please circle the one number between 1 and 5 that best describes how you feel. The number 1 means that you think the item is not at all true while 5 means you think the item is very true. Numbers between 1 and 5 reflect differences in belief between the two extremes.

- | | Not at all
true | | very
true |
|--|--------------------|---|--------------|
| 1. In general, women are less trustworthy than men. | 1 | 2 | 3 4 5 |
| 2. Women are more willing than men to be sneaky or underhanded in order to get what they want. | 1 | 2 | 3 4 5 |
| 3. Lots of attractive women flirt and use their looks to get ahead. | 1 | 2 | 3 4 5 |
| 4. A lot of women would probably be willing to sleep with their boss in order to get a promotion. | 1 | 2 | 3 4 5 |
| 5. The old saying "hell hath no fury like a woman scorned" contains an important psychological truth. | 1 | 2 | 3 4 5 |
| 6. Even though they may appear sweet on the surface women are often more spiteful and vengeful than men. | 1 | 2 | 3 4 5 |
| 7. Women often use tears as a tool to make men feel sympathetic towards them, and give them what they want. | 1 | 2 | 3 4 5 |
| 8. In a job or professional situation women often have an advantage over equally competent men, because women can use flirting and sex as well as competence to get ahead, while the men have only competence. | 1 | 2 | 3 4 5 |

9. If they could get away with it, a lot of women college students who were doing badly in a course would have sex with the professor in order to get a better grade. 1 2 3 4 5
10. If they thought it would work for them, a lot of women would lie about using birth control in order to get pregnant and pressure their boyfriend into marrying them. 1 2 3 4 5
11. Ideally, a woman should be a virgin when she marries. 1 2 3 4 5
12. Ideally, a woman should be less sexually experienced than the man she marries. 1 2 3 4 5
13. It is more important for women to be sexually faithful in a relationship than it is for men. 1 2 3 4 5
14. When it comes to a choice between career advancement and the needs of the children wives should be more willing than husbands to make career sacrifices. 1 2 3 4 5
15. Women who cheat on their husbands or boyfriends are likely to claim that they were raped if they think it will get them off the hook. 1 2 3 4 5
16. Because women are physically weaker than men, it's important that they have a man around who can protect them. 1 2 3 4 5
17. Most women enjoy traditional displays of politeness like having doors opened for them, and pulling out their chair when they sit down. 1 2 3 4 5
18. Basically, it's no big deal if a man has casual sex with someone other than his wife, as long as he does his best to protect his wife's feelings by not letting her find out. 1 2 3 4 5

19. A lot of so called "date rape" involves women who consented to sex but later cried rape to protect their reputations 1 2 3 4 5
20. Casual sex before marriage is more acceptable for men than for women. 1 2 3 4 5
21. I can see how a woman might have sex before marriage with a guy she really cares about, but a woman who has sex with guys she doesn't know well because she finds them physically attractive, is a slut. 1 2 3 4 5
22. Sometimes women play the role of a sweet naive, innocent just to hook men into giving them what they want. 1 2 3 4 5
23. Women often play hard to get sexually in order to protect their reputation even when they secretly feel sexually aroused. 1 2 3 4 5
24. Frequently women want sex but won't admit it because they don't want the guy to think that they are cheap or easy. 1 2 3 4 5
25. A lot of women are willing to hide their true beliefs and play whatever role they think will work in order to catch an attractive guy with money and a good job. 1 2 3 4 5
26. It is a man's duty to protect and defend the honor of the woman he cares about. 1 2 3 4 5
27. The worst thing a woman can do to a man is cheat on him sexually. 1 2 3 4 5
28. A lot of women flirt with other men in order to let their boyfriend know that he had better give them whatever they want or they will leave him. 1 2 3 4 5

29. The worst thing a man can do is to not
defend the reputation of the woman he
loves. 1 2 3 4 5

30. Although men and women may be equal in
many ways, women feel safe and secure
knowing they have a man around who can
look after them and protect them. 1 2 3 4 5

31. Probably a lot of so called rape involves
women who are trying to get back at a guy
who they voluntarily had sex with but who
then didn't want to see them again 1 2 3 4 5

32. A good woman is like a rare gem. A man who
is lucky enough to find one should treasure
and protect her. 1 2 3 4 5

Appendix F

Private Belief

The scale below assesses your private and personal belief about whether you think Mr. Simons is guilty or not guilty of sexual assault. This scale is not asking you whether you believe the evidence is sufficient to find George Simons guilty in a court of law. Instead, it is simply asking you for your personal opinion concerning whether or not George Simons is legally culpable of having sexually assaulted Miss Ellen Henry.

-5	-4	-3	-2	-1	0	1	2	3	4	5
positive that					undecided		positive that			
he is							he is			
NOT GUILTY							GUILTY			

Appendix G

DUTIES OF 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 deliberations we will take a final written ballot of our individual decisions.

Appendix H**Tally Sheet****Name:** _____**Juror Number:** _____**Tally Number:** _____**On the basis of the evidence, my vote is that****Mr. Simons is GUILTY** _____**Mr. Simons is NOT GUILTY** _____

Appendix I

To what extent do you believe that Miss Henry voluntarily consented to sexual intercourse with Mr. Simons ?

Completely Voluntary	1	2	3	4	5	6	7	Completely Involuntary
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To what extent do you believe that Miss Henry enjoyed the sexual intercourse with Mr. Simons ?

She derived no enjoyment from the sexual intercourse	1	2	3	4	5	6	7	She greatly enjoyed the sexual intercourse
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Appendix J

How sure are you of your final verdict. ?

- ☐ very sure
- ☐ fairly sure
- ☐ fairly unsure
- ☐ very unsure

How much confidence do you have in the polygraph test results ?

- ☐ complete confidence
- ☐ a fair amount of confidence
- ☐ only a little confidence
- ☐ no confidence

How much confidence do you have in the Rape Expert's testimony ?

- ☐ complete confidence
- ☐ a fair amount of confidence
- ☐ only a little confidence
- ☐ no confidence

How familiar were you with the polygraph before coming here ?

- ☐ I've read or heard scientific accounts on the subject
- ☐ I was only familiar with it through the popular media
(e.g., T.V., crime dramas, newspaper)
- ☐ I had never heard of it

Imagine that Mr. Simons was in fact found guilty, that you are the judge and now have to sentence him. What sentence would you choose

- ☐ 25 years imprisonment
- ☐ 15 years imprisonment
- ☐ 10 years imprisonment
- ☐ 5 years imprisonment
- ☐ 2 years imprisonment
- ☐ no imprisonment (any combination of fine, probation, treatment)

Appendix K

DEBRIEFING

We 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 sexual assault and will offer a new contribution to this field. This study and others like it assist those individuals who are involved in sexual assault litigation.

We would like to emphasize that sexual assault is a serious and violent crime, punishable by many years in prison. Rape victims suffer severe psychological trauma as well as the more obvious physical effects of the assault. Unfortunately, many people still believe a number of falsehoods or myths about rape. For example, one totally unfounded myth is that if a woman does not immediately report a rape or hesitates to report it, then the act should not be considered real rape. A second falsehood is that women want to be raped or are turned on by rape. These beliefs are false.

The purpose of the study in which you have just participated is to investigate different factors which may influence the decisions that jurors make in rape trials. Past research using the jury simulation paradigm has shown, for instance, that jury verdicts vary as a function of the amount of evidence presented at trial and the type of judicial instruction. Research also indicates that extralegal variables (e.g. demeanor of the complainant and defendant, juror gender, age of the complainant etc.) also influence jury decisions. In the present study, such factors as a polygraph expert testifying as to the credibility of the defendant as well as the testimony of a rape expert who dispells some of the myths associated with sexual assault (independent variables), are introduced into the trial process. you were then instructed to carefully weigh the above conditions as well as the evidence in the case in reaching a verdict and to provide some prsonal opinions (dependent variables) as to the innocence or guilt of the defendant.

We appreciate your taking the time to answer the questions and want to stess that our intent is to understand your beliefs; consequently, all your answers are valuable. Also, please note that the trial presented to you on videotape is a completely simulated trial; that is, it is a totally fictional scenario. Furthermore, all of the characters were actors who volunteered their time and efforts to this project.

Due to the nature of this research, we ask you not to discuss the subject matter with potential participants until testing is complete. If you wish to discuss any additional aspects of the research we are available for appointments. You may contact Daniel Egarhos in room A304 Loeb or by phoning 788-2600, ext. 2683, Dr. Kim Matheson (Chair, Ethics Committee, ext. 7513) or Dr. W. Jones (Chair, Dep't of Psych. ext. 2648). If you have any comments that you feel might be helpful we would appreciate them.

Appendix L 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 Center 238-3311
Salvation Army Crisis Cent 236-7977
Rape Crisis Line 238-6666
Sexual Assault Center 234-2266
A.A. 523-9977

Individual Family Councelling

Catholic Family Center	Family Service Center
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 Center 725-3601
Family Court Clinic 724-6513
Family and Divorce Mediation 233-4926

Help for Victims of Sexual Abuse and their Families

Family Service Center 725-3601
The Sexual Assault Support Center 234-2266
Children's Hospital of Eastern Ont. 737-7600
Children's Aid Society 737-1700

Services for Battered Women

Gloucester Services for Abused Women 745-4818
Interval House 234-5181
Lanark county Interval House 1-800-267-7946

Temporary Refuges for Women and Children

Interval House 234-5181
Lanark County 1-800-267-7946

Maison D'Amitie	234-7204
La Presense	233-8297

Counselling Services

Pinecrest Queensway Community Center	820-4922
Dalhousie Community Center	238-8210
Ottawa S.E. Community Center	521-1023
Lower Town Community Center	238-1784
Gloucester Community Center	741-6025

Appendix M

Trial Script

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Judge's Opening Statement

MEMBERS OF THE JURY, IN THE TRIAL YOU WILL HEAR TODAY, THE CROWN HAS CHARGED MR. GEORGE SIMONS WITH THE SEXUAL ASSAULT OF MISS ELLEN HENRY. DURING THE TRIAL YOU WILL SEE PRESENTATIONS OF THE CASE BY BOTH THE CROWN AND THE DEFENCE. THE TRIAL WILL BEGIN WITH OPENING STATEMENTS, FIRST BY THE PROSECUTING ATTORNEY, THEN BY THE DEFENSE ATTORNEY.

FOLLOWING THESE OPENING STATEMENTS YOU WILL OBSERVE THE TESTIMONY OF A SERIES OF WITNESSES. FIRST, WITNESSES WILL BE CALLED BY THE PROSECUTION. EACH OF THESE WITNESSES WILL BE EXAMINED BY THE CROWN ATTORNEY, AND THEN CROSS-EXAMINED BY THE DEFENSE ATTORNEY. AFTER THE PROSECUTION HAS COMPLETED PRESENTING ITS CASE, YOU WILL SEE THE WITNESSES CALLED BY THE DEFENSE. EACH OF THESE WITNESSES WILL BE EXAMINED BY THE DEFENSE ATTORNEY, AND THEN CROSS-EXAMINED BY THE ATTORNEY FOR THE PROSECUTION.

MEMBERS OF THE JURY, IN OUR LEGAL SYSTEM A DEFENDANT IS PRESUMED INNOCENT UNTIL A JURY OF HIS PEERS, WHICH HAVE HEARD ALL THE RELEVANT EVIDENCE, DELIBERATES ON THIS EVIDENCE AND FINDS HIM GUILTY BEYOND A REASONABLE DOUBT. THEREFORE, IT IS VERY IMPORTANT THAT YOU KEEP AN OPEN MIND THROUGHOUT THE ENTIRE TRIAL AND THAT YOU DO NOT MAKE UP YOUR MIND AS TO

DEFENDANT'S INNOCENCE OR GUILT PREMATURELY. AFTER YOU HAVE HEARD ALL THE EVIDENCE, YOU WILL CAREFULLY WEIGH AND EVALUATE THE EVIDENCE PRESENTED TO YOU AND DELIBERATE TO A DECISION CONCERNING THE OUTCOME OF THIS CASE.

MEMBERS OF THE JURY, ASSAULT IS DEFINED BY THE CANADIAN CRIMINAL CODE AS APPLYING FORCE INTENTIONALLY TO ANOTHER PERSON, DIRECTLY OR INDIRECTLY, WITHOUT THE CONSENT OF THAT PERSON. THIS APPLIES TO ALL FORMS OF ASSAULT, INCLUDING SEXUAL ASSAULT.

MEMBERS OF THE JURY, LET ME CAUTION YOU ONCE AGAIN THAT THE DEFENDANT IS PRESUMED TO BE INNOCENT OF THE CHARGES AGAINST HIM, AND THAT YOU ARE TO LISTEN, AND WEIGH ALL OF THE EVIDENCE WITH AN OPEN MIND. YOU WILL HAVE AMPLE OPPORTUNITY TO DELIBERATE ON THE EVIDENCE AND TO REACH YOUR CONCLUSIONS AFTER ALL OF THE EVIDENCE HAS BEEN PRESENTED TO YOU.

PROSECUTION'S OPENING STATEMENT

MEMBERS OF THE JURY, THE CASE BEFORE YOU IS REALLY QUITE STRAIGHTFORWARD. THE CROWN WILL SHOW, THAT ON THE NIGHT OF OCTOBER 10, 1990, MR. GEORGE SIMONS BOUND AND SEXUALLY ASSAULTED MS. ELLEN HENRY. THE EVIDENCE WILL PROVE BEYOND A REASONABLE DOUBT THAT MR. SIMONS SEXUALLY ASSAULTED MS. HENRY. THE VICTIM IN THIS CASE, MS. HENRY, WILL SWEAR UNDER OATH THAT MR. SIMONS FORCED HIS WAY INTO HER HOME AND SEXUALLY ASSAULTED HER. SHE WILL FURTHER SWEAR THAT SHE TRIED TO FIGHT HIM OFF, AND IN DOING SO SCRATCHED HIM ON THE NECK, WHEREUPON HE TIED HER TO THE BEDPOST IN ORDER TO SUBDUE HER.

MEMBERS OF THE JURY, LISTEN VERY CAREFULLY AS A SERIES OF WITNESSES CORROBORATE VERY IMPORTANT ASPECTS OF MS. HENRY'S TESTIMONY. YOU WILL HEAR A FRIEND OF THE COMPLAINANT TESTIFY THAT ON THE DAY AFTER MS. HENRY WAS RAPED, MS. HENRY TOLD HER THAT SHE HAD BEEN RAPED THE PREVIOUS EVENING BY MR. SIMONS. YOU WILL HEAR THE POLICE OFFICER WHO EXAMINED THE SCENE OF THE ASSAULT TESTIFY THAT

HE FOUND A BELT TIED TO THE BEDPOST WHERE MS. HENRY SAID IT WOULD BE. THE OFFICER WILL TESTIFY THAT MS. HENRY'S LEFT WRIST, WHICH WAS TIED TO THE BEDPOST BY MR. SIMONS, APPEARED BRUISED AND SWOLLEN AT THE TIME. YOU WILL ALSO HEAR A MEDICAL EXPERT TESTIFY THAT THE BRUISING ON MS. HENRY WRIST WAS CONSISTENT WITH HER DESCRIPTION THAT SHE INJURED IT WHILE ATTEMPTING TO PULL FREE FROM THE BELT.

MEMBERS OF THE JURY, THE CROWN WILL ALSO PRESENT AS WITNESS, A PHYSICIAN WHO EXAMINED MR. SIMONS IMMEDIATELY AFTER HE WAS TAKEN INTO CUSTODY. THIS EXPERT WILL TESTIFY THAT HE FOUND SCRATCHES ON MR. SIMONS' NECK, AND THAT THOSE SCRATCHES WERE CONSISTENT WITH MS. HENRY'S DESCRIPTION THAT SHE HAD INFLICTED THEM ON MR. SIMONS WHILE ATTEMPTING TO FIGHT HIM OFF.

IN SUMMARY, THE CROWN WILL PRESENT EVIDENCE TO PROVE BEYOND A REASONABLE DOUBT THAT GEORGE SIMONS SEXUALLY ASSAULTED ELLEN HENRY. MEMBERS OF THE JURY, I ASK YOU TO LISTEN CAREFULLY TO ALL THE EVIDENCE PRESENTED TODAY, AND THEN I ASK YOU TO FIND GEORGE SIMONS GUILTY OF SEXUAL ASSAULT.

DEFENCE OPENING STATEMENT

MEMBERS OF THE JURY, SEXUAL ASSAULT IS A SERIOUS AND REPUGNANT CRIME. BUT MEMBERS OF THE JURY, MY CLIENT, GEORGE SIMONS, DID NOT SEXUALLY ASSAULT ELLEN HENRY OR ANYONE ELSE. MY CLIENT FREELY ADMITS THAT ON OCTOBER 10, 1990 HE WAS IN MS. HENRY'S APARTMENT. HOWEVER, HIS PRESENCE THERE WAS AT THE REQUEST OF MS. HENRY. HE DID NOT FORCE HIS WAY INTO THE APARTMENT. HE DID NOT BIND MS. HENRY. NOR DID HE COMMIT SEXUAL ASSAULT WHILE THERE. MEMBERS OF THE JURY, MR. SIMONS IS AN UPSTANDING MEMBER OF THE COMMUNITY, HOLDS A GOOD JOB, AND BEFORE THIS HORRIBLE MISUNDERSTANDING HAD NEVER BEEN ARRESTED FOR ANYTHING. IN SHORT, GEORGE SIMONS IS NOT THE SORT OF MAN WHO BINDS AND RAPES WOMEN.

MEMBERS OF THE JURY, MR. SIMONS WILL TAKE THE STAND IN HIS OWN DEFENSE, AND IT IS IMPORTANT FOR YOU TO LISTEN CAREFULLY TO EVERYTHING HE TELLS YOU. UNDER OATH HE WILL FREELY ADMIT THAT ON THE NIGHT OF OCTOBER 10, 1990, HE MET MS. HENRY FOR THE FIRST TIME IN A LOCAL NORTH BAY TAVERN. THERE HE ENGAGED IN CONVERSATION AND DRINKS WITH MS. HENRY AND TWO MUTUAL FRIENDS. MR. SIMONS WILL TESTIFY THAT WHILE IN

THE TAVERN MS. HENRY REPEATEDLY FLIRTED WITH HIM, UNDER THE TABLE, IN A SEXUALLY SUGGESTIVE MANNER. LISTEN CAREFULLY AS MR. SIMONS TELLS YOU HOW HE LATER WENT TO MS. HENRY'S APARTMENT AND ENTERED ONLY AFTER HE HAD BEEN EXPLICITLY INVITED TO DO SO.

ONCE INSIDE SHE OFFERED HIM COFFEE, AND ASKED HIM TO SIT BESIDE HER ON THE SOFA. MR. SIMONS WILL FURTHER DESCRIBE HOW MS. HENRY MOVED CLOSER TO HIM ON THE COUCH AND SIGNALLED HER SEXUAL AVAILABILITY TO HIM. MEMBERS OF THE JURY, MR. SIMONS FREELY ADMITS THAT HE HAD SEXUAL INTERCOURSE WITH MS. HENRY ON THE NIGHT IN QUESTION. HOWEVER, THE INTERCOURSE THAT OCCURRED BETWEEN THEM WAS ENTIRELY VOLUNTARY AND UNCOERCED. WE DO NOT DISPUTE THE FACT THAT MR. SIMONS TIED MS. HENRY'S WRIST TO THE BEDPOST. HOWEVER THIS ACTION WAS TAKEN BY MR. SIMONS, ONLY UPON THE REQUEST OF MS. HENRY. I WOULD ASK YOU TO LISTEN CAREFULLY AS MY CLIENT DESCRIBES HOW MS. HENRY ASKED HIM TO TIE HER TO THE BEDPOST BECAUSE IT WAS SEXUALLY AROUSING FOR HER. FURTHER, WE DO NOT DISPUTE THE FACT THAT MR. SIMONS RECEIVED A SCRATCH TO HIS NECK. MR. SIMONS WILL TESTIFY THAT MS. HENRY SCRATCHED HIM IN THE HEAT OF SEXUAL EXCITEMENT, AND NOT IN AN ATTEMPT TO FIGHT HIM OFF.

MEMBERS OF THE JURY, YOU SHOULD ASK WHY A WOMAN WHO CLAIMS TO HAVE BEEN SEXUALLY ASSAULTED SHOWED NO SIGNS OF SERIOUS PHYSICAL INJURY AT THE TIME. AFTER ALL, A WOMAN WHO REALLY DID NOT WANT TO HAVE SEX WOULD HAVE FOUGHT HER WAY FREE OF THE SITUATION, OR WOULD SURELY EXHIBIT SIGNS OF SERIOUS BODILY HARM FROM HER ATTEMPT TO GET AWAY. MS. HENRY WAS NOT THREATENED WITH A WEAPON, NOR DID SHE EXHIBIT SIGNS OF PHYSICAL INJURY.

MEMBERS OF THE JURY, MS. HENRY HERSELF WILL TESTIFY, THAT SHE DID NOT CALL THE POLICE IMMEDIATELY AFTER MR. SIMONS LEFT HER APARTMENT. INSTEAD SHE TOOK A SHOWER AND THEN FELL ASLEEP. IN FACT, MS. HENRY DID NOT REPORT TO THE POLICE THAT SHE HAD BEEN SEXUALLY ASSAULTED UNTIL ALMOST TWO DAYS AFTER SHE HAS SEX WITH MR. SIMONS. MEMBERS OF THE JURY, I SUBMIT THAT THIS LONG DELAY BETWEEN THE OCCURRENCE OF INTERCOURSE AND THE REPORT OF BEING SEXUALLY ASSAULTED, CLEARLY INDICATES THAT MS. HENRY DID NOT DEFINE THE SEX AS SOMETHING THAT BOTHERED HER, OR AS A CRIME.

MEMBERS OF THE JURY, ALTHOUGH THE BURDEN FALLS UPON THE PROSECUTION TO PROVE BEYOND A REASONABLE DOUBT THAT MY CLIENT IS GUILTY, WE WILL PRESENT TO THIS COURT THE MOTIVATION

BEHIND THE ALLEGATIONS MADE BY MS. HENRY. IN DEFENSE OF MY CLIENT WE SUBMIT THAT IT WAS MS. HENRY'S BELIEF, BASED UPON HER OWN INSECURITY, THAT A PERMANENT RELATIONSHIP HAD BEEN ESTABLISHED BETWEEN MR. SIMONS AND HERSELF ON THAT NIGHT. HOWEVER, WHEN IT BECAME APPARENT TO MS. HENRY THAT NO RELATIONSHIP WAS FORTHCOMING, THE ALLEGATIONS OF SEXUAL ASSAULT WERE MADE AGAINST MR. SIMONS.

MEMBERS OF THE JURY, I TOLD YOU EARLIER THAT SEXUAL ASSAULT IS A SERIOUS AND REPUGNANT CRIME THAT DESERVES TO BE PUNISHED TO THE FULL EXTENT OF THE LAW. BUT THIS TRIAL IS NOT ABOUT SEXUAL ASSAULT BECAUSE MY CLIENT, MR. GEORGE SIMONS DID NOT RAPE MS. ELLEN HENRY.

THIS TRIAL IS ABOUT A WOMAN, WHO FOR REASONS OF HER OWN, HAS FALSELY ACCUSED MY CLIENT OF SEXUAL ASSAULT. THEREFORE I ASK YOU, MEMBERS OF THE JURY, TO FIND GEORGE SIMONS NOT GUILTY OF THE CHARGE BROUGHT AGAINST HIM.

2

MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS
STANDARD REFERENCE MATERIAL 1010a
(ANSI and ISO TEST CHART No. 2)

EXAMINATION OF MS. ELLEN HENRY

PROSECUTOR (P)

MS. ELLEN HENRY (EH)

**P MS. HENRY COULD YOU PLEASE GIVE THE COURT YOUR FULL
NAME AND ADDRESS.**

**EH ELLEN HENRY. I LIVE AT 212 OTTER DRIVE, APARTMENT 2, IN
NORTH BAY.**

P HOW OLD ARE YOU MS. HENRY?

EH 22.

P ARE YOU MARRIED?

EH NO, I'M NOT.

P DO YOU WORK MS. HENRY?

EH YES, I'M A WAITRESS.

**P MS. HENRY, WOULD YOU PLEASE TELL THE COURT WHAT
HAPPENED ON THE EVENING OF OCTOBER 10, 1990, BEGINNING WITH
YOUR ARRIVAL AT "FRASER'S TAVERN".**

**EH WELL, I HAD WALKED TO THE TAVERN FROM MY APARTMENT
AROUND 8:30 TO MEET MY FRIEND SUSAN WILSON. WE HAD JUST
SAT DOWN WHEN A FRIEND OF SUE'S CAME OVER TO OUR TABLE**

AND ASKED IF HE AND HIS FRIEND COULD JOIN US. SUE
ASKED ME IF IT WAS O.K., AND I SAID SURE, WHY NOT.

P DID YOU KNOW THESE TWO MEN MS. HENRY?

EH NO, BUT SUE KNEW THE ONE WHO ASKED TO SIT WITH US.
MICHAEL TAYLOR.

P BUT NEITHER OF YOU KNEW THE OTHER CENTLEMAN AT THE
TIME. IS THAT CORRECT?

EH YES.

P IS THAT MAN HERE IN THE COURTROOM TODAY?

EH YES, MR. SIMONS [pointing] OVER THERE.

P LET THE RECORD SHOW THAT MS. HENRY HAS IDENTIFIED MR.
GEORGE SIMONS. O.K. MS. HENRY, WHAT HAPPENED AFTER
THE TWO MEN SAT DOWN.

EH WELL, MR. TAYLOR AND MR. SIMONS INTRODUCED THEMSELVES
AND WE TALKED, AND HAD A FEW DRINKS.

P DO YOU RECALL HOW MANY DRINKS YOU HAD OVER THE
COURSE OF THE EVENING MS. HENRY?

EH YES. TWO OR THREE BEER.

P WERE YOU DRUNK WHEN YOU LEFT THE TAVERN?

EH NO.

P COULD YOU TELL ME PLEASE MS. HENRY, WHAT THE
CONVERSATION DURING THE EVENING WAS ABOUT?

EH OH, THE USUAL. MOVIES, WHAT WE DID FOR A LIVING, WHERE WE WORKED, WHERE WE LIVED, HOW COLD THE WEATHER HAD BEEN RECENTLY. THINGS LIKE THAT.

P SO YOU DIDN'T DISCUSS ANYTHING PERSONAL OR INTIMATE. IS THAT CORRECT?

EH YES. THAT'S CORRECT.

P MS. HENRY, YOU SAID THAT ONE YOUR TOPICS OF CONVERSATION WAS WHERE YOU LIVED. IS THAT RIGHT?

EH YES.

P MS. HENRY, DID MR. SIMONS ASK YOU WHERE YOU LIVED?

EH I DON'T REMEMBER IF HE ASKED ME. IT CAME UP IN THE CONVERSATION, AND MR. SIMONS SAID THAT HE KNEW WHERE MY APARTMENT BUILDING WAS.

P AND HOW DID MR. SIMONS KNOW WHERE YOUR APARTMENT WAS?

EH HE SAID THAT HE LIVED ABOUT A FIVE MINUTE WALK FROM MY BUILDING AND WENT BY IT OFTEN.

P WOULD YOU TELL THE COURT WHAT HAPPENED NEXT PLEASE.

EH WELL, WE TALKED FOR A WHILE LONGER BUT IT WAS GETTING LATE AND I DECIDED TO LEAVE. I WANTED TO GET HOME BECAUSE I HAD TO WORK THE NEXT MORNING.

P AND WHAT TIME DID YOU LEAVE THE TAVERN MS. HENRY?

EH IT WAS ABOUT 11:00 PM.

P DID YOU LEAVE THE TAVERN ALONE?

EH YES. IT WAS JUST A SHORT WALK FROM THE TAVERN TO MY
APARTMENT.

P AND DID
YOU GO DIRECTLY HOME?

EH YES.

P COULD YOU PLEASE TELL US WHAT HAPPENED NEXT?

EH WELL, I HAD BEEN HOME ABOUT HALF AN HOUR. I WAS SITTING
ON THE SOFA READING THE NEWSPAPER, AND THERE WAS A KNOCK AT
MY DOOR. I LOOKED OUT THE PEEPHOLE, AND IT WAS MR.
SIMONS.

P WERE YOU SURPRISED TO SEE HIM?

EH YES. VERY. I WAS WONDERING WHAT HE WANTED. THE ONLY
THING THAT I COULD THINK OF WAS THAT PERHAPS I HAD LEFT
SOMETHING AT THE TAVERN.

I UNLOCKED THE DOOR, OPENED IT, AND ASKED MR. SIMONS
WHAT HE WANTED.

P AND WHAT DID HE SAY MS. HENRY?

EH HE DIDN'T SAY ANYTHING. BEFORE I KNEW WHAT WAS
HAPPENING HE PUSHED ME SO HARD THAT I STUMBLED BACKWARDS
AND FELL ON THE FLOOR. I WAS SO SURPRISED. I TRIED TO GET
UP, BUT HE WAS IN SO FAST. HE SHUT THE DOOR AND THEN

GRABBED ME BY THE HAIR WITH HIS RIGHT HAND AND PULLED ME UP. I STARTED TO STRUGGLE AND TRIED TO SCREAM, BUT HE PULLED MY HAIR EVEN HARDER AND BEGAN TO TWIST IT. HE TOLD ME TO SHUT UP, AND SAID HE WOULDN'T HURT ME IF I KEPT QUIET.

P SO YOU TRIED TO BREAK FREE FROM HIS ATTACK?

EH YES, I TRIED BUT I WAS AFRAID THAT HE WOULD HURT ME.

P WHAT HAPPENED NEXT MS. HENRY?

EH HE GRABBED MY LEFT WRIST AND FORCED ME AROUND SO THAT MY BACK WAS AGAINST HIS CHEST. HE KEPT PULLING MY LEFT ARM UP BEHIND MY BACK. HE STILL HAD A HOLD OF MY HAIR WITH HIS RIGHT HAND AND HE BEGAN PUSHING ME THROUGH THE LIVING ROOM. HE FORCED ME THROUGH THE KITCHEN AND INTO THE BEDROOM.

THEN HE PUSHED ME DOWN ON THE BED SO THAT I WAS FACING HIM AND HE GOT ON TOP OF ME AND HELD ME DOWN.

P PLEASE CONTINUE.

EH HE GRABBED BOTH OF MY WRISTS TOGETHER IN ONE HAND AND PINNED MY ARMS ABOVE MY HEAD. THEN HE REACHED DOWN UNDER MY SKIRT WITH HIS FREE HAND AND PULLED MY PANTIES DOWN BELOW MY KNEES.

HE UNDED HIS PANTS AND TRIED TO FORCE HIS LEGS BETWEEN MINE. I KEPT STRUGGLING AND TRIED TO TWIST AWAY FROM HIM. I MANAGED TO GET MY LEFT HAND FREE AND I SCRATCHED HIM ON THE NECK.

P MS. HENRY, WHICH SIDE OF HIS NECK DID YOU SCRATCH?

EH THE RIGHT SIDE.

P GO ON.

EH HE WINCED, SWORE AT ME, AND SAID THAT HE'D TEACH ME NOT TO TEASE HIM. THEN HE GRABBED BOTH OF MY WRISTS AGAIN AND HELD THEM IN HIS RIGHT HAND. I STRUGGLED TO GET MY HANDS FREE, BUT HIS GRASP WAS TOO TIGHT. WITH HIS OTHER HAND HE TOOK MY BELT OFF MY SKIRT AND LOOPED IT AROUND MY LEFT WRIST, THEN HE TIED THE FREE END TO THE BEDPOST.

P SO HE TIED YOUR LEFT WRIST TO THE BEDPOST WITH YOUR BELT. WAS YOUR RIGHT HAND FREE MS. HENRY?

EH NO. HE HELD MY RIGHT ARM DOWN WITH HIS LEFT HAND. I WAS STRUGGLING TO GET FREE, BUT IT SEEMED THAT THE HARDER I PULLED, THE MORE THE BELT DUG INTO MY LEFT WRIST. HE KEPT KISSING ME ON THE NECK. I WAS CRYING, TELLING HIM TO STOP. I KEPT STRUGGLING. TRYING TO TWIST FREE, BUT HE GRABBED MY HAIR AND TWISTED IT UNTIL IT HURT.

P DID YOU KEEP STRUGGLING AT THIS POINT?

EH YES. I WAS TRYING TO FORCE HIM OFF ME, BUT HE KEPT
TWISTING MY HAIR. HE TOLD ME TO LIFT UP MY KNEES. BUT I
WOULDN'T.

P PLEASE GO ON MS. HENRY.

EH WHEN I WOULDN'T LIFT UP MY KNEES HE GRABBED MY LEFT
WRIST AND BEGAN TO TWIST MY ARM BACK. HE STUCK HIS FACE
RIGHT IN MINE AND SAID, "STOP STRUGGLING; LIFT UP YOUR LEGS
OR I'LL BREAK YOUR ARM". I WAS SO SCARED. I DID WHAT HE
SAID. I FELT COMPLETELY OVERWHELMED AND HELPLESS. I
BEGGED HIM TO STOP, BUT HE WOULDN'T. I REMEMBER GOING LIMP,
AND CRYING UNTIL HE STOPPED. AFTER HE RAPED ME, HE GOT
UP AND PULLED UP HIS PANTS.

P AND DID HE SAY ANYTHING TO YOU BEFORE HE LEFT.

EH HE SAID THAT WE SHOULD DO IT AGAIN SOON AND THAT HE
WOULD SEE ME AROUND. THEN HE LEFT.

P AND WHAT DID YOU DO AFTER HE HAD GONE?

EH I TOOK THE BELT OFF MY WRIST AND RAN TO THE DOOR AND
BOLTED IT. I WAS TERRIFIED THAT HE MIGHT COME BACK. I
DIDN'T KNOW WHAT TO DO. I WAS SHAKING ALL OVER. I FELT
DIRTY, DISGUSTING. I WENT TO THE BATHROOM, DOUCHED AND
TOOK A SHOWER. I STILL FELT OVERWHELMED AND UNSURE OF
WHAT TO DO. I WAS EXHAUSTED AND JUST WANTED TO LIE DOWN

AND CURL UP, BUT I COULDN'T GO BACK TO THAT ROOM. SO I WENT INTO THE LIVING ROOM AND JUST CURLED UP ON THE CARPET. I TRIED TO SLEEP, BUT I WAS SCARED THAT HE MIGHT COME BACK. I KEPT SHAKING AND SHAKING. I FELT DAZED AND I COULDN'T GET CONTROL OF MYSELF. I REMEMBER DRIFTING OFF ONCE IN A WHILE DURING THE NIGHT, BUT I HAD HORRIBLE NIGHTMARES OF HIM. I DIDN'T WANT TO SLEEP. I DIDN'T KNOW WHAT TO DO.

P AND MS. HENRY, WHAT DID YOU DO THE FOLLOWING MORNING?
EH I DIDN'T WANT TO STAY IN THE APARTMENT. I CALLED WORK AND TOLD THEM I WAS SICK. THEN I SPENT MOST OF THE DAY OUT WALKING, TRYING TO DECIDE WHAT TO DO. I WAS SO ANGRY AT MYSELF FOR BEING SUCH A POOR JUDGE OF CHARACTER, AND FOR BEING STUPID ENOUGH TO GET INTO A SITUATION LIKE THAT. I DIDN'T KNOW WHAT TO DO. I WAS EMBARRASSED. I COULDN'T STAND THE THOUGHT OF TELLING ANYONE THAT I'D BEEN RAPED.

I FINALLY WENT BACK TO THE APARTMENT LATE IN THE AFTERNOON.

P MS. HENRY, WHAT TIME DID YOU ARRIVE BACK AT YOUR APARTMENT?

EH AROUND 5:00 P.M..

P PLEASE CONTINUE.

EH I FINALLY REALIZED THAT I NEEDED TO TALK WITH SOMEONE WHO I TRUSTED. I DECIDED TO PHONE MY FRIEND SUSAN WILSON. I ASKED HER TO COME OVER RIGHT AWAY.

P DID YOU TELL MS. WILSON WHAT HAD HAPPENED TO YOU THE PREVIOUS NIGHT?

EH YES.

P AND WHAT DID MS. WILSON SAY.

EH WELL, SHE WAS THE ONE WHO CONVINCED ME TO CALL THE POLICE. SHE SAID THAT I HAD TO IN ORDER TO PROTECT MYSELF. THAT HE MIGHT COME BACK AGAIN, OR THAT HE MIGHT RAPE SOMEONE ELSE.

I KNEW SHE WAS RIGHT. BUT I WAS SO SCARED AND EMBARRASSED. I COULDN'T STAND THE THOUGHT OF TELLING PEOPLE WHAT HAD HAPPENED. BUT I KNEW THAT I HAD TO.

P MS. HENRY, WHEN DID YOU CALL THE POLICE?

EH MS. WILSON AND I TALKED MOST OF THE NIGHT ABOUT WHAT TO DO, AND I CALLED THE POLICE THE NEXT MORNING.

P THANK YOU MS. HENRY. YOUR WITNESS.

CROSS EXAMINATION OF MS. ELLEN HENRY

DEFENCE ATTORNEY (D)

MS. ELLEN HENRY (EH)

**D MS. HENRY, ON THAT EVENING IN "FRASER'S TAVERN" YOU GOT
ALONG WELL WITH MR. SIMONS. DID YOU NOT?**

**EH WELL, I WAS POLITE TO HIM IF THAT'S WHAT YOU MEAN. I
HARDLY KNEW HIM.**

**D ISN'T IT TRUE MS. HENRY, THAT YOU WERE ATTRACTED TO MR.
SIMONS?**

EH NO. I WASN'T ATTRACTED TO HIM.

**D MS. HENRY ISN'T IT TRUE THAT THROUGHOUT THE NIGHT, UNDER
THE TABLE, YOU RUBBED YOUR FOOT UP AND DOWN MR. SIMONS
CALF? EH NO. I DIDN'T DO THAT.**

**D ISN'T IT TRUE, THAT NOT ONLY DID YOU PLAY FOOTsie WITH
MR. SIMONS, BUT YOU SECRETLY RAN YOUR HAND UP AND DOWN
THE INSIDE OF HIS THIGH AS WELL?**

EH NO. THAT'S NOT TRUE.

**D MS. HENRY, DID YOU NOT IN FACT TAKE GREAT PLEASURE IN
FLIRTING WITH MR. SIMONS, UNBEKNOWNST TO MS. WILSON AND
MR. TAYLOR?**

EH NO. OF COURSE NOT. I WOULDN'T DO THAT.

D YOU MUST BE A QUITE AN ACTRESS MS. HENRY TO CONTINUOUSLY FLIRT WITH A MAN AND NOT LET ANYONE ELSE KNOW.

WHAT IS THE TERM THEY USE IN CARDS? POKER FACE? NOW MS.

HENRY, IN "FRASER'S TAVERN", THERE WERE TIMES WHEN MR. SIMONS AND YOURSELF WERE ALONE TOGETHER. IS THAT CORRECT?

EH WELL, MAYBE FOR A FEW MINUTES DURING THE EVENING.

D IS IT NOT TRUE THAT DURING YOUR PRIVATE CONVERSATIONS WITH MR. SIMONS YOU INFORMED HIM OF YOUR SEXUAL AVAILABILITY?

EH NO. THAT ISN'T TRUE.

D MS. HENRY, DIDN'T YOU TELL MR. SIMONS THAT IT WAS DIFFICULT FOR YOU TO FIND SOMEONE WHO UNDERSTOOD YOU?

EH NO. I NEVER SAID ANYTHING LIKE THAT.

D MS. HENRY, ISN'T IT TRUE THAT YOU HAVEN'T BEEN INVOLVED IN A

SERIOUS RELATIONSHIP FOR A NUMBER OF YEARS?

EH

I'M NOT SURE I KNOW WHAT YOU MEAN BY A SERIOUS RELATIONSHIP.

D BY SERIOUS RELATIONSHIP, I MEAN WITH JUST ONE INDIVIDUAL OVER AN EXTENDED PERIOD OF TIME. NOW MS. HENRY, ISN'T IT

TRUE YOU HAVE NOT BEEN INVOLVED IN A SERIOUS RELATIONSHIP
FOR MANY YEARS?

EH WELL, YES. I GUESS THAT'S TRUE.

D MS. HENRY, IN OCTOBER OF 1990, WOULD YOU HAVE LIKED TO
HAVE BEEN INVOLVED IN A SERIOUS RELATIONSHIP?

EH WELL, YES. I GUESS SO. WOULDN'T MOST PEOPLE?

D NOW MS. HENRY, GETTING BACK TO THE TAVERN. WHY DID YOU
DECIDE TO LEAVE BEFORE THE OTHERS?

EH I HAD TO GET UP TO WORK THE NEXT MORNING

D ISN'T IT TRUE MS. HENRY, THAT WHEN YOU WERE LEAVING THE
TAVERN, AND WERE SAYING YOUR GOODBYES, YOU TOLD MR.
SIMONS, "I'LL SEE YOU LATER"?

EH WELL, MAYBE. I COULD HAVE SAID GOODBYE IN THAT WAY.

D ISN'T IT TRUE THAT THE REASON WHY YOU SAID "I'LL SEE YOU
LATER", WAS TO MAKE IT CLEAR TO MR. SIMONS THAT YOU
WANTED HIM TO COME OVER AND SEE YOU?

EH NO. THAT'S NOT TRUE.

D YET WHEN YOU ARRIVED HOME MS. HENRY, YOU DID NOT GO TO
BED SO THAT YOU COULD GET UP EARLY TO WORK, BUT INSTEAD
YOU

STAYED UP AND READ THE NEWSPAPER. IS THAT CORRECT?

EH YES. I OFTEN READ THE PAPER BEFORE I GO TO BED.

D ISN'T IT TRUE MS. HENRY, THAT THE REASON YOU WERE UP WAS, IN FACT, BECAUSE YOU WERE WAITING FOR MR. SIMONS TO COME BY?

EH NO. THAT'S NOT TRUE.

D MS. HENRY, ISN'T IT TRUE THAT YOU WERE EXPECTING MR. SIMONS TO COME TO YOUR APARTMENT. THAT YOUR SEXUALLY FLIRTATIOUS BEHAVIOR IN THE TAVERN WAS YOUR WAY OF INVITING HIM BACK? EH NO. I DIDN'T FLIRT WITH HIM. I DIDN'T INVITE HIM BACK.

D NO MS. HENRY, YOU DIDN'T HAVE TO SPECIFICALLY INVITE MR. SIMONS TO YOUR APARTMENT. WORDS WEREN'T NEEDED TO GET YOUR MESSAGE ACROSS. ISN'T IT TRUE MS. HENRY, THAT WHEN MR. SIMONS KNOCKED ON YOUR DOOR YOU INVITED HIM IN?

EH NO. I DIDN'T INVITE HIM.

D DIDN'T YOU ASK HIM TO COME IN FOR COFFEE AND TO WARM UP?

EH NO. HE FORCED HIS WAY IN.

D ISN'T IT TRUE MS. HENRY, THAT ONCE INSIDE, YOU INVITED MR. SIMONS TO SIT WITH YOU ON THE SOFA?

EH NO. I DIDN'T ASK HIM IN. I DIDN'T ASK HIM TO SIT DOWN.

D DIDN'T YOU LET YOUR KNEE RUB UP AGAINST MR. SIMONS' LEG ON THE SOFA?

EH NO.

D ISN'T TRUE THAT YOU TOLD HIM YOU WERE GOING TO WARM HIM UP, AND RUBBED YOUR HAND ALONG THE INSIDE OF HIS THIGH?

EH NO. I DIDN'T DO THAT.

D WASN'T IT YOU WHO SUGGESTED THAT MR. SIMONS GO TO THE BEDROOM WITH YOU?

EH NO. HE FORCED ME TO GO.

D FORCED MS. HENRY? SO HE THREATENED YOU WITH A WEAPON
DID HE MS. HENRY?

EH NO. HE DIDN'T HAVE A WEAPON.

D MS. HENRY, WASN'T IT IN FACT YOU WHO ASKED MR. SIMONS TO TIE YOU UP DURING INTERCOURSE BECAUSE YOU FOUND IT SEXUALLY AROUS'NG.

EH NO, THAT'S NOT TRUE.

D DIDN'T YOU PUT THOSE SCRATCHES ON MR. SIMONS NECK IN THE HEAT OF YOUR SEXUAL EXCITEMENT MS. HENRY?

EH NO. I WAS TRYING TO FIGHT HIM OFF.

D ISN'T IT TRUE MS. HENRY, THAT AFTER YOU HAD INTERCOURSE WITH MR. SIMONS YOU TOLD HIM YOU WERE GLAD YOU HAD FINALLY FOUND SOMEONE WHO COULD CARE FOR YOU AND LOVE YOU?

EH NO! THAT ISN'T TRUE.

D MS. HENRY, WHY DID ALMOST TWO DAYS PASS FROM THE TIME YOU HAD INTERCOURSE WITH MR. SIMONS TO THE TIME YOU ACCUSED HIM OF SEXUAL ASSAULT?

EH I WAS AFRAID. UNSURE. I DIDN'T KNOW WHAT TO DO.

D ISN'T IT TRUE MS. HENRY, THAT THE REASON IS BECAUSE NO ASSAULT TOOK PLACE, AND YOU WERE IN FACT WAITING FOR MR. SIMONS TO CALL YOU?

EH NO.

D WERE YOU NOT IN FACT, AFRAID THAT MR. SIMONS WOULDN'T CALL YOU, AND WOULDN'T CONTINUE YOUR RELATIONSHIP?

EH NO. THERE WASN'T A RELATIONSHIP.

D NO THERE WASN'T A RELATIONSHIP, BUT YOU WANTED A RELATIONSHIP WITH MR. SIMONS DIDN'T YOU MS. HENRY?

EH NO. NO I DIDN'T.

D WERE YOU NOT IN FACT ANGRY BECAUSE YOU FELT YOU HAD ONLY BEEN USED FOR SEX, AND NO RELATIONSHIP WITH MR. SIMONS WAS FORTHCOMING.

EH NO.

D ISN'T IT TRUE MS. HENRY, THAT YOU ACCUSED MR. SIMONS ONLY AFTER HE FAILED TO CALL YOU, IN ORDER GET EVEN WITH HIM.

EH NO. I DIDN'T.

D ISN'T IT TRUE MS. HENRY, THAT YOU MADE UP THIS STORY THAT YOU WERE SEXUALLY ASSAULTED BY MR. SIMONS?

EH NO. I DIDN'T MAKE IT UP

D ISN'T TRUE MS. HENRY, THAT YOU TOLD SUSAN WILSON YOU HAD BEEN SEXUALLY ASSAULTED ONLY SO YOU COULD USE HER TO SUPPORT YOUR FALSE ACCUSATIONS AGAINST MR. SIMONS?

EH NO. THAT'S NOT TRUE.

D ISN'T IT TRUE, YOU MADE THESE FALSE ACCUSATIONS AGAINST MR. SIMONS BECAUSE YOU KNEW THAT IF YOU DID HE "COULDN'T GET AWAY WITH" USING YOU.

EH NO. THAT'S NOT TRUE. I DIDN'T MAKE FALSE ACCUSATIONS.

D THANK YOU MS. HENRY. NO FURTHER QUESTIONS YOUR HONOUR.

EXAMINATION OF MS. SUSAN WILSON

PROSECUTOR (P)

MS. SUSAN WILSON (SW)

P WOULD YOU PLEASE STATE YOUR NAME AND ADDRESS FOR THE COURT.

SW YES. MY NAME IS SUSAN WILSON. I LIVE AT 135 BEECH STREET.

P MS. WILSON, ON THE EVENING OF OCTOBER 10, 1990, YOU MET MS. ELLEN HENRY AT "FRASER'S TAVERN". IS THAT CORRECT?

SW YES.

P AND SHORTLY AFTER YOU SAT DOWN, MICHAEL TAYLOR CAME TO YOUR TABLE AND ASKED IF HE AND HIS FRIEND GEORGE SIMONS COULD JOIN YOU. IS THAT CORRECT?

SW YES. IT IS.

P MS. WILSON, HAD YOU MET MR. SIMONS BEFORE THAT NIGHT?

SW NO.

P NOW MS. WILSON, WHAT WAS THE CONVERSATION AT THE TABLE LIKE BETWEEN THE FOUR OF YOU?

SW JUST THE USUAL STUFF, WE TALKED ABOUT MOVIES, WORK, THINGS LIKE THAT.

P WAS THE CONVERSATION BETWEEN MS. HENRY AND MR. SIMONS PERSONAL OR INTIMATE IN ANY WAY?

SW NO. IT WAS NOT.

P DID THEY SEEM TO BE INTIMATE IN OTHER WAYS? FOR EXAMPLE DID THEY EXCHANGE LONG GLANCES, OR STARE AT ONE ANOTHER?

SW NO. I DON'T THINK SO.

P MS. WILSON DID YOU NOTICE IF THERE WAS ANY PHYSICAL CONTACT BETWEEN MS. HENRY AND MR. SIMONS, UNDER THE TABLE?

SW NO. I DON'T BELIEVE THERE WAS.

P SO THEN MS. WILSON, THEY WERE NOT FLIRTING.

SW NO. NOT THAT I NOTICED.

P MS. WILSON, WHEN DID MS. HENRY LEAVE THE TAVERN?

SW IT WAS ABOUT 11:00 P.M., SHE SAID SHE HAD TO WORK IN THE MORNING.

P DO YOU RECALL WHAT TIME MR. SIMONS LEFT THE TAVERN?

SW YES. ABOUT 11:30 OR SO.

P NOW MS. WILSON, COULD YOU TELL THE COURT WHAT HAPPENED THE FOLLOWING EVENING, ON OCTOBER 11, 1990?

SW WELL, I RECEIVED A PHONE CALL AT ABOUT 6:00 P.M. FROM ELLEN HENRY. SHE SOUNDED UPSET AND ASKED ME IF I COULD COME OVER.

P COULD YOU TELL US PLEASE WHAT CONDITION MS. HENRY WAS IN WHEN YOU ARRIVED AT HER APARTMENT?

SW WELL, SHE SEEMED VERY UPSET. SHE WAS FIDGETY AND NERVOUS. HER EYES WERE RED AND SWOLLEN, AND SHE HAD OBVIOUSLY BEEN CRYING. I ASKED HER WHAT WAS WRONG. AT FIRST SHE SAID SHE DIDN'T WANT TO TELL ME. THEN SHE STARTED TO CRY, AND WHEN I PERSISTED SHE TOLD ME THAT MR. SIMONS HAD COME TO THE APARTMENT AND RAPED HER THE PREVIOUS EVENING.

P MS. WILSON, DID YOU NOTICE ANY PHYSICAL INJURIES TO MS. HENRY?

SW YES. HER LEFT WRIST WAS SWOLLEN, AND IT HAD A BLUISH BRUISE AROUND IT.

P DID MS. HENRY TELL YOU HOW SHE GOT THIS INJURY?

SW YES. SHE SAID THAT SHE HAD BEEN TIED TO THE BEDPOST BY MR. SIMONS AND HAD HURT HER WRIST TRYING TO PULL FREE.

P MS. WILSON, DID YOU REMAIN AT MS. HENRY'S APARTMENT UNTIL THE POLICE ARRIVED THE FOLLOWING MORNING?

SW YES. MS. HENRY SAID THAT SHE DIDN'T KNOW WHAT TO DO. SHE WANTED ME TO STAY WITH HER, AND TALK. SO I REMAINED AT HER APARTMENT; WE STAYED UP TALKING FOR MOST OF THE NIGHT. IN THE MORNING SHE CALLED THE POLICE AND REPORTED THAT SHE HAD BEEN SEXUALLY ASSAULTED.

P MS. WILSON, WHAT DID YOU AND MS. HENRY DISCUSS DURING THE NIGHT?

SW WE TALKED ABOUT WHAT MS. HENRY SHOULD DO. SHE WAS SCARED AND CONFUSED. SHE SAID THAT SHE DIDN'T WANT TO GO TO THE POLICE BECAUSE SHE DIDN'T WANT ANYONE TO FIND OUT THAT SHE HAD BEEN RAPED. SHE SAID SHE WAS EMBARRASSED. ALSO, SHE WAS AFRAID OF MR. SIMONS. SHE TOLD ME THAT SHE WAS AFRAID THAT IF SHE WENT TO THE POLICE, HE MIGHT COME BACK AND RAPE HER AGAIN. HOWEVER, BY THE NEXT DAY SHE HAD MADE UP HER MIND TO CALL THE POLICE AND SHE DID THAT. SHE REPORTED THAT SHE HAD BEEN RAPED.

P THANK YOU MS. WILSON. YOUR WITNESS.

CROSS EXAMINATION OF MS. SUSAN WILSON

DEFENCE ATTORNEY (D)

MS. SUSAN WILSON (SW)

D MS. WILSON, YOU JUST STATED THAT WHILE IN "FRASER'S TAVERN" YOU DID NOT SEE MS. HENRY FLIRTING WITH MR. SIMONS UNDER THE TABLE. IS THAT CORRECT?

SW YES.

D IS IT POSSIBLE THAT YOU JUST DIDN'T NOTICE MS. HENRY'S FLIRTATIOUS BEHAVIOR MS. WILSON?

SW NO. I THINK I WOULD HAVE NOTICED.

D MS. WILSON, COULD YOU SEE UNDER THE TABLE FROM THE POSITION YOU WERE SITTING IN?

SW WELL, NO. I COULDN'T SEE RIGHT UNDER THE TABLE WHILE I WAS SITTING AT IT.

D MS. WILSON, DID YOU IN FACT LOOK UNDER THE TABLE AT ANY TIME DURING THE EVENING?

SW WELL, NO.

D THEN IT IS POSSIBLE THAT MS. HENRY WAS RUBBING HER FOOT ALONG MR. SIMONS' CALF WITHOUT YOUR NOTICE?

SW YES. I GUESS SO.

D AND IT IS POSSIBLE THAT SHE RUBBED THE INSIDE OF MR. SIMONS' THIGH WITHOUT YOUR KNOWLEDGE AS WELL?

SW YES. I GUESS IT'S POSSIBLE.

D COULD YOU PLEASE TELL US MS. WILSON, HOW MANY DRINKS YOU CONSUMED IN "FRASER'S TAVERN" BEFORE MS. HENRY LEFT?

SW I THINK I HAD FIVE OR SIX.

D FIVE OR SIX BEER?

SW YES?

D FIVE OR SIX BEERS IN TWO HOURS?

SW WELL, YES. I THINK SO.

D NOW MS. WILSON, WHEN MS. HENRY PHONED YOU THE NEXT EVENING DID SHE TELL YOU THAT SHE HAD BEEN SEXUALLY ASSAULTED BY MR. SIMONS?

SW NO. NOT SPECIFICALLY.

D WHAT DID SHE SAY HAD HAPPENED TO HER?

SW SHE SAID THAT SOMETHING TERRIBLE HAD HAPPENED.

D MS. WILSON WHEN YOU ARRIVED AT MS. HENRY'S THAT EVENING, DID SHE TELL YOU RIGHT AWAY THAT SHE HAD BEEN SEXUALLY ASSAULTED?

SW NO. NOT RIGHT AWAY.

D NOW MS. WILSON, HOW LONG WAS IT BEFORE YOU COAXED HER TO TELL YOU WHAT HAD HAPPENED?

SW I'M NOT SURE. MAYBE FIVE MINUTES.

D SO THEN, IT TOOK SEVERAL MINUTES AFTER YOUR ARRIVAL
BEFORE MS. HENRY ALLEGED THAT SHE HAD BEEN
SEXUALLY ASSAULTED. IS THAT CORRECT?

SW YES. I GUESS SO.

D MS. WILSON, DID YOU NOT FIND IT STRANGE THAT MS. HENRY
WAITED ALMOST A DAY BEFORE CALLING YOU?

SW WELL, I HAD BEEN AT WORK ALL DAY. SO I GUESS NOT.\

D WERE YOU SURPRISED TO LEARN THAT SHE HAD NOT CALLED
THE POLICE?

SW WELL, I WAS A LITTLE SURPRISED. I ASKED HER WHY SHE
HADN'T CALLED THE POLICE AND SHE TOLD ME THAT SHE WAS
CONFUSED, EMBARRASSED, AND ANGRY WITH HERSELF.

D DID MS. HENRY TELL YOU WHY SHE WAS ANGRY WITH HERSELF,
MS. WILSON?

SW SHE SAID SHE WAS ANGRY THAT SHE LET HERSELF GET INTO A
SITUATION LIKE THAT.

D MS. WILSON, WHY DIDN'T YOU CALL THE POLICE YOURSELF AS
SOON AS MS. HENRY ALLEGED THAT MR. SIMONS HAD SEXUALLY
ASSAULTED HER?

SW MS. HENRY TOLD ME NOT TO. SHE SAID THAT SHE WAS TOO EMBARRASSED; THAT SHE DIDN'T WANT ANYONE TO KNOW WHAT HAD HAPPENED.

D SO BETWEEN THE EVENING OF OCTOBER 11, AND THE MORNING OF OCTOBER 12, YOU CONVINCED MS. HENRY TO CALL THE POLICE. IS THAT CORRECT?

SW WELL, I WOULDN'T SAY I CONVINCED HER. I JUST TOLD HER THAT SHE SHOULDN'T LET HIM GET AWAY WITH IT. THAT IF SHE CALLED THE POLICE HE WOULDN'T BE ABLE TO RAPE HER OR ANYONE ELSE AGAIN.

D SO THEN MS. WILSON, MS. HENRY AGREED TO CALL THE POLICE ONCE SHE KNEW THAT IF SHE DID, HE COULDN'T GET AWAY WITH IT. IS THAT CORRECT?

SW YES. THAT'S CORRECT.

D THANK YOU MS. WILSON. NO FURTHER QUESTIONS YOUR HONOUR.

EXAMINATION OF MR. MICHAEL TAYLOR

PROSECUTOR (P)

MR. MICHAEL TAYLOR (MT)

P COULD YOU PLEASE GIVE THE COURT YOUR NAME AND ADDRESS PLEASE.

MT MICHAEL TAYLOR. I LIVE AT #6 - 280 MAIN STREET EAST, NORTH BAY.

P MR. TAYLOR, DO YOU KNOW THE DEFENDANT MR. GEORGE SIMONS.

MT YES. I'VE KNOWN HIM FOR A COUPLE OF YEARS.

P IN WHAT CAPACITY HAVE YOU KNOWN HIM.

MT I DID SOME WORK FOR HIM A FEW YEARS AGO. WE GO OUT ONCE IN A WHILE AND HAVE A BEER TOGETHER AND PLAY DARTS.

P NOW, ON THE NIGHT OF OCTOBER 10, 1990, YOU AND MR. SIMONS WENT TOGETHER TO "FRASER'S TAVERN". IS THAT CORRECT?

MT YES.

P AND IT WAS THERE THAT YOU AND MR. SIMONS MET A FRIEND OF YOURS, MS. SUSAN WILSON, AND HER FRIEND MS. ELLEN HENRY?

MT THAT'S RIGHT.

P NOW MR. TAYLOR, DID YOU OBSERVE ANY PHYSICAL CONTACT BETWEEN MS. HENRY AND MR. SIMONS DURING THE EVENING?

MT NO. I DON'T THINK SO.

P WOULD YOU SAY THAT THEY WERE INTIMATE IN ANY WAY? WERE THEY FLIRTING?

MT NO. NOT THAT I NOTICED.

P THANK YOU MR. TAYLOR. YOUR WITNESS.

CROSS EXAMINATION OF MR. MICHAEL TAYLOR

DEFENCE ATTORNEY (D)

MR. MICHAEL TAYLOR (MT)

D MR. TAYLOR, YOU STATED THAT YOU KNEW MR. SIMONS FOR A COUPLE OF YEARS. HOW MANY YEARS?

MT WELL, FIVE OR SIX.

D MR. TAYLOR, IS GEORGE SIMONS A WILD GUY?

MT NO. HE'S A VERY RELAXED AND EASY GOING PERSON.

D WOULD YOU SAY, MR. TAYLOR, THAT MR. SIMONS AND MS. HENRY GOT ALONG WELL?

MT YES. THEY SEEMED TO ENJOY EACH OTHERS COMPANY. I THINK THEY HAD A LOT IN COMMON.

D MR. TAYLOR YOU STATED THAT YOU DID NOT SEE ANY
FLIRTATIOUS BEHAVIOR BETWEEN MR. SIMONS AND MS. HENRY.
IS THAT CORRECT?

MT YES. I DIDN'T NOTICE ANY.

D MR. TAYLOR, DID YOU NOTICE IF THERE WAS ANY PHYSICAL
CONTACT BETWEEN THEM UNDER THE TABLE? DID THEY PLAY
FOOTSIE? THAT TYPE OF THING?

MT WELL, I DIDN'T NOTICE. BUT IT WAS PRETTY DARK IN THE
TAVERN.

D SO THEN MR. TAYLOR, IT WOULD HAVE BEEN POSSIBLE FOR MS.
HENRY AND MR. SIMONS TO FLIRT UNDER THE TABLE WITHOUT
YOUR KNOWLEDGE?

MT YES.

P NO FURTHER QUESTIONS YOUR HONOUR.

EXAMINATION OF OFFICER PATRICIA O'MALLEY

PROSECUTOR (P)

OFFICER PATRICIA O'MALLEY (PO)

P OFFICER COULD YOU PLEASE TELL THE COURT YOUR NAME AND
YOUR RELATIONSHIP TO THIS CASE.

PO MY NAME IS OFFICER-SERGEANT PATRICIA O'MALLEY OF THE
NORTH BAY POLICE DEPARTMENT. ON OCTOBER 12, 1990 AT 8:30
A.M. I RECEIVED A CALL IN MY SQUAD CAR TO REPORT TO #2 -
212 OTTER DRIVE TO INVESTIGATE A REPORT OF A SEXUAL ASSAULT.
I ARRIVED AT THAT ADDRESS ABOUT FIVE MINUTES AFTER
RECEIVING THE CALL. I WAS MET AT THE DOOR BY MS. ELLEN
HENRY AND MS. HENRY'S FRIEND, MS. SUSAN WILSON.

P AND COULD YOU TELL THE COURT PLEASE, WHAT MS. HENRY
TOLD YOU.

PO YES. MS. HENRY STATED THAT SHE HAD BEEN RAPED ON THE
NIGHT OF OCTOBER 10, 1990. SHE STATED THAT SHE KNEW THE
MAN. THAT HE HAD KNOCKED ON HER FRONT DOOR, AND WHEN
SHE OPENED IT, HE FORCED HIS WAY IN AND SEXUALLY ASSAULTED
HER.

P COULD YOU TELL US OFFICER O'MALLEY, WHO IT WAS MS.
HENRY SAID HAD ASSAULTED HER?

PO YES. SHE SAID HIS NAME WAS GEORGE SIMONS.

P NOW OFFICER, DID MS. HENRY SAY THAT SHE HAD TRIED TO
FIGHT

OFF MR. SIMONS

PO YES. SHE SAID THEY HAD STRUGGLED IN THE FRONT HALL.
THAT HE HAD GRABBED HER BY THE HAIR, AND FORCED HER

INTO THE BEDROOM. SHE STATED THAT IN HER ATTEMPT TO FIGHT HIM OFF SHE HAD DUG HER NAILS INTO THE RIGHT SIDE OF HIS NECK. MS. HENRY SAID IT WAS AT THAT POINT THAT MR. SIMONS TIED HER LEFT WRIST TO THE BEDPOST WITH HER BELT; THREATENED TO BREAK HER ARM; AND SEXUALLY ASSAULTED HER.

P AND DID YOU FIND ANY EVIDENCE THAT MS. HENRY HAD BEEN TIED UP?

PO I FOUND A WOMEN'S BELT TIED TO THE BEDPOST IN THE BEDROOM.

P OFFICER O'MALLEY, DID YOU NOTICE ANY PHYSICAL INJURIES TO MS. HENRY?

PO YES. HER LEFT WRIST APPEARED TO BE SWOLLEN AND HAD A REDDISH, BLUE BRUISE. I LATER ARRANGED FOR HER TO BE EXAMINED AT THE HOSPITAL.

P OFFICER, DID YOU QUESTION MS. HENRY AS TO WHY IT HAD TAKEN HER A DAY AND A HALF TO CALL POLICE?

PO YES. I ASKED WHY SHE HADN'T CALLED THE POLICE IMMEDIATELY AFTER THE ASSAULT TOOK PLACE.

P AND WHAT WAS HER REPLY?

PO SHE SAID THAT SHE WAS FRIGHTENED AND CONFUSED. THAT SHE DIDN'T WANT ANYONE TO KNOW SHE HAD BEEN RAPED.

P OFFICER O'MALLEY, IN YOUR EXPERIENCE IS IT UNUSUAL FOR A RAPE VICTIM TO WAIT AS LONG AS A COUPLE OF DAYS BEFORE REPORTING TO THE POLICE THAT THEY WERE SEXUALLY ASSAULTED?

PO NO. THEY OFTEN WAIT A COUPLE OF DAYS OR EVEN LONGER. FREQUENTLY THEY SAY THAT THEY WERE TOO EMBARRASSED TO CALL RIGHT AWAY.

P OFFICER O'MALLEY, WHEN DID YOU ARREST MR. SIMONS AND WHAT WERE THE CIRCUMSTANCES LEADING UP TO HIS ARREST.

PO ON OCTOBER 12, AT 5:00 P.M. I WAS ACCOMPANIED BY DETECTIVE JAMES MACLEOD TO MR. SIMONS APARTMENT. WHEN I QUESTIONED HIM ABOUT HIS WHEREABOUTS ON THE NIGHT OF OCTOBER 10, HE STATED THAT HE HAD BEEN AT "FRASER'S TAVERN" AND HAD ARRIVED HOME AT APPROXIMATELY 1:30 A.M.. I NOTICED THAT HE HAD A SCRATCH ON THE RIGHT SIDE OF HIS NECK, WHERE MS. HENRY HAD SAID SHE SCRATCHED HIM. WHEN I QUESTIONED HIM FURTHER HE STATED THAT HE HAD BEEN AT A FRIENDS APARTMENT AFTER HE LEFT THE TAVERN. I ASKED MR. SIMONS WHO THE FRIEND WAS, AND HE STATED THAT HER NAME WAS ELLEN. AT THIS POINT I READ MR. SIMONS HIS RIGHTS AND ARRESTED

HIM. I LATER ARRANGED FOR HIM TO HAVE THE SCRATCH ON HIS
NECK EXAMINED BY A DOCTOR.

P THANK YOU OFFICER LAMBERT, YOUR WITNESS.

CROSS EXAMINATION OF OFFICER PATRICIA O'MALLEY

DEFENCE ATTORNEY (D)

OFFICER PATRICIA O'MALLEY (PO)

**D OFFICER O'MALLEY, WHEN YOU WENT TO MR. SIMONS
APARTMENT AND ASKED HIM IF HE KNEW MS. HENRY, HE DIDN'T
DENY THE FACT THAT HE KNEW HER DID HE?**

**PO NO. HE SAID THAT HE HAD MET HER AT "FRASER'S TAVERN"
AND HAD BEEN INVITED INTO HER APARTMENT TO WARM UP AND
HAVE COFFEE.**

**D OFFICER O'MALLEY, MR. SIMONS DID NOT TRY TO HIDE THE
FACT THAT HE WAS IN MS. HENRY'S APARTMENT, DID HE?**

PO NO. HE ADMITTED THAT HE WAS THERE.

**D SO WHEN YOU ASKED MR. SIMONS IF HE KNEW MS. HENRY, AND
IF HE WAS AT HER APARTMENT, HE TOLD YOU STRAIGHT OUT? HE
DIDN'T TRY TO FOOL YOU OR EVADE YOUR QUESTIONS, HE TOLD THE
TRUTH OFFICER?**

**PO HE TOLD ME THE TRUTH ABOUT GOING TO HER APARTMENT,
AND THAT HE KNEW HER, YES.**

**D AND WHAT DID HE TELL YOU WHEN YOU ASKED IF HE HAD
SEXUALLY ASSAULTED MS. HENRY?**

PO MR. SIMONS DENIED SEXUALLY ASSAULTING HER, BUT HE DID ADMIT THAT HE HAD INTERCOURSE WITH HER.

D SO MR. SIMONS FREELY ADMITTED THAT HE KNEW MS. HENRY, HAD GONE TO HER APARTMENT, AND ADMITTED THAT THEY HAD SEX TOGETHER. IS THAT CORRECT?

PO YES.

D SO OFFICER O'MALLEY, WHAT MR. SIMONS TOLD YOU WAS CONSISTENT FROM THE BEGINNING, RIGHT?

PO YES.

D NOW OFFICER O'MALLEY, LET'S GO BACK TO MS. HENRY'S APARTMENT. WHEN YOU ARRIVED WAS MS. HENRY VISIBLY SHAKEN? WAS SHE CRYING? SCARED?

PO SHE APPEARED RELATIVELY CALM. A LITTLE AGITATED PERHAPS.

D OFFICER O'MALLEY, DURING YOUR CAREER AS A POLICE OFFICER I IMAGE YOU'VE INVESTIGATED A NUMBER OF SEXUAL ASSAULTS. HAVE YOU NOT?

PO YES. QUITE A FEW.

D AND HOW DO THE VICTIMS REACT WHILE YOUR QUESTIONING THEM?

PO WELL, IT VARIES QUITE A BIT. SOMETIMES THEY'RE QUITE SHAKEN UP, AND SOMETIMES THEY APPEAR TO BE COMPLETELY

DAZED. IT DEPENDS ON VARIOUS THINGS SUCH AS HOW SOON AFTER THE ASSAULT THEY PLACE THE CALL, THINGS LIKE THAT.

D OFTEN TIMES DO THEY CRY? SHAKE? ARE THEY VISIBLY, VERY UPSET?

PO YES, OFTEN THEY ARE.

D OFFICER O'MALLEY, YOU SAID BEFORE THAT MS. HENRY WAS AGITATED. WOULD YOU SAY--IN YOUR JUDGEMENT OFFICER-- THAT MS. HENRY WAS UPSET, VISIBLY SHAKEN, OR WAS SHE MORE NERVOUS.

PO I'D SAY SHE WAS MORE NERVOUS THAN SHE WAS UPSET.

D NOW OFFICER, IN YOUR INVESTIGATION OF MS. HENRY'S APARTMENT YOU DIDN'T FIND ANY VISIBLE EVIDENCE OF A STRUGGLE DID YOU? NOTHING KNOCKED OVER, NOTHING BROKEN, NO BLOOD ANYWHERE?

PO WE FOUND A BELT TIED TO MS. HENRY'S BCDPOST WHERE SHE SAID SHE HAD BEEN TIED UP.

D DID YOU FIND ANYTHING KNOCKED OVER?

PO NO.

D NOTHING BROKEN?

PO NO.

D NO BLOOD ANYWHERE?

PO NO.

D DID MS. HENRY SAY THAT SHE HAD BEEN THREATENED WITH A WEAPON THEN?

PO NO.

D AND THE ONLY MARK ON MS. HENRY WAS A REDDISH, BLUE BRUISE ON HER LEFT WRIST. IS THAT CORRECT?

PO YES, AND SOME SWELLING TO HER WRIST.

D SO OFFICER, WE HAVE A SUPPOSED VICTIM WHO IS RELATIVELY CALM UPON YOUR ARRIVAL, WHO HAS TAKEN ALMOST TWO DAYS TO REPORT THE ALLEGED CRIME, EXHIBITS LITTLE EVIDENCE OF A PHYSICAL ASSAULT, AND AN APARTMENT THAT SHOWS NO SIGNS OF A STRUGGLE. JUST ONE MORE QUESTION OFFICER O'MALLEY. IN YOUR EXPERIENCE AS A POLICE OFFICER, HAVE YOU EVER KNOWN OF A WITNESS TO KNOWINGLY AND FALSELY ACCUSE SOMEONE OF A CRIME THAT THE ACCUSED DID NOT COMMIT?

PO I'VE KNOWN IT TO HAPPEN, BUT IT DOESN'T HAPPEN VERY OFTEN.

D THANK YOU OFFICER O'MALLEY. NO FURTHER QUESTIONS YOUR HONOUR.

EXAMINATION OF DR. NORMA SHAPIRO

PROSECUTOR (P)

DR. NORMA SHAPIRO (NS)

**P COULD YOU PLEASE STATE YOUR NAME, CREDENTIALS, AND
YOUR RELATIONSHIP TO THIS CASE.**

**NS MY NAME IS DR. NORMA SHAPIRO I'M A RESIDENT PHYSICIAN ON
 THE TRAUMA UNIT AT THE NORTH BAY CIVIC HOSPITAL. I WAS
ON DUTY WHEN MS. HENRY WAS BROUGHT IN BY THE NORTH BAY
POLICE DEPARTMENT ON OCTOBER 12, 1990, AT
APPROXIMATELY 10:00 A.M..**

**P DOCTOR COULD YOU PLEASE DESCRIBE THE EXTENT OF MS.
HENRY'S INJURIES.**

**NS YES. MS. HENRY'S LEFT WRIST WAS SWOLLEN AND
DISCOLOURED. A BRUISE WAS VISIBLE AROUND THE
CIRCUMFERENCE OF HER WRIST.**

**P DR. SHAPIRO, DO YOU HAVE ANY OPINION AS TO HOW MS.
HENRY WOULD HAVE SUSTAINED THIS INJURY.**

**NS IN MY OPINION, A GREAT DEAL OF PRESSURE WAS APPLIED TO
HER WRIST. IT WAS EITHER RESTRAINED OR PULLED.**

P DOCTOR, WOULD AN ATTEMPT TO FREE HERSELF FROM A BELT THAT WAS TIED AROUND HER WRIST, PLACE ENOUGH PRESSURE UPON MS. HENRY'S WRIST TO CAUSE THE SWELLING AND BRUISING?

NS YES.

P THANK YOU DOCTOR SHAPIRO. YOUR WITNESS.

CROSS EXAMINATION OF DR. NORMA SHAPIRO

DEFENCE ATTORNEY (D)

DR. NORMA SHAPIRO (NS)

D DR. SHAPIRO, THE INJURY TO MS. HENRY'S WRIST, WAS IT SEVERE. WAS THERE A FRACTURE OF ANY KIND?

NS NO. THERE WASN'T ANY INDICATION OF A FRACTURE.

D WAS HER WRIST SPRAINED?

NS NO.

D JUST BRUISED, AND A LITTLE SWOLLEN THEN. IS THAT RIGHT?

NS YES. THAT'S RIGHT.

D DOCTOR, BY EXAMINING MS. HENRY'S INJURY WERE YOU ABLE TO CONCLUDE EXACTLY HOW THAT INJURY WAS CAUSED?

NS NO SIR.

D DR. SHAPIRO COULD THE INJURY TO MS. HENRY'S WRIST HAVE BEEN CAUSED BY HER TUGGING ON A BELT, THAT WAS TIED TO HER WRISTS, DURING SEXUAL EXCITEMENT.

NS WELL YES. THAT'S POSSIBLE.

D THANK YOU DR. SHAPIRO. NO FURTHER QUESTIONS YOUR HONOUR.

EXAMINATION OF DR. IAN BRADY**PROSECUTOR (P)****DR. IAN BRADY (IB)**

**P CAN YOU PLEASE STATE YOUR NAME CREDENTIALS AND YOUR
RELATIONSHIP TO THIS CASE.**

**IB MY NAME IS DR. IAN BRADY. I'M AN INTERN AT THE NORTH BAY
CIVIC HOSPITAL. I WAS ON DUTY IN THE EMERGENCY
DEPARTMENT ON THE EVENING OF OCTOBER 12, 1990, WHEN I WAS
ASKED TO EXAMINE MR. GEORGE SIMONS FOR INJURIES.**

P AND WHAT DID YOUR EXAMINATION REVEAL DR. BRADY?

**IB MR. SIMONS IS A HEALTHY 25 FIVE YEAR OLD MALE. HE IS FIVE
FEET, ELEVEN INCHES TALL, AND WEIGHS 175 POUNDS. MY
EXAMINATION INDICATED NO SERIOUS PHYSICAL INJURIES. THE
ONLY VISIBLE INJURY WAS A FOUR AND ONE-HALF INCH SCRATCH
DOWN THE RIGHT SIDE OF MR. SIMONS' NECK.**

**P DOCTOR, COULD YOU STATE HOW RECENTLY THE SCRATCH HAD
BEEN MADE?**

IB YES. IT HAD BEEN MADE IN THE PRECEDING 72 HOURS.

**P DR. BRADY, DO YOU HAVE AN OPINION CONCERNING WHAT
CAUSED THE SCRATCH TO MR. SIMONS' NECK.**

**IB YES. IT HAD BEEN CAUSED BY ANOTHER INDIVIDUALS
FINGERNAILS.**

P BY A WOMAN'S FINGERNAILS DOCTOR?

IB YES. THAT'S POSSIBLE.

**P AND COULD THE SCRATCH HAVE BEEN THE RESULT OF A
STRUGGLE?**

IB YES. IT COULD HAVE BEEN.

P THANK YOU DR. BRADY. YOUR WITNESS.

CROSS EXAMINATION OF DR. IAN BRADY

DEFENCE ATTORNEY (D)

DR. IAN BRADY (IB)

D DR. BRADY, YOU COULD DETERMINE BY YOUR EXAMINATION THAT THE SCRATCH ON MR. SIMONS' NECK WAS CAUSED BY ANOTHER INDIVIDUALS FINGERNAILS, IS THAT CORRECT?

IB YES IT IS.

D DOCTOR, COULD YOU CONCLUSIVELY DETERMINE BY YOUR EXAMINATION WHETHER THIS SCRATCH WAS THE RESULT OF A STRUGGLE?

IB NO. I COULD NOT.

D THEN DR. BRADY, COULD THE SCRATCH ON MR. SIMONS NECK HAVE BEEN INFLICTED ACCIDENTALLY.

IB YES. IT COULD HAVE.

D IS IT POSSIBLE DOCTOR, THAT THE SCRATCH ON MR. SIMONS NECK COULD HAVE BEEN CAUSED BY A WOMAN WHO DUG HER FINGERNAILS INTO HIM DURING SEXUAL EXCITEMENT?

IB YES. I SUPPOSE THAT'S POSSIBLE.

D THANK YOU DR. BRADY. NO FURTHER QUESTIONS YOUR HONOUR.

EXAMINATION OF MS. CATHY FITZ**PROSECUTOR (P)****CATHY FITZ (CF)**

**P COULD YOU PLEASE GIVE THE COURT YOUR NAME, ADDRESS,
AND OCCUPATION.**

**CF MY NAME IS CATHY FITZ. I LIVE AT 2101 ROSALIN AVENUE,
APARTMENT 9. I'M CURRENTLY A WAITRESS AT "FRASER'S
TAVERN".**

**P MS. FITZ, ON THE EVENING OF OCTOBER 10, 1990, WERE YOU
WORKING AT "FRASER'S TAVERN".**

CF YES I WAS.

**P MS. FITZ, DID YOU SERVE MS. HENRY AND THE OTHER THREE
PERSONS WHO WERE AT HER TABLE?**

CF YES. I WAS THEIR WAITRESS.

**P AND DO YOU REMEMBER HOW MANY DRINKS MS. HENRY
CONSUMED?**

CF YES. I BELIEVE SHE HAD THREE BEER.

**P NOW MS. FITZ, YOU WOULD KNOW IF SOMEONE WAS
INTOXICATED WOULDN'T YOU?**

CF YES. IT'S THE TAVERN'S POLICY TO CUT PEOPLE OFF WHEN THEY APPEAR TO BE INTOXICATED. WE'RE QUITE CAREFUL ABOUT THAT.

P DID MS. HENRY APPEAR TO BE INTOXICATED?

CF NO. SHE DIDN'T.

P NOW MS. FITZ, DO YOU RECOGNIZE MR. SIMONS, WHO IS SITTING ACROSS FROM YOU IN THE COURTROOM TODAY?

CF YES. MR. SIMONS WAS AT THE TABLE WITH MS. HENRY.

P MS. FITZ DID YOU NOTICE IF MS. HENRY AND MR. SIMONS WERE INTIMATE IN ANY WAY ON THE EVENING OF OCTOBER 10. WERE THEY TOUCHING? DID THEY STARE AT EACH OTHER A GREAT DEAL?

CF NO. I DIDN'T NOTICE THAT THEY WERE.

P DID YOU SEE MS. HENRY FLIRT WITH MR. SIMONS IN ANY WAY?

CF NO.

P THANK YOU MS. FITZ. YOUR WITNESS.

CROSS EXAMINATION OF MS. CATHY FITZ

DEFENCE ATTORNEY (D)

MS. CATHY FITZ (CF)

**D MS. FITZ, ON THE NIGHT OF OCTOBER 10, 1990, YOU ALSO SERVED
GEORGE SIMONS IS THAT CORRECT?**

CF YES.

D DO YOU REMEMBER HOW MANY DRINKS MR. SIMONS HAD?

CF YES. I BELIEVE HE HAD FOUR BEER.

D AND WAS MR. SIMONS INTOXICATED?

CF NO. HE DIDN'T APPEAR TO BE.

**D MS. FITZ, DID YOU SERVE MS. HENRY AND MR. SIMONS THE
WHOLE TIME THAT THEY WERE IN THE TAVERN?**

CF YES.

D WOULD YOU SAY THAT THEY GOT ALONG WELL?

**CF WELL YES. EVERYONE AT THE TABLE SEEMED TO BE HAVING A
GOOD TIME.**

**D NOW MS. FITZ, DO YOU REMEMBER WHEN MS. HENRY OR MR.
SIMONS LEFT THE TAVERN?**

**CF WELL NO. I DON'T REMEMBER WHAT TIME IT WAS. WE WERE
VERY BUSY ALL NIGHT.**

D YOU SAY YOU WERE VERY BUSY ON THAT NIGHT. IS THAT CORRECT? CF YES. IT WAS REALLY BUSY FOR A WEEK NIGHT.

D MS. FITZ, YOU TESTIFIED A FEW MOMENTS AGO THAT YOU DIDN'T NOTICE IF MS. HENRY WAS FLIRTING WITH MR. SIMONS. ISN'T IT POSSIBLE THAT MS. HENRY WAS FLIRTING WITH MR. SIMONS, BUT YOU WERE JUST TOO BUSY WITH YOUR WORK TO SEE IT?

CF WELL, YES. THAT'S POSSIBLE.

D NOW MS. FITZ, IF THEY HAD BEEN PLAYING FOOTSY, OR DOING ANYTHING ELSE UNDER THE TABLE, ISN'T IT POSSIBLE THAT YOU WOULD NOT HAVE NOTICED THAT EITHER?

CF WELL, YES.

D SO THEN, MS. HENRY AND MR. SIMONS COULD HAVE BEEN TOUCHING UNDER THEIR TABLE AND YOU WOULD NEVER HAVE KNOWN. IS THAT CORRECT MS. FITZ?

CF YES IT IS.

D THANK YOU MS. FITZ. NO FURTHER QUESTIONS YOUR HONOUR.

EXAMINATION OF MR. GEORGE SIMONS

DEFENCE (D)

MR. GEORGE SIMONS (GS)

D COULD YOU PLEASE GIVE THE COURT YOUR NAME AND ADDRESS.

GS GEORGE SIMONS. I LIVE AT APARTMENT 12, 202 WHITE PINE DRIVE, NORTH BAY.

D HOW OLD ARE YOU MR. SIMONS?

GS I'M 26.

D AND WHAT DO YOU DO FOR A LIVING?

GS I'M A CONSTRUCTION FOREMAN WITH THE "(NORTH BAY) NATIVE PEOPLE OF TEMISCAMING HOUSING CORPORATION".

D NOW MR. SIMONS, IN YOUR OWN WORDS COULD YOU PLEASE TELL US ABOUT THE EVENTS OF THE EVENING OF OCTOBER 10, 1990.

GS AT AROUND 9:00 O'CLOCK I ARRIVED AT "FRASER'S TAVERN" WITH MICHAEL TAYLOR. MR. TAYLOR SAID THAT HE KNEW A WOMAN SITTING ACROSS THE ROOM AND WAS GOING TO GO AND SAY HELLO. HE CAME BACK A FEW MINUTES LATER AND TOLD ME THAT WE WERE GOING TO SIT WITH HIS FRIEND SUSAN WILSON AND HER FRIEND.

D DID YOU KNOW THESE TWO WOMEN MR. SIMONS?

GS NO. NOT BEFORE THAT NIGHT.

D PLEASE CONTINUE.

GS WELL, I INTRODUCED MYSELF. SUSAN WILSON INTRODUCED
HERSELF AS A FRIEND OF MR. TAYLORS, AND THEN INTRODUCED
THE OTHER WOMAN AT THE TABLE, MS. ELLEN HENRY, TO ME.

D MR. SIMONS COULD YOU PLEASE TELL US WHAT THE
CONVERSATION WAS ABOUT DURING THE COURSE OF THE EVENING?

GS WELL, WE TALKED ABOUT SPORTS, MOVIES, WHERE WE LIVED,
OUR JOBS, THE WEATHER. JUST NORMAL EVERYDAY THINGS.

D SO IT WAS DURING THIS CONVERSATION THAT YOU LEARNED
YOU LIVED CLOSE TO MS. HENRY. IS THAT CORRECT?

GS YES. I RECOGNIZED THE STREET SHE LIVED ON. IT WAS ABOUT
A TEN MINUTE WALK FROM MY APARTMENT.

D MR. SIMONS, DID YOU GET ALONG WELL WITH MS. HENRY AT
THE TAVERN?

GS YES. I THOUGHT SHE WAS VERY NICE.

D DID MS. HENRY GET ALONG WELL WITH YOU?

GS YES I THINK SHE DID. WE SEEMED TO HAVE A LOT IN COMMON.

D SUCH AS?

GS WELL, SHE SAID SHE LIKED SPORTS QUITE A BIT. WE SEEMED TO HAVE THE SAME TASTE IN MOVIES. SHE SEEMED VERY INTERESTED IN CARPENTRY AND BUILDING. THAT'S MY LINE OF WORK.

D MR. SIMONS, WERE THERE OTHER ASPECTS OF MS. HENRY'S BEHAVIOR WHICH LED YOU TO BELIEVE THAT SHE LIKED YOU?

GS YES. THERE WERE.

D COULD YOU PLEASE ELABORATE MR. SIMONS?

GS WELL, WE HADN'T BEEN SITTING AT THE TABLE FOR VERY LONG, WHEN I FELT SOMEONE'S FOOT BRUSH UP AGAINST MINE. I THOUGHT IT WAS JUST AN ACCIDENT. YOU KNOW, WHEN YOUR FEET BUMP UNDER THE TABLE. BUT THEN IT HAPPENED AGAIN. SOMEONE WAS RUBBING THEIR FOOT AGAINST MINE.

D AND DID YOU KNOW WHO IT WAS MR. SIMONS?

GS WELL YES. MS. HENRY WAS SITTING TO MY RIGHT, AND IT WAS MY RIGHT FOOT THAT WAS BEING RUBBED.

D MR. SIMONS, DID YOU SAY ANYTHING TO MS. HENRY? DID YOU ASK HER WHAT SHE WAS DOING?

GS NO. I LOOKED AT HER, BUT SHE JUST SORT OF GLANCED AT ME, AND SMILED A LITTLE. THEN SHE BEGAN TO RUB THE TOP OF HER FOOT UP AND DOWN MY CALF.

D MR. SIMONS, AT ANY TIME DID YOU TELL MS. HENRY TO STOP?

GS WELL NO. I DIDN'T MIND. IT FELT RATHER GOOD.

D PLEASE CONTINUE.

GS AFTER ABOUT AN HOUR OR SO, SHE BEGAN TO RUB HER HAND
ALONG MY RIGHT THIGH. SHE WOULD GLANCE AT ME EVERY SO
OFTEN AS SHE DID THIS. I GUESS JUST TO SEE MY RESPONSE.

D MR. SIMONS, DID EITHER MR. TAYLOR OR MS. WILSON NOTICE
WHAT MS. HENRY WAS DOING UNDER THE TABLE?

GS NO. I DON'T THINK SO. THEY WERE SITTING ON THE OTHER SIDE
OF THE TABLE AND IF THEY DID NOTICE THEY DIDN'T SAY
ANYTHING.

D MR. SIMONS, DID YOU RESPOND TO MS. HENRY'S ACTIONS IN
ANY WAY?

GS YES. I RUBBED MY FOOT AGAINST HERS. I ALSO RUBBED MY
LEG AGAINST HERS WHILE SHE WAS RUBBING THE INSIDE OF MY
THIGH.

D DID SHE PROTEST YOUR RECIPROCAL ACTIONS IN ANY WAY?

GS NO. SHE DIDN'T

D MR. SIMONS, WHAT WAS YOUR OPINION OF MS. HENRY'S
BEHAVIOR?

GS I THOUGHT SHE WAS INTERESTED IN ME. THAT SHE WAS
COMING ON TO ME.

D AND HOW LONG DID MS. HENRY CONTINUE TO STROKE YOUR
THIGH AND RUB HER FOOT AGAINST YOUR CALF?

GS UNTIL SHE LEFT THE TAVERN TO GO HOME.

D MR. SIMONS WERE THERE TIMES DURING THE EVENING WHEN

MS. SIMONS AND YOURSELF WERE ALONE TOGETHER?

GS YES. THERE WERE.

D DURING THESE TIMES DID MS. HENRY TELL YOU IF SHE WAS
INVOLVED IN A SERIOUS RELATIONSHIP?

GS WELL, SHE SAID THAT SHE HADN'T BEEN INVOLVED IN A
STEADY RELATIONSHIP IN A LONG TIME. SHE SAID IT WAS
DIFFICULT TO MEET PEOPLE WITH WHOM SHE HAD THINGS IN
COMMON. SHE ALSO MENTIONED THAT MOST GUYS SHE MET DIDN'T
UNDERSTAND HER, BUT THAT I WAS DIFFERENT.

D MR. SIMONS, DID MS. HENRY SAY ANYTHING TO YOU TO MAKE
HER INTENTIONS CLEAR BEFORE SHE LEFT THE TAVERN?

GS NO. NOT SPECIFICALLY. SHE SAID GOODBYE TO MR. TAYLOR
AND MS. WILSON, AND SAID "I'LL SEE YOU LATER", TO ME.

D NOW LET ME SEE IF I HAVE THIS CORRECT MR. SIMONS. DURING
THE EVENING, MS. HENRY CONTINUOUSLY FLIRTED WITH YOU. SHE
TOLD YOU THAT SHE HAD NOT BEEN IN A STEADY RELATIONSHIP IN
A LONG TIME, AND THAT MOST OF THE GUYS SHE HAD MET DIDN'T
UNDERSTAND HER. AND THEN WHEN MS. HENRY LEAVES THE TAVERN
SHE SAYS TO YOU, "I'LL SEE YOU LATER".

NOW MR. SIMONS WHAT TIME DID YOU LEAVE "FRASER'S TAVERN"?

GS ABOUT 11:30.

D AND DID YOU GO TO MS. HENRY'S APARTMENT BUILDING?

GS YES. I DID.

D MR. SIMONS, WHY DID YOU GO TO MS. HENRY'S APARTMENT?

GS WELL, FROM HER BEHAVIOR IN THE TAVERN; HER FLIRTING WITH ME, RUBBING MY THIGH, AND HER TELLING ME THAT "I'LL SEE YOU LATER"; I THOUGHT SHE WANTED ME TO GO TO HER APARTMENT.

D MR. SIMONS, WHEN YOU ARRIVED AT MS. HENRY'S BUILDING WHAT DID YOU DO?

GS WELL, HER NAME AND APARTMENT NUMBER WAS ON HER MAIL BOX IN THE MAIN ENTRANCE, SO I JUST WENT UP TO HER APARTMENT.

D SO THEN, YOU DIDN'T HAVE TO BUZZ HER APARTMENT TO BE LET UP?

GS NO. IT WAS AN OLD CONVERTED HOUSE WITH JUST A FEW APARTMENTS. SO I COULD JUST GO STRAIGHT UP.

D PLEASE CONTINUE.

GS I KNOCKED ON HER DOOR, AND MS. HENRY ANSWERED. I GUESS SHE NOTICED THAT I WAS COLD BECAUSE SHE ASKED ME TO COME IN AND HAVE SOME COFFEE AND WARM UP.

D LET ME GET THIS STRAIGHT MR. SIMONS. WHEN YOU ARRIVED AT MS. HENRY'S APARTMENT SHE ASKED YOU TO COME INTO HER APARTMENT FOR COFFEE AND TO WARM UP. IS THAT CORRECT?

GS YES. THAT'S CORRECT.

D COULD YOU TELL US PLEASE, WHAT HAPPENED NEXT?

GS YES. MS. HENRY SHOWED ME IN, AND OFFERED ME A SEAT ON THE COUCH. SHE TOLD ME SHE WAS JUST GOING GO TO THE KITCHEN AND PUT THE COFFEE ON. SHE CAME BACK IN A FEW MINUTES AND SAT BESIDE ME ON THE COUCH. WE TALKED FOR A LITTLE WHILE, AND SHE TOLD ME THAT SHE WAS REALLY ATTRACTED TO ME. SHE SAID THAT SHE LIKED MEN WHO WORKED WITH THEIR HANDS, AND MOVED CLOSER TO ME SO THAT HER LEG WAS UP AGAINST MINE.

D THEN WHAT HAPPENED MR. SIMONS?

GS WELL, MS. HENRY ASKED ME IF I WAS GETTING ANY WARMER. I SAID YES, A LITTLE. THEN SHE SAID THAT SHE WAS GOING TO WARM ME UP EVEN MORE. SHE STARTED RUBBING THE INSIDE OF MY THIGH WITH HER HAND, AND KISSING ME. IT WAS PRETTY OBVIOUS THAT SHE WAS COMING ON TO ME, SO I BEGAN KISSING HER AND RUBBING MY HAND ALONG HER LEGS. WE WERE BOTH BREATHING REALLY HEAVILY, AND SHE REACHED DOWN AND BEGAN RUBBING MY CROTCH. WELL, I REALLY DIDN'T NEED

MUCH MORE ENCOURAGEMENT BY THIS TIME. I STARTED TO RUB HER CROTCH AS WELL, AND SHE SIGHED AND TOLD ME THAT IF I KEPT IT UP I'D NEVER GET MY COFFEE. A FEW MINUTES LATER SHE SAID WHY DON'T WE FORGET THE COFFEE AND GO TO THE BEDROOM. SO, WE GOT UP AND WENT THROUGH THE KITCHEN AND INTO THE BEDROOM.

D PLEASE CONTINUE MR. SIMONS.

GS WE GOT ONTO THE BED. I WAS ON TOP OF HER AND I REACHED DOWN, PUSHED UP HER SKIRT, AND PULLED HER PANTIES DOWN. SHE HAD HER LEGS WRAPPED AROUND MY WAIST AND WAS PUSHING AGAINST ME AND MOANING.

THEN SHE REACHED DOWN AND UNDOED MY PANTS. I WAS REALLY EXCITED BY THIS TIME AND I DIDN'T BOTHER TO TAKE OFF MY PANTS. WE STARTED TO HAVE INTERCOURSE, AND SHE MUST HAVE BEEN REALLY EXCITED BECAUSE SHE GRABBED MY NECK WITH BOTH OF HER HANDS AND KEPT PUSHING AND PULLING ME UP AND DOWN. SHE BECAME RATHER FRENZIED, AND THEN SHE DUG HER NAILS INTO THE RIGHT SIDE OF MY NECK. I STOPPED FOR A SECOND, AND WHEN I DID SHE ASKED ME TO TIE HER UP. I ASKED HER WHY, AND SHE TOLD ME THAT SHE COULD CLIMAX EASIER WHEN SHE WAS TIED UP.

D AND DID YOU DO AS SHE ASKED, AND TIE HER UP?

GS WELL, YES. THE ONLY THING I COULD THINK OF TO TIE HER UP WITH WAS THE BELT FROM HER SKIRT. I HAD TO PUSH HER SKIRT BACK DOWN A LITTLE TO TAKE HER BELT OFF. THEN I LOOPED THE BELT AROUND HER LEFT WRIST AND TIED THE FREE END TO THE BEDPOST. WHEN WE CONTINUED SHE BECAME EVEN MORE EXCITED.

SHE WAS PRETTY WILD; PULLING DOWN ON THE BELT AS WE HAD SEX. SHE WAS TUGGING SO HARD RIGHT AT THE END, I THOUGHT HER WRIST WAS GOING TO BREAK.

D MR. SIMONS COULD YOU TELL US WHAT WAS SAID BETWEEN MS. HENRY AND YOURSELF AFTER YOU HAD INTERCOURSE?

GS WE HAD BEEN LAYING TOGETHER FOR A FEW MINUTES WHEN SHE STARTED TO SAY HOW HAPPY SHE WAS THAT SHE HAD FINALLY FOUND SOMEONE WHO UNDERSTOOD HER, AND WOULD CARE FOR HER.

SHE SAID THAT SHE HAD BEEN READY TO SETTLE DOWN, AND MAYBE START A FAMILY, BUT THAT SHE WAS LOOKING FOR THE RIGHT GUY. SHE SAID THAT NOW SHE DIDN'T HAVE TO LOOK ANYMORE.

D AND WHAT WAS YOUR REACTION TO MS. HENRY'S STATEMENTS, MR. SIMONS?

GS WELL, IT MADE ME FEEL VERY UNCOMFORTABLE. I LIKED MS. HENRY, BUT I SURE DIDN'T WANT TO BE COMMITTED TO A

RELATIONSHIP WITH HER. I ENJOYED THE SEX, BUT SHE WAS A LITTLE MORE KINKY THAN I REALIZED. I REALLY DIDN'T WANT TO GET INVOLVED WITH HER.

D AND HOW LONG DID YOU REMAIN IN THE APARTMENT AFTER YOU HAD INTERCOURSE?

GS WELL, MAYBE FIFTEEN OR TWENTY MINUTES. I HAD TO GET UP VERY EARLY TO WORK, SO I TOLD HER I HAD TO GO. BUT WHEN I GOT UP, SHE ASKED ME IF I WOULD COME OVER THE NEXT EVENING AFTER SHE GOT OFF WORK. I SORT OF HESITATED AND TOLD HER I WAS REALLY BUSY WITH WORK, BUT THAT I WOULD CALL HER.

D MR. SIMONS, DID YOU INTEND TO SEE MS. HENRY AGAIN?

GS WELL, NO. I DIDN'T PLAN TO.

D AND WHAT HAPPENED NEXT?

GS SHE ASKED ME WHEN I WOULD CALL HER. I SAID THAT I WAS GOING TO BE REALLY BUSY AT WORK, BUT THAT I'D CALL HER SOMETIME THE NEXT DAY. I GUESS SHE KNEW THAT I WAS BEING RATHER EVASIVE. SHE BEGAN PRESSING ME FOR A DEFINITE COMMITMENT. SHE SAID SHE WOULD MAKE ME A SPECIAL DINNER IF I CAME OVER LATE THE NEXT EVENING. BUT I SAID NO. THAT I WAS TOO BUSY. IT WAS THEN THAT SHE ACCUSED ME OF SEEING SOMEONE ELSE.

SHE BECAME REALLY UPSET AND STARTED TO CRY. SHE KEPT SAYING, "WHAT CAN SHE GIVE YOU THAT I CAN'T"? I WAS GETTING REALLY UNCOMFORTABLE BY THIS POINT. I JUST WANTED TO GET OUT OF THERE.

D AND WHAT DID YOU DO MR. SIMONS?

GS WELL, I REALLY DIDN'T KNOW WHAT TO SAY TO HER, SO I JUST TOLD HER THAT I WAS GOING TO LEAVE. THIS REALLY SET HER OFF. I COULDN'T BELIEVE IT. SHE GOT HYSTERICAL. SHE STARTED SCREAMING AT ME THAT I HAD USED HER. SHE SAID THAT I HAD TREATED HER LIKE A DIRTY TRAMP, AND THAT I WAS JUST LIKE ALL THE REST. THAT I WAS A NO GOOD TWO TIMER, AND THAT SHE'D BEEN HURT BY MEN BEFORE. SHE SCREAMED AT ME THAT "I WOULDN'T GET AWAY WITH IT", THAT SHE'D GET EVEN WITH ME FOR WHAT I DID.

D AND WHAT WAS YOUR REACTION MR. SIMONS?

GS I COULDN'T BELIEVE IT. I WASN'T GOING TO STAY AND LISTEN TO THAT CRAZINESS. SO I LEFT.

D MR. SIMONS, DID YOU CALL OR HEAR FROM MS. HENRY AGAIN?

GS NO. THE NEXT THING I KNOW, THE POLICE COME TO MY APARTMENT TWO DAYS LATER AND ARREST ME. THEY TELL ME THAT MS. HENRY HAD ACCUSED ME OF RAPING HER.

D THANK YOU MR. SIMONS. YOUR WITNESS.

CROSS EXAMINATION OF MR. GEORGE SIMONS

PROSECUTOR (P)

MR. GEORGE SIMONS (GS)

P MR. SIMONS WERE YOU ATTRACTED TO MS. HENRY?

GS WELL, YES.

P AND ISN'T IT TRUE THAT YOU WANTED TO HAVE SEX WITH HER?

GS WHEN SHE CAME ON TO ME. YES.

**P SO THEN, THE ONLY TIME YOU WANT TO HAVE SEX WITH A
WOMAN YOU FIND ATTRACTIVE IS WHEN SHE COMES ON TO YOU?**

GS WELL, YES.

**P YOU MEAN TO TELL ME MR. SIMONS, THAT IN YOUR LIFETIME
YOU HAVE NEVER BEEN ATTRACTED TO A WOMAN AND THOUGHT TO
YOURSELF, "I'D LIKE TO HAVE SEX WITH HER", WITHOUT HER
FIRST COMING ON TO YOU?**

GS WELL, I GUESS I HAVE.

**P MR. SIMONS, ISN'T IT TRUE THAT MS. HENRY NEVER PLAYED
FOOTSY WITH YOU, NEVER RUBBED YOUR THIGH, AND NEVER
CAME ON TO YOU?**

GS NO. SHE DID. SHE WAS THE ONE WHO CAME ON TO ME.

P ISN'T IT TRUE MR. SIMONS, THAT MS. SIMONS NEVER SAID ANYTHING TO YOU ABOUT HER PRIVATE LIFE WHEN YOU WERE ALONE IN THE TAVERN. YOU MADE EVERYTHING YOU SAID ABOUT RELATIONSHIPS UP. DIDN'T YOU MR. SIMONS?

GS NO. I DIDN'T MAKE ANYTHING UP.

P MR. SIMONS, AT TIMES WHEN YOU SAY GOODBYE TO SOMEONE, DO YOU EVER SAY, "I'LL SEE YOU LATER". JUST AS A COMMON EXPRESSION. KNOWING THAT YOU WON'T SEE THEM LATER?

GS MAYBE ONCE IN A WHILE.

P MR. SIMONS, ISN'T IT TRUE THAT WHEN MS. HENRY LEFT THE TAVERN AND SAID "I'LL SEE YOU LATER", SHE SAID IT IN A GENERAL WAY TO EVERYONE AT THE TABLE, AND NOT LITERALLY TO YOU.

GS NO. SHE WAS LOOKING AT ME. SHE WANTED ME TO COME OVER.

P MR. SIMONS, MS. HENRY NEVER WANTED YOU TO COME OVER. IF SHE HAD WANTED YOU TO COME OVER SHE WOULD HAVE ASKED YOU. DID MS. HENRY EXPLICITLY INVITE YOU TO HER APARTMENT MR. SIMONS? GS NO.

P ISN'T IT TRUE MR. SIMONS, THAT YOU WENT TO MS. HENRY'S APARTMENT TO RAPE HER?

GS NO. I DIDN'T RAPE HER.

P ISN'T IT TRUE, THAT WHEN SHE OPENED THE DOOR YOU FORCED YOUR WAY IN?

GS NO. NO I DIDN'T DO THAT, SHE ASKED ME IN.

P ONCE INSIDE MS. HENRY'S APARTMENT DIDN'T YOU ATTACK HER, BIND HER, AND RAPE HER?

GS NO. I DIDN'T. SHE CAME ON TO ME.

P ISN'T IT TRUE MR. SIMONS THAT THE SCRATCH ON YOUR NECK WAS CAUSED BY MS. HENRY IN HER ATTEMPT TO FIGHT YOU OFF?

GS NO. SHE DUG HER NAILS INTO MY NECK WHEN SHE WAS SEXUALLY EXCITED. SHE WAS REALLY AROUSED, AND JUST DUG IN HER NAILS.

I DON'T THINK SHE WAS CONSCIOUS OF WHAT SHE WAS DOING.

P MR. SIMONS HOW LONG WAS THE SCRATCH TO YOUR NECK?

GS I'M NOT SURE. ABOUT THREE OR FOUR INCHES

P FOUR AND A HALF INCHES MR. SIMONS. DO YOU REALLY EXPECT THIS COURT TO BELIEVE THAT A FOUR AND A HALF INCH SCRATCH WAS CAUSED BY A SEXUALLY EXCITED WOMAN?

GS YES. IT WAS.

P ISN'T IT TRUE MR. SIMONS THAT YOU CONCOCTED THIS ENTIRE TALE. THIS TALE THAT SHE FLIRTED WITH YOU IN THE TAVERN, INVITED YOU INTO HER APARTMENT, CAME ON TO YOU, ASKED TO BE TIED UP, AND SCRATCHED YOU ACCIDENTALLY. YOU MADE

IT ALL UP IN ORDER TO COVER UP THE FACTS. ISN'T THAT RIGHT
MR. SIMONS?

GS NO. I DIDN'T MAKE IT UP. IT'S THE TRUTH.

P STOP TRYING TO FOOL PEOPLE MR. SIMONS. SHE NEVER INVITED
YOU IN, NEVER CAME ON TO YOU, NEVER ASKED TO BE TIED UP.

GS NO. THAT'S NOT TRUE.

P NOW MR. SIMONS, IN "FRASER'S TAVERN" YOU BELIEVED THAT
MS. HENRY LIKED YOU. IS THAT CORRECT?

GS YES.

P AND WERE YOU ATTRACTED TO MS. HENRY?

GS YES. I GUESS SO.

P AND YOU KNEW EXACTLY WHERE MS. HENRY LIVED. ISN'T
THAT RIGHT?

GS WELL, YES

P ISN'T IT TRUE MR. SIMONS, THAT YOU LEFT "FRASER'S
TAVERN" SHORTLY AFTER MS. HENRY, AND WENT TO HER HOME
FOR THE SOLE PURPOSE OF RAPING HER?

GS NO. THAT'S NOT TRUE. I DIDN'T RAPE HER.

P ISN'T IT TRUE THAT YOU FORCED YOUR WAY INTO HER
APARTMENT, SO THAT YOU COULD RAPE HER?

GS NO. THAT'S NOT TRUE.

P ISN'T IT TRUE THAT WHEN MS. HENRY FOUGHT BACK YOU
SUBDUED HER, BOUND HER, AND RAPED HER?

GS NO. YOUR WRONG!

P ISN'T IT TRUE MR. SIMONS, THAT WHEN YOU RAPED MS. HENRY
YOU TOLD HER "I'LL TEACH YOU NOT TO TEASE ME", AND
THREATENED TO BREAK HER ARM IF SHE DIDN'T CO-OPERATE?

GS NO. I DIDN'T SAY THAT. I NEVER THREATENED HER. I DIDN'T
RAPE HER.

P MR. SIMONS, YOU TIED MS. HENRY'S WRIST TO THE BEDPOST
DIDN'T YOU?

GS YES, SHE ASKED ME TO.

P YOU REACHED DOWN TOOK THE BELT FROM THE SKIRT AND
TIED HER WRIST TO THE BEDPOST DID YOU NOT?

GS YES.

P AND AS RESULT, MS. HENRY OBTAINED A BRUISED WRIST TRYING
TO ESCAPE DIDN'T SHE?

GS HER WRIST GOT BRUISED BECAUSE SHE WAS PULLING AGAINST
THE BELT WHILE SHE WAS AROUSED.

P O.K.. MR. SIMONS LET ME SEE IF I UNDERSTAND WHAT YOU
HAVE SAID SO FAR. YOU MEET A WOMAN IN A TAVERN FOR THE
FIRST TIME. YOU SAY SHE FLIRTED WITH YOU EVEN THOUGH
SHE DENIES IT, AND EVEN AFTER WITNESSES AT THE SCENE SAY

THEY DIDN'T SEE ANY FLIRTING. SHE THEN LEAVES AND GOES HOME. EVEN THOUGH SHE DOES NOT INVITE YOU, YOU GO TO HER APARTMENT.

YOU THEN CLAIM THAT THIS WOMAN YOU HARDLY KNOW INVITES YOU IN SEDUCES YOU, ASKS YOU TO TIE HER UP, AND GETS SO SEXUALLY AROUSED THAT SHE SCRATCHES YOU. DESPITE SEDUCING YOU, THIS VERY SAME WOMAN LATER CALLS THE POLICE AND ACCUSES YOU OF RAPE? NOW, IS THAT THE STORY YOU WANT THIS COURT TO BELIEVE?

GS YES.

P NO FURTHER QUESTIONS YOUR HONOUR.

PROSECUTION'S CLOSING STATEMENT

MEMBERS OF THE JURY, THE EVIDENCE IN THIS CASE IS CLEAR AND CONSISTENT AND THAT EVIDENCE INDICATES BEYOND ANY REASONABLE DOUBT THAT GEORGE SIMONS BOUND AND RAPED ELLEN HENRY. THE EVIDENCE AGAINST MR. HENRY IS SO CLEAR, THAT IN ORDER TO ANSWER THE CHARGE, THE DEFENCE HAS RESORTED TO A DESPERATE STRATEGY. A STRATEGY OF FANTASY AND FABRICATION. IN THIS STRATEGY MR. SIMONS IS NO LONGER THE CULPRIT. INSTEAD HE IS PORTRAYED AS AN INNOCENT VICTIM OF A "TERRIBLE MISUNDERSTANDING". AND WHO IS THE CULPRIT IN THIS MISUNDERSTANDING? WHY, IT'S POOR MS. HENRY. IT ISN'T BAD ENOUGH THAT MR. SIMONS ATTACKED, BOUND AND RAPED MS. HENRY. NO, HE NOW TRIES TO PUT MS. HENRY ON TRIAL, BY CONCOCTING THIS RIDICULOUS STORY THAT SHE WAS THE JILTED AND VENGEFUL LOVER, AND HE THE INNOCENT VICTIM.

MEMBERS OF THE JURY, LET US LOOK CAREFULLY AT EACH PIECE OF EVIDENCE IN THIS CASE. WHEN WE DO THAT WE WILL SEE THAT THE EVIDENCE POINTS TO ONLY ONE CONCLUSION; THAT MR. SIMONS BOUND AND RAPED MS. HENRY.

WE HAVE A YOUNG MAN, MR. SIMONS, WHO IS OBVIOUSLY SEXUALLY AROUSED BY MS. HENRY. HOW AROUSED IS HE? HE IS SO AROUSED BY HER THAT HE GOES TO HER APARTMENT, FORCES HIS WAY IN AND TAKES WHAT HE WANTS.

AND HOW IS MR. SIMONS ABLE TO DO THIS? WELL HE KNOWS EXACTLY WHERE MS. HENRY LIVES; A FACT THAT MR. SIMONS USED TO HIS OWN ABHORRENT ADVANTAGE, AND TO THE DETRIMENT OF MS. HENRY.

ONCE MR. SIMONS FORCED HIS WAY INTO MS. HENRY'S APARTMENT, WHAT DO WE KNOW? WE KNOW AT SOME POINT, MR. SIMONS RECEIVED A SCRATCH TO HIS NECK WHILE STRUGGLING WITH MS. HENRY. A DOCTOR TESTIFIED THAT MR. SIMONS DID INDEED HAVE A FOUR AND A HALF INCH SCRATCH ON HIS NECK. THE DOCTOR ALSO TESTIFIED THAT THIS SCRATCH COULD HAVE BEEN ACQUIRED DURING A STRUGGLE WITH A WOMAN, AND MS. HENRY DESCRIBED EXACTLY HOW THE SCRATCH WAS INFLICTED. SHE SCRATCHED MR. SIMONS IN HER FUTILE ATTEMPT TO FIGHT HIM OFF. AND, AS A RESULT OF HER SCRATCHING HIM MR. SIMONS TIED HER WRIST TO THE BEDPOST SO SHE COULDN'T SCRATCH HIM AGAIN. NOW HOW DOES MR. SIMONS EXPLAIN THIS SCRATCH? HE STATES THAT IT WAS

CAUSED ACCIDENTALLY BY MS. HENRY. MEMBERS OF THE JURY, DO YOU HONESTLY BELIEVE THAT A FOUR AND A HALF INCH SCRATCH COULD BE CAUSED ACCIDENTALLY DURING A SUPPOSED SEXUAL ENCOUNTER? NO, THAT IDEA IS ABSURD AND UTTERLY RIDICULOUS. WE ALSO KNOW THAT MS. HENRY'S WRIST WAS SEVERELY BRUISED AFTER MR. SIMONS TIED IT TO THE BEDPOST. YOU HEARD A MEDICAL EXPERT TESTIFY THAT THIS BRUISING IS CONSISTENT WITH MS. HENRY BEING RESTRAINED. YOU HEARD MS. HENRY TESTIFY THAT MR. SIMONS, IN ORDER TO RESTRAIN HER, REMOVED HER BELT AND BOUND HER WRIST TO THE BEDPOST. YOU HEARD A POLICE OFFICER TESTIFY THAT HE FOUND A BELT TIED TO THE BEDPOST WHERE MS. HENRY SAID IT WOULD BE.

YET HOW DOES THE DEFENDANT TRY TO EXPLAIN ALL OF THIS? HE WOULD HAVE YOU BELIEVE THE RIDICULOUS STORY THAT MS. HENRY ASKED TO BE TIED UP FOR SEXUAL PLEASURE. NO, MEMBERS OF THE JURY, THE REASON MS. HENRY WAS TIED UP WAS BECAUSE SHE WAS TOUGHER THAN MR. SIMONS THOUGHT SHE WOULD BE. EVIDENCE OF THIS IS THE LARGE SCRATCH ON HIS NECK AND THE BRUISING AND SWELLING CAUSED BY HER DESPERATE STRUGGLES TO FREE HERSELF.

MEMBERS OF THE JURY, MR. SIMONS STORY IS ABSURD. IT WAS CREATED BY HIM, AFTER THE FACT, IN ORDER TO INCLUDE JUST THOSE ELEMENTS THAT MS. HENRY WOULD TESTIFY TO. BUT THERE IS NOT A SINGLE SHRED OF CORROBORATION FOR EVEN A SINGLE ELEMENT OF MR. SIMONS STORY. IT IS SIMPLY FANTASY AND FABRICATION. IN OTHER WORDS, LIES FROM BEGINNING TO END.

NOW THE DEFENCE COUNCIL ASKS WHY IT TOOK MS. HENRY A DAY A HALF TO REPORT TO THE POLICE THAT SHE HAD BEEN RAPED. THE ANSWER IS OBVIOUS. MY CLIENT WAS OVERWHELMED BY THE EVENTS; SHE WAS CONFUSED AND EMBARRASSED. SHE WAS TERRIFIED THAT SHE WOULD HAVE TO RELIVE THESE HORRIBLE EVENTS AS SHE DESCRIBED THEM TO THE POLICE. THE THOUGHT OF HAVING TO DESCRIBE THE DISGUSTING PERSONAL EVENTS OF HER RAPE TO TOTAL STRANGERS OVERWHELMED AND FRIGHTENED HER. FINALLY SHE REALIZED THAT SHE HAD TO TELL SOMEONE. YET SHE WAS EMBARRASSED.

SO SHE CALLED SOMEONE SHE COULD TRUST, HER FRIEND SUSAN WILSON. SHE TOLD HER FRIEND ABOUT THE HORRIBLE EVENTS OF THE PREVIOUS EVENING, AND AFTER CAREFUL THOUGHT AND OBVIOUS

CONCERN FOR HER OWN SAFETY AND THE SAFETY OF OTHER WOMEN SHE DECIDED TO GO TO THE POLICE.

MEMBERS OF THE JURY, WHETHER A WOMAN REPORTS A SEXUAL ASSAULT TWO HOURS, TWO DAYS OR TWO MONTHS AFTER ITS OCCURRENCE SHOULD NOT BE AT QUESTION HERE. IT IS A WELL KNOWN FACT THAT RAPES ARE OFTEN NOT REPORTED RIGHT AWAY BECAUSE OF THE WOMAN'S INTENSE EMBARRASSMENT. THIS DOES NOT MEAN THAT THE CRIME NEVER OCCURRED. ON THE CONTRARY, THE FACT THAT MS. HENRY DID REPORT THE CRIME IS A TESTAMENT TO HER COURAGE AND HER CONCERN FOR OTHERS WHO MIGHT HAVE BEEN MR. SIMONS' NEXT VICTIMS.

MEMBERS OF THE JURY, MR. SIMONS THOUGHT HE COULD GET AWAY WITH HIS CRIME BY FRIGHTENING HIS VICTIM. YET WHEN THIS FAILED, HE WAS FORCED TO CREATE THIS PACK OF LIES TO TRY AND COVER THE FACTS OF THE CASE. THERE IS NOT A SINGLE SHRED OF EVIDENCE TO SUPPORT ANY OF HIS CLAIMS.

MEMBERS OF THE JURY, SEXUAL ASSAULT IS A BRUTAL VIOLATION OF A WOMAN'S PERSONAL FREEDOM AND PRIVACY. IT

LEAVES EMOTIONAL SCARS WHICH CAN LAST A LIFETIME. MS. HENRY WILL NEVER FORGET WHAT HAPPENED TO HER ON OCTOBER 10, 1990.

IN ORDER TO PROTECT OTHER WOMEN, GIVE MS. HENRY PEACE OF MIND, AND GIVE MR. SIMONS THE PUNISHMENT HE SO RIGHTLY DESERVES, I ASK YOU TO FIND GEORGE SIMONS GUILTY OF SEXUAL ASSAULT.

CLOSING STATEMENT - DEFENCE

MEMBERS OF THE JURY, AT THE BEGINNING OF THIS TRIAL I TOLD YOU THAT SEXUAL ASSAULT IS A SERIOUS AND REPUGNANT CRIME WHICH DESERVES TO BE PUNISHED TO THE FULL EXTENT OF THE LAW. BUT MEMBERS OF THE JURY, THIS TRIAL IS NOT ABOUT SEXUAL ASSAULT. NO, IT IS ABOUT AN INSECURE WOMAN WHO FELT REJECTED AND VENTED HER FRUSTRATION IN A VINDICTIVE WAY. A WOMAN WHO FELT USED AND FALSELY ACCUSED MY CLIENT OF SEXUAL ASSAULT IN ORDER TO GET EVEN WITH HIM.

MEMBERS OF THE JURY, MY CLIENT, MR. GEORGE SIMONS IS NOT A RAPIST. HE IS AN UPSTANDING, HARD-WORKING MEMBER OF THE COMMUNITY. MEMBERS OF THE JURY, THE CROWN'S CASE MAKES NO SENSE. YOU HAVE ALL HEARD MR. SIMONS ON THE WITNESS STAND. HE IS OBVIOUSLY AN INTELLIGENT MAN. AN INTELLIGENT MAN WOULDN'T RAPE A WOMAN AFTER HAVING SPENT AN EVENING WITH HER AND TWO OTHER PEOPLE. WHY? BECAUSE HIS IDENTITY IS KNOWN NOT ONLY TO HER, BUT ALSO TO THE TWO FRIENDS IN THE TAVERN. IF HE WAS TO ASSAULT HER, HE WOULD HAVE NO DEFENCE. IT WOULD MAKE NO SENSE BECAUSE HE WOULD BE IDENTIFIED

IMMEDIATELY. OBVIOUSLY AN INTELLIGENT MAN LIKE MR. SIMONS WOULD NOT DO SUCH A THING.

MEMBERS OF THE JURY, MY CLIENT IS NOT A RAPIST. HE DID NOT BIND AND RAPE MS. HENRY. HE IS THE REAL VICTIM IN THIS CASE.

HE IS THE VICTIM OF A VERY CONFUSED, MISGUIDED AND VINDICTIVE WOMAN WHO HAS MADE FALSE ACCUSATIONS IN ORDER TO DEAL WITH HER OWN INSECURITIES.

LET US CONSIDER MS. HENRY'S ACCUSATIONS AND WHY THEY WERE MADE. MS. HENRY TESTIFIED HERSELF THAT SHE WOULD HAVE LIKED TO HAVE BEEN IN A SERIOUS RELATIONSHIP. MS. HENRY SPENT THE EVENING SOCIALIZING WITH MR. SIMONS. THEY BOTH HAD A LOT IN COMMON, AND GOT ALONG VERY WELL TOGETHER. MS. HENRY REALIZED THAT MR. SIMONS WAS ALSO ATTRACTED TO HER, HOW DID SHE KNOW THIS? SHE KNEW BECAUSE HE RECIPROCATED HER SEXUALLY FLIRTATIOUS BEHAVIOR UNDER THE TAVERN TABLE.

SO HERE WAS A MAN WHO WAS JUST WHAT MS. HENRY WAS LOOKING FOR. A NICE GUY, ATTRACTIVE AND SOMEONE WITH WHOM SHE SHARED COMMON INTERESTS. HOW DID SHE SIGNAL HIM THAT SHE WOULD LIKE TO PURSUE A RELATIONSHIP? SHE SAYS TO MR.

SIMONS, "I'LL SEE YOU LATER", KNOWING FULL WELL THAT MR. SIMONS IS MORE THAN AWARE OF EXACTLY WHERE SHE LIVES. MS. HENRY LEFT THE TAVERN AND WAITED FOR MR. SIMONS ARRIVAL. WHEN HE ARRIVED SHE ASKED HIM TO COME INSIDE TO WARM UP AND HAVE COFFEE. ONCE INSIDE SHE SEDUCED HIM. MR. SIMONS OBVIOUSLY DID NOT RESIST, WHY WOULD HE? HE WAS ATTRACTED TO HER. HOWEVER, ONCE IN BED WITH MS. HENRY, HE REALIZED THAT SHE WAS NOT WHAT HE EXPECTED. SHE BECAME QUITE AGGRESSIVE. BY HER OWN TESTIMONY, SHE ADMITS THAT SHE SCRATCHED MY CLIENT ON THE SIDE OF HIS NECK DURING SEX

MEMBERS OF THE JURY, YOU HEARD A MEDICAL EXPERT WHO EXAMINED MR. SIMONS TESTIFY THAT THE SCRATCH ON HIS NECK COULD HAVE BEEN CAUSED BY A WOMAN DIGGING HER NAILS INTO HIM DURING SEXUAL EXCITEMENT.

AS WELL, MS. HENRY TOLD MY CLIENT THAT SHE FOUND INTERCOURSE TO BE MORE AROUSING IF SHE WAS TIED UP. MR. SIMONS TIED MS. HENRY'S LEFT WRIST TO THE BEDPOST IN ORDER TO INCREASE HER SEXUAL PLEASURE. IN THE HEAT OF PASSION SHE PULLED VIOLENTLY AGAINST THE BELT AROUND HER WRIST, AND CAUSED BRUISING AND SWELLING TO APPEAR ON THAT WRIST. MEMBERS OF THE JURY, YOU HEARD A DOCTOR TESTIFY THAT THE

BRUISING AND SWELLING TO MS. HENRY'S WRIST COULD HAVE BEEN CAUSED BY HER OWN ACTIONS. AND THIS IS, IN FACT, HOW THIS INJURY OCCURRED.

AFTER THEY HAD INTERCOURSE, MS. HENRY WAS CONFIDENT THAT SHE HAD FOUND SOMEONE TO FORM A STEADY RELATIONSHIP WITH. AS YOU HEARD MR. SIMONS TESTIFY, SHE STATED THAT SHE WAS GLAD SHE HAD FINALLY FOUND A MAN WHO UNDERSTOOD AND CARED FOR HER. HAVING JUST MET MS. HENRY, MR. SIMONS FELT UNCOMFORTABLE WITH THIS TALK OF A STEADY RELATIONSHIP. ALSO, MR. SIMONS FELT THAT MS. HENRY WAS KINKIER THAN HE EXPECTED OR DESIRED. AS A RESULT, HE DID NOT WISH TO GET INVOLVED IN A RELATIONSHIP WITH HER.

SO WE HAVE A WOMAN, MS. HENRY, WHO FELT SHE'S FOUND THE MAN TO FILL HER NEEDS AND PROVIDE HER WITH THE STEADY RELATIONSHIP SHE HAD BEEN SEEKING. BUT MR. SIMONS DECIDED TO LEAVE AND WHEN MS. HENRY ASKED ABOUT SEEING HIM AGAIN, HE BECAME EVASIVE. WHY? OBVIOUSLY HE DIDN'T WANT WHAT MS. HENRY HAD ALREADY PLANNED; A RELATIONSHIP BETWEEN THE TWO OF THEM. WHEN MR. SIMONS TRIED TO LEAVE, MS. HENRY STARTED

TO BECOME HYSTERICAL. SHE ACCUSED HIM OF SEEING SOMEBODY ELSE, AND THAT HE HAD USED HER ONLY FOR SEX.

AT THIS POINT, MS. HENRY SCREAMED AT MY CLIENT THAT HE "WOULDN'T GET AWAY WITH IT".

SO HOW DOES SHE GET EVEN WITH MY CLIENT? SHE FALSELY ACCUSES HIM OF SEXUALLY ASSAULTING HER, KNOWING FULL WELL THAT THE INTERCOURSE HAD BEEN CONSENSUAL. AND REMEMBER, SHE HAD EVIDENCE WHICH SHE COULD TWIST AND MAKE LOOK INCRIMINATING. THE BRUISES AND SWELLING ON HER WRIST. THE SCRATCH ON MR. SIMONS NECK, WHICH SHE HERSELF PUT THERE DURING THEIR INTERCOURSE. ALL OF THESE PIECES OF EVIDENCE LOOK INCRIMINATING ON THE SURFACE; HOWEVER WHEN THE FACTS ARE REVEALED, THEY ARE EASILY EXPLAINED. ALSO, WHY DID MS. HENRY WAIT ALMOST TWO DAYS BEFORE REPORTING THIS SUPPOSED CRIME TO THE POLICE? BECAUSE IT TOOK MS. HENRY THIS TIME TO FABRICATE THIS RIDICULOUS STORY. SHE EVEN CALLS HER FRIEND MS. WILSON, AND TELLS HER THAT SHE HAS BEEN SEXUALLY ASSAULTED BY MR. SIMONS. WHY? TO TRY AND LEND CREDIBILITY TO HER ALLEGATIONS OF COURSE.

BUT WHEN SHE DOES FINALLY CALL THE POLICE WHAT DOES THE OFFICER FIND? A BELT TIED TO A BEDPOST; NO SIGN OF A STRUGGLE;

AND A SUPPOSED VICTIM WHO SHOWS LITTLE SIGN OF INJURY, AND APPEARS BY THE OFFICERS OWN TESTIMONY TO BE NERVOUS, BUT OTHERWISE RELATIVELY CALM.

WHEN THE POLICE ARRIVE AT MR. SIMONS' HOUSE, WHAT DOES HE TELL THEM? HE TELLS THEM THE TRUTH. YES HE WAS AT "FRASER'S TAVERN" ON OCTOBER 10, 1990. YES HE KNOWS ELLEN HENRY. YES HE HAD INTERCOURSE WITH HER. HE ADMITS THIS FREELY. MEMBERS OF THE JURY, MY CLIENT HAS NOTHING TO HIDE BECAUSE HE HAS DONE NOTHING WRONG. HE DID NOT RAPE MS. HENRY. HE IS INNOCENT.

MEMBERS OF THE JURY, MY CLIENT DOES NOT HAVE TO PROVE HIS INNOCENCE. INSTEAD, MY CLIENT IS PRESUMED INNOCENT, UNLESS AND UNTIL PROVEN GUILTY BEYOND A REASONABLE DOUBT. BUT MEMBERS OF THE JURY, IT IS CLEAR THAT A GREAT DEAL OF DOUBT EXISTS IN THIS CASE. IN FACT, THE CROWN HAS BEEN UNABLE TO PROVIDE EVEN A SINGLE SHRED OF EVIDENCE THAT POINTS UNEQUIVOCALLY TO THE GUILT OF MY CLIENT. ON THE CONTRARY, MY CLIENT HAS ANSWERED EVERY CONCERN RAISED BY THE CROWN.

MEMBERS OF THE JURY, MY CLIENT IS NOT A CRIMINAL. NO HE IS THE REAL VICTIM IN THIS CASE. A MAN FALSELY ACCUSED OF A CRIME HE DID NOT COMMIT. FOR THESE REASONS, MEMBERS OF THE JURY, I ASK YOU TO FIND GEORGE SIMONS NOT GUILTY OF SEXUAL ASSAULT.

JUDGE'S CHARGE

MEMBERS OF THE JURY, YOU HAVE HEARD THE EVIDENCE IN THIS CASE AND NOW YOU MUST DELIBERATE TO A UNANIMOUS VERDICT. IT IS THE CONTENTION OF THE CROWN THAT MR. GEORGE SIMONS COMMITTED SEXUAL ASSAULT AGAINST MS. ELLEN HENRY.

ASSAULT IS DEFINED BY SECTION 244 OF THE CANADIAN CRIMINAL CODE AS FOLLOWS. A PERSON COMMITS SEXUAL ASSAULT WHEN:

**(A) WITHOUT THE CONSENT OF ANOTHER PERSON, HE APPLIES FORCE INTENTIONALLY TO THE OTHER PERSON, DIRECTLY OR INDIRECTLY;
AND**

(B) HE ATTEMPTS OR THREATENS, BY ACT OR GESTURE, TO APPLY FORCE TO ANOTHER PERSON, IF HE HAS, OR CAUSES THAT OTHER PERSON TO BELIEVE UPON REASONABLE GROUNDS, THAT HE HAS, PRESENT ABILITY TO EFFECT HIS PURPOSE TO THAT PERSON.

LET ME REMIND YOU THAT THIS SECTION OF THE CRIMINAL CODE APPLIES TO ALL FORMS OF ASSAULT, INCLUDING SEXUAL ASSAULT.

MEMBERS OF THE JURY, YOU HAVE HEARD THE COMPLAINANT, MS. HENRY, TESTIFY UNDER OATH THAT THE DEFENDANT, MR. SIMONS, CAME TO HER DOOR AND FORCED HIS WAY INTO HER APARTMENT. SHE TESTIFIED THAT ONCE MR. SIMONS WAS INSIDE HER APARTMENT, HE ATTACKED HER. MS. HENRY TESTIFIED THAT SHE TRIED TO FEND OFF HIS ATTACK AND WAS THEN SEXUALLY ASSAULTED BY MR. SIMONS.

YOU HAVE HEARD MS. HENRY FURTHER TESTIFY THAT IN HER STRUGGLE WITH MR. SIMONS, SHE SCRATCHED THE LEFT SIDE OF HIS NECK. SHE ALSO TESTIFIED THAT MR. SIMONS USED THE BELT FROM HER SKIRT TO TIE HER LEFT WRIST TO THE BEDPOST, AND THREATENED TO BREAK HER ARM IF SHE DID NOT CO-OPERATE.

YOU HAVE ALSO HEARD THE TESTIMONY OF OTHER WITNESSES CALLED BY THE CROWN. YOU HEARD A POLICE OFFICER DESCRIBE THAT HE FOUND A WOMAN'S BELT TIED TO THE BEDPOST IN MS. HENRY'S APARTMENT. YOU HAVE HEARD A WITNESS WHO EXAMINED MS. HENRY FOR INJURIES TESTIFY THAT SHE HAD A SWOLLEN AND BRUISED LEFT WRIST. THIS WITNESS FURTHER TESTIFIED THAT THESE INJURIES WERE SUSTAINED AS A RESULT OF AN EXTREME AMOUNT OF PRESSURE BEING PLACED UPON HER WRIST. IN ADDITION, YOU HEARD

A WITNESS WHO EXAMINED MR. SIMONS TESTIFY THAT HE FOUND A FOUR AND ONE HALF INCH SCRATCH ON THE RIGHT SIDE OF MR. SIMONS NECK. HE FURTHER TESTIFIED THAT THE SCRATCH HAD BEEN CAUSED BY ANOTHER INDIVIDUALS FINGERNAILS WITHIN THE PRECEDING SEVENTY-TWO HOURS OF THE EXAMINATION.

MEMBERS OF THE JURY YOU HEARD A WITNESS WHO SERVED THE COMPLAINANT, MS. HENRY, AND THE DEFENDANT, MR. SIMONS, ALCOHOLIC DRINKS AT A TAVERN EARLIER IN THE EVENING. THIS WITNESS STATED THAT NEITHER MR. SIMONS NOR MS. HENRY APPEARED TO BE INTOXICATED AND THAT MS. HENRY LEFT THE ESTABLISHMENT ABOUT A HALF HOUR BEFORE THE DEFENDANT.

AS WELL, YOU HEARD THIS WITNESS TESTIFY THAT SHE DID NOT OBSERVE ANY FLIRTATIOUS BEHAVIOR BETWEEN THE COMPLAINANT AND DEFENDANT. YOU ALSO HEARD TESTIMONY FROM TWO WITNESSES WHO WERE AT THE TAVERN WITH THE COMPLAINANT AND DEFENDANT. THESE WITNESSES ALSO TESTIFIED THAT THEY DID NOT OBSERVE ANY FLIRTATIOUS BEHAVIOR BETWEEN MS. HENRY AND MR. SIMONS.

MEMBERS OF THE JURY, SEXUAL ASSAULT MEANS NON-CONSENSUAL SEXUAL RELATIONS. A PERSON WHO VOLUNTARILY ENGAGES IN SEX WITH ANOTHER PARTY AND WHO LATER REGRETS HAVING DONE SO HAS NOT BEEN SEXUALLY ASSAULTED BECAUSE THE SEXUAL ACT, DESPITE LATER REGRETS, WAS A NON-COERCED AND VOLUNTARY ACTION.

YOU HAVE HEARD THE DEFENCE CONTEND THAT MS. HENRY WAS NOT SEXUALLY ASSAULTED BY MR. SIMONS BUT INSTEAD VOLUNTARILY ENGAGED IN SEXUAL RELATIONS. IN CONTRADICTION TO THE TESTIMONY OF MS. HENRY, MR. SIMONS TESTIFIED THAT HE ENTERED MS. HENRY'S APARTMENT ONLY AFTER HE WAS ASKED TO DO SO. YOU ALSO HEARD MR. SIMONS TESTIFY THAT HE WAS INVITED TO SIT ON THE SOFA BY MS. HENRY. IT IS THE DEFENCE'S CONTENTION THAT MS. HENRY MADE OBVIOUS HER SEXUAL WILLINGNESS TO MR. SIMONS. THE DEFENCE DOES NOT CHALLENGE THAT MR. SIMONS HAD SEXUAL INTERCOURSE WITH MS. HENRY. HOWEVER, THE DEFENCE CONTENDS THAT MS. HENRY VOLUNTARILY ENGAGED IN THE SEXUAL INTERCOURSE WITH MR. SIMONS. ALSO, THE DEFENCE DOES NOT CHALLENGE THE FACT THAT MS. HENRY SCRATCHED MR. SIMONS. HOWEVER, THE DEFENCE CONTENDS THAT

MS. HENRY SCRATCHED MR. SIMONS ACCIDENTALLY IN THE HEAT OF SEXUAL EXCITEMENT.

THE DEFENCE ALSO DOES NOT DENY THAT MR. SIMONS TIED MS. HENRY'S LEFT WRIST TO THE BEDPOST. HOWEVER, WHAT THE DEFENCE DOES CONTEND IS THAT THIS ACTION WAS TAKEN BY MR. SIMONS ONLY UPON THE REQUEST OF MS. HENRY.

ACCORDING TO THE THEORY PRESENTED BY THE CROWN, MR. SIMONS WAS SEXUALLY AROUSED BY TO MS. HENRY AND TOOK ADVANTAGE OF THE FACT THAT HE KNEW WHERE SHE LIVED. ACCORDING TO THIS THEORY, MR. SIMONS WENT TO MS. HENRY'S APARTMENT, FORCED HIS WAY IN AND SEXUALLY ASSAULTED HER.

ACCORDING TO THE THEORY PRESENTED BY THE DEFENCE, AFTER HAVING CONSENSUAL SEXUAL RELATIONS WITH MR. SIMONS, MS. HENRY BECAME ENRAGED WHEN SHE LEARNED THAT NO PERMANENT RELATIONSHIP WITH MR. SIMONS WAS FORTHCOMING. ACCORDING TO THIS THEORY, MS. HENRY THEN ACCUSED MR. SIMONS OF SEXUAL ASSAULT.

MEMBERS OF THE JURY, AS YOU DELIBERATE IT IS IMPORTANT THAT YOU REVIEW CAREFULLY ALL OF THE EVIDENCE THAT HAS BEEN

PRESENTED. YOU SHOULD THINK CAREFULLY ABOUT THE TESTIMONY YOU HAVE HEARD AND WHERE THERE WAS CONFLICTING TESTIMONY YOU MUST MAKE JUDGEMENTS ABOUT THE CREDIBILITY OF THE WITNESSES INVOLVED. NOT EVERYTHING SAID IN A COURT OF LAW IS NECESSARILY THE TRUTH. PEOPLE ARE OFTEN SWAYED BY VARIOUS PERSONAL MOTIVATIONS TO PRESENT THEIR EVIDENCE IN A WAY THAT IS FAVORABLE TO THE OUTCOME THEY FAVOUR.

IT IS UP TO YOU TO USE YOUR INTELLIGENCE AND COMMON SENSE WHEN EVALUATING THE EVIDENCE IN REACHING YOUR CONCLUSIONS. IF AFTER CAREFUL DELIBERATION YOU CONCLUDE THAT THE EVIDENCE PRESENTED BEFORE YOU PROVES BEYOND A REASONABLE DOUBT THAT MR. SIMONS SEXUALLY ASSAULTED MS. HENRY, THEN YOU SHOULD FIND MR. SIMONS GUILTY OF SEXUAL ASSAULT.

NOW A REASONABLE DOUBT CONCERNING DOUBT IS NOT MERELY THE POSSIBILITY OF INNOCENCE. A REASONABLE DOUBT IS A DOUBT THAT WOULD CAUSE A REASONABLE AND PRUDENT PERSON IN THE GRAVE 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 IT TENDS TO SUPPORT. PROOF BEYOND A REASONABLE DOUBT IS PROOF ENOUGH TO CONVINCE REASONABLE PEOPLE WHO HAVE EXAMINED THE EVIDENCE BEFORE THEM THAT THE CRIME THE DEFENDANT IS CHARGED WITH HAS BEEN COMMITTED BY THE DEFENDANT. PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT CONVINCES REASONABLE PEOPLE THAT NO OTHER REASONABLE CONCLUSION IS POSSIBLE.

MEMBERS OF THE JURY, YOU MAY NOW RETIRE AND BEGIN YOUR DELIBERATIONS.

PROSECUTION'S CLOSING STATEMENT DEFENDANT LYING

MEMBERS OF THE JURY, THE EVIDENCE IN THIS CASE IS CLEAR AND CONSISTENT AND THAT EVIDENCE INDICATES BEYOND ANY REASONABLE DOUBT THAT GEORGE SIMONS BOUND AND RAPED ELLEN HENRY. THE EVIDENCE AGAINST MR. HENRY IS SO CLEAR, THAT IN ORDER TO ANSWER THE CHARGE, THE DEFENCE HAS RESORTED TO A DESPERATE STRATEGY. A STRATEGY OF FANTASY AND FABRICATION. IN THIS STRATEGY MR. SIMONS IS NO LONGER THE CULPRIT. INSTEAD HE IS PORTRAYED AS AN INNOCENT VICTIM OF A "TERRIBLE MISUNDERSTANDING". AND WHO IS THE CULPRIT IN THIS MISUNDERSTANDING? WHY, IT'S POOR MS. HENRY. IT ISN'T BAD ENOUGH THAT MR. SIMONS ATTACKED, BOUND AND RAPED MS. HENRY. NO, HE NOW TRIES TO PUT MS. HENRY ON TRIAL, BY CONCOCTING THIS RIDICULOUS STORY THAT SHE WAS THE JILTED AND VENGEFUL LOVER, AND HE THE INNOCENT VICTIM.

MEMBERS OF THE JURY, LET US LOOK CAREFULLY AT EACH PIECE OF EVIDENCE IN THIS CASE. WHEN WE DO THAT WE WILL SEE THAT THE EVIDENCE POINTS TO ONLY ONE CONCLUSION; THAT MR. SIMONS BOUND AND RAPED MS. HENRY.

WE HAVE A YOUNG MAN, MR. SIMONS, WHO IS OBVIOUSLY SEXUALLY AROUSED BY MS. HENRY. HOW AROUSED IS HE? HE IS SO AROUSED BY HER THAT HE GOES TO HER APARTMENT, FORCES HIS WAY IN AND TAKES WHAT HE WANTS. AND HOW IS MR. SIMONS ABLE TO DO THIS? WELL HE KNOWS EXACTLY WHERE MS. HENRY LIVES; A FACT THAT MR. SIMONS USED TO HIS OWN ABHORRENT ADVANTAGE, AND TO THE DETRIMENT OF MS. HENRY.

ONCE MR. SIMONS FORCED HIS WAY INTO MS. HENRY'S APARTMENT, WHAT DO WE KNOW? WE KNOW AT SOME POINT, MR. SIMONS RECEIVED A SCRATCH TO HIS NECK WHILE STRUGGLING WITH MS. HENRY. A DOCTOR TESTIFIED THAT MR. SIMONS DID INDEED HAVE A FOUR AND A HALF INCH SCRATCH ON HIS NECK. THE DOCTOR ALSO TESTIFIED THAT THIS SCRATCH COULD HAVE BEEN ACQUIRED DURING A STRUGGLE WITH A WOMAN, AND MS. HENRY DESCRIBED EXACTLY HOW THE SCRATCH WAS INFLICTED. SHE SCRATCHED MR. SIMONS IN HER FUTILE ATTEMPT TO FIGHT HIM OFF. AND, AS A RESULT OF HER SCRATCHING HIM MR. SIMONS TIED HER WRIST TO THE BEDPOST SO SHE COULDN'T SCRATCH HIM AGAIN. NOW HOW DOES MR. SIMONS EXPLAIN THIS SCRATCH? HE STATES THAT IT WAS CAUSED ACCIDENTALLY BY MS. HENRY. MEMBERS OF THE JURY, DO YOU HONESTLY BELIEVE THAT A FOUR AND A HALF INCH SCRATCH

COULD BE CAUSED ACCIDENTALLY DURING A SUPPOSED SEXUAL ENCOUNTER? NO, THAT IDEA IS ABSURD AND UTTERLY RIDICULOUS. WE ALSO KNOW THAT MS. HENRY'S WRIST WAS SEVERELY BRUISED AFTER MR. SIMONS TIED IT TO THE BEDPOST. YOU HEARD A MEDICAL EXPERT TESTIFY THAT THIS BRUISING IS CONSISTENT WITH MS. HENRY BEING RESTRAINED. YOU HEARD MS. HENRY TESTIFY THAT MR. SIMONS, IN ORDER TO RESTRAIN HER, REMOVED HER BELT AND BOUND HER WRIST TO THE BEDPOST. YOU HEARD A POLICE OFFICER TESTIFY THAT HE FOUND A BELT TIED TO THE BEDPOST WHERE MS. HENRY SAID IT WOULD BE.

YET HOW DOES THE DEFENDANT TRY TO EXPLAIN ALL OF THIS? HE WOULD HAVE YOU BELIEVE THE RIDICULOUS STORY THAT MS. HENRY ASKED TO BE TIED UP FOR SEXUAL PLEASURE. NO, MEMBERS OF THE JURY, THE REASON MS. HENRY WAS TIED UP WAS BECAUSE SHE WAS TOUGHER THAN MR. SIMONS THOUGHT SHE WOULD BE. EVIDENCE OF THIS IS THE LARGE SCRATCH ON HIS NECK AND THE BRUISING AND SWELLING CAUSED BY HER DESPERATE STRUGGLES TO FREE HERSELF.

MEMBERS OF THE JURY, MR. SIMONS STORY IS ABSURD. IT WAS CREATED BY HIM, AFTER THE FACT, IN ORDER TO INCLUDE JUST THOSE ELEMENTS THAT MS. HENRY WOULD TESTIFY TO. BUT THERE IS

NOT A SINGLE SHRED OF CORROBORATION FOR EVEN A SINGLE ELEMENT OF MR. SIMONS STORY. IT IS SIMPLY FANTASY AND FABRICATION. IN OTHER WORDS, LIES FROM BEGINNING TO END.

MEMBERS OF THE JURY, THE RESULTS OF THE LIE DETECTOR TEST ALSO DISCONFIRM MR. SIMONS' TESTIMONY. AS YOU HEARD FROM THE TESTIMONY OF THE POLYGRAPH EXPERT, THE TEST INDICATED THAT HE WAS LYING WHEN HE STATED THAT HE DID NOT SEXUALLY ASSAULT MS. HENRY.

NOW THE DEFENCE COUNCIL ASKS WHY IT TOOK MS. HENRY A DAY A HALF TO REPORT TO THE POLICE THAT SHE HAD BEEN RAPED. THE ANSWER IS OBVIOUS. MY CLIENT WAS OVERWHELMED BY THE EVENTS; SHE WAS CONFUSED AND EMBARRASSED. SHE WAS TERRIFIED THAT SHE WOULD HAVE TO RELIVE THESE HORRIBLE EVENTS AS SHE DESCRIBED THEM TO THE POLICE. THE THOUGHT OF HAVING TO DESCRIBE THE DISGUSTING PERSONAL EVENTS OF HER RAPE TO TOTAL STRANGERS OVERWHELMED AND FRIGHTENED HER. FINALLY SHE REALIZED THAT SHE HAD TO TELL SOMEONE. YET SHE WAS EMBARRASSED.

SO SHE CALLED SOMEONE SHE COULD TRUST, HER FRIEND SUSAN WILSON. SHE TOLD HER FRIEND ABOUT THE HORRIBLE EVENTS OF THE

PREVIOUS EVENING, AND AFTER CAREFUL THOUGHT AND OBVIOUS CONCERN FOR HER OWN SAFETY AND THE SAFETY OF OTHER WOMEN SHE DECIDED TO GO TO THE POLICE.

MEMBERS OF THE JURY, WHETHER A WOMAN REPORTS A SEXUAL ASSAULT TWO HOURS, TWO DAYS OR TWO MONTHS AFTER ITS OCCURRENCE SHOULD NOT BE AT QUESTION HERE. IT IS A WELL KNOWN FACT THAT RAPES ARE OFTEN NOT REPORTED RIGHT AWAY BECAUSE OF THE WOMAN'S INTENSE EMBARRASSMENT. THIS DOES NOT MEAN THAT THE CRIME NEVER OCCURRED. ON THE CONTRARY, THE FACT THAT MS. HENRY DID REPORT THE CRIME IS A TESTAMENT TO HER COURAGE AND HER CONCERN FOR OTHERS WHO MIGHT HAVE BEEN MR. SIMONS' NEXT VICTIMS.

MEMBERS OF THE JURY, MR. SIMONS THOUGHT HE COULD GET AWAY WITH HIS CRIME BY FRIGHTENING HIS VICTIM. YET WHEN THIS FAILED, HE WAS FORCED TO CREATE THIS PACK OF LIES TO TRY AND COVER THE FACTS OF THE CASE. THERE IS NOT A SINGLE SHRED OF EVIDENCE TO SUPPORT ANY OF HIS CLAIMS.

MEMBERS OF THE JURY, SEXUAL ASSAULT IS A BRUTAL VIOLATION OF A WOMAN'S PERSONAL FREEDOM AND PRIVACY. IT

LEAVES EMOTIONAL SCARS WHICH CAN LAST A LIFETIME. MS. HENRY WILL NEVER FORGET WHAT HAPPENED TO HER ON OCTOBER 10, 1990.

IN ORDER TO PROTECT OTHER WOMEN, GIVE MS. HENRY PEACE OF MIND, AND GIVE MR. SIMONS THE PUNISHMENT HE SO RIGHTLY DESERVES, I ASK YOU TO FIND GEORGE SIMONS GUILTY OF SEXUAL ASSAULT.

DEFENCE'S CLOSING STATEMENT DEFENDANT LYING

MEMBERS OF THE JURY, AT THE BEGINNING OF THIS TRIAL I TOLD YOU THAT SEXUAL ASSAULT IS A SERIOUS AND REPUGNANT CRIME WHICH DESERVES TO BE PUNISHED TO THE FULL EXTENT OF THE LAW. BUT MEMBERS OF THE JURY, THIS TRIAL IS NOT ABOUT SEXUAL ASSAULT. NO, IT IS ABOUT AN INSECURE WOMAN WHO FELT REJECTED AND VENTED HER FRUSTRATION IN A VINDICTIVE WAY. A WOMAN WHO FELT USED AND FALSELY ACCUSED MY CLIENT OF SEXUAL ASSAULT IN ORDER TO GET EVEN WITH HIM.

MEMBERS OF THE JURY, MY CLIENT, MR. GEORGE SIMONS IS NOT A RAPIST. HE IS AN UPSTANDING, HARD-WORKING MEMBER OF THE COMMUNITY. MEMBERS OF THE JURY, THE CROWN'S CASE MAKES NO SENSE. YOU HAVE ALL HEARD MR. SIMONS ON THE WITNESS STAND. HE IS OBVIOUSLY AN INTELLIGENT MAN. AN INTELLIGENT MAN WOULDN'T RAPE A WOMAN AFTER HAVING SPENT AN EVENING WITH HER AND TWO OTHER PEOPLE. WHY? BECAUSE HIS IDENTITY IS KNOWN NOT ONLY TO HER, BUT ALSO TO THE TWO FRIENDS IN THE TAVERN. IF HE WAS TO ASSAULT HER, HE WOULD HAVE NO DEFENCE. IT WOULD MAKE NO SENSE BECAUSE HE WOULD BE IDENTIFIED

IMMEDIATELY. OBVIOUSLY AN INTELLIGENT MAN LIKE MR. SIMONS WOULD NOT DO SUCH A THING.

MEMBERS OF THE JURY, MY CLIENT IS NOT A RAPIST. HE DID NOT BIND AND RAPE MS. HENRY. HE IS THE REAL VICTIM IN THIS CASE.

HE IS THE VICTIM OF A VERY CONFUSED, MISGUIDED AND VINDICTIVE WOMAN WHO HAS MADE FALSE ACCUSATIONS IN ORDER TO DEAL WITH HER OWN INSECURITIES.

LET US CONSIDER MS. HENRY'S ACCUSATIONS AND WHY THEY WERE MADE. MS. HENRY TESTIFIED HERSELF THAT SHE WOULD HAVE LIKED TO HAVE BEEN IN A SERIOUS RELATIONSHIP. MS. HENRY SPENT THE EVENING SOCIALIZING WITH MR. SIMONS. THEY BOTH HAD A LOT IN COMMON, AND GOT ALONG VERY WELL TOGETHER. MS. HENRY REALIZED THAT MR. SIMONS WAS ALSO ATTRACTED TO HER, HOW DID SHE KNOW THIS? SHE KNEW BECAUSE HE RECIPROCATED HER SEXUALLY FLIRTATIOUS BEHAVIOR UNDER THE TAVERN TABLE.

SO HERE WAS A MAN WHO WAS JUST WHAT MS. HENRY WAS LOOKING FOR. A NICE GUY, ATTRACTIVE AND SOMEONE WITH WHOM SHE SHARED COMMON INTERESTS. HOW DID SHE SIGNAL HIM THAT SHE WOULD LIKE TO PURSUE A RELATIONSHIP? SHE SAYS TO MR.

SIMONS, "I'LL SEE YOU LATER", KNOWING FULL WELL THAT MR. SIMONS IS MORE THAN AWARE OF EXACTLY WHERE SHE LIVES. MS. HENRY LEFT THE TAVERN AND WAITED FOR MR. SIMONS ARRIVAL. WHEN HE ARRIVED SHE ASKED HIM TO COME INSIDE TO WARM UP AND HAVE COFFEE. ONCE INSIDE SHE SEDUCED HIM. MR. SIMONS OBVIOUSLY DID NOT RESIST, WHY WOULD HE? HE WAS ATTRACTED TO HER. HOWEVER, ONCE IN BED WITH MS. HENRY, HE REALIZED THAT SHE WAS NOT WHAT HE EXPECTED. SHE BECAME QUITE AGGRESSIVE. BY HER OWN TESTIMONY, SHE ADMITS THAT SHE SCRATCHED MY CLIENT ON THE SIDE OF HIS NECK DURING SEX. MEMBERS OF THE JURY, YOU HEARD A MEDICAL EXPERT WHO EXAMINED MR. SIMONS TESTIFY THAT THE SCRATCH ON HIS NECK COULD HAVE BEEN CAUSED BY A WOMAN DIGGING HER NAILS INTO HIM DURING SEXUAL EXCITEMENT.

AS WELL, MS. HENRY TOLD MY CLIENT THAT SHE FOUND INTERCOURSE TO BE MORE AROUSING IF SHE WAS TIED UP. MR. SIMONS TIED MS. HENRY'S LEFT WRIST TO THE BEDPOST IN ORDER TO INCREASE HER SEXUAL PLEASURE. IN THE HEAT OF PASSION SHE PULLED VIOLENTLY AGAINST THE BELT AROUND HER WRIST, AND CAUSED BRUISING AND SWELLING TO APPEAR ON THAT WRIST. MEMBERS OF THE JURY, YOU HEARD A DOCTOR TESTIFY THAT THE

BRUISING AND SWELLING TO MS. HENRY'S WRIST COULD HAVE BEEN CAUSED BY HER OWN ACTIONS. AND THIS IS, IN FACT, HOW THIS INJURY OCCURRED.

AFTER THEY HAD INTERCOURSE, MS. HENRY WAS CONFIDENT THAT SHE HAD FOUND SOMEONE TO FORM A STEADY RELATIONSHIP WITH. AS YOU HEARD MR. SIMONS TESTIFY, SHE STATED THAT SHE WAS GLAD SHE HAD FINALLY FOUND A MAN WHO UNDERSTOOD AND CARED FOR HER. HAVING JUST MET MS. HENRY, MR. SIMONS FELT UNCOMFORTABLE WITH THIS TALK OF A STEADY RELATIONSHIP. ALSO, MR. SIMONS FELT THAT MS. HENRY WAS KINKIER THAN HE EXPECTED OR DESIRED. AS A RESULT, HE DID NOT WISH TO GET INVOLVED IN A RELATIONSHIP WITH HER.

SO WE HAVE A WOMAN, MS. HENRY, WHO FELT SHE'S FOUND THE MAN TO FILL HER NEEDS AND PROVIDE HER WITH THE STEADY RELATIONSHIP SHE HAD BEEN SEEKING. BUT MR. SIMONS DECIDED TO LEAVE AND WHEN MS. HENRY ASKED ABOUT SEEING HIM AGAIN, HE BECAME EVASIVE. WHY? OBVIOUSLY HE DIDN'T WANT WHAT MS. HENRY HAD ALREADY PLANNED; A RELATIONSHIP BETWEEN THE TWO OF THEM. WHEN MR. SIMONS TRIED TO LEAVE, MS. HENRY STARTED

TO BECOME HYSTERICAL. SHE ACCUSED HIM OF SEEING SOMEBODY ELSE, AND THAT HE HAD USED HER ONLY FOR SEX.

AT THIS POINT, MS. HENRY SCREAMED AT MY CLIENT THAT HE "WOULDN'T GET AWAY WITH IT".

SO HOW DOES SHE GET EVEN WITH MY CLIENT? SHE FALSELY ACCUSES HIM OF SEXUALLY ASSAULTING HER, KNOWING FULL WELL THAT THE INTERCOURSE HAD BEEN CONSENSUAL. AND REMEMBER, SHE HAD EVIDENCE WHICH SHE COULD TWIST AND MAKE LOOK INCRIMINATING. THE BRUISES AND SWELLING ON HER WRIST. THE SCRATCH ON MR. SIMONS NECK, WHICH SHE HERSELF PUT THERE DURING THEIR INTERCOURSE. ALL OF THESE PIECES OF EVIDENCE LOOK INCRIMINATING ON THE SURFACE; HOWEVER WHEN THE FACTS ARE REVEALED, THEY ARE EASILY EXPLAINED. ALSO, WHY DID MS. HENRY WAIT ALMOST TWO DAYS BEFORE REPORTING THIS SUPPOSED CRIME TO THE POLICE? BECAUSE IT TOOK MS. HENRY THIS TIME TO FABRICATE THIS RIDICULOUS STORY. SHE EVEN CALLS HER FRIEND MS. WILSON, AND TELLS HER THAT SHE HAS BEEN SEXUALLY ASSAULTED BY MR. SIMONS. WHY? TO TRY AND LEND CREDIBILITY TO HER ALLEGATIONS OF COURSE.

BUT WHEN SHE DOES FINALLY CALL THE POLICE WHAT DOES THE OFFICER FIND? A BELT TIED TO A BEDPOST; NO SIGN OF A STRUGGLE; AND A SUPPOSED VICTIM WHO SHOWS LITTLE SIGN OF INJURY, AND APPEARS BY THE OFFICERS OWN TESTIMONY TO BE NERVOUS, BUT OTHERWISE RELATIVELY CALM.

WHEN THE POLICE ARRIVE AT MR. SIMONS' HOUSE, WHAT DOES HE TELL THEM? HE TELLS THEM THE TRUTH. YES HE WAS AT "FRASER'S TAVERN" ON OCTOBER 10, 1990. YES HE KNOWS ELLEN HENRY. YES HE HAD INTERCOURSE WITH HER. HE ADMITS THIS FREELY. MEMBERS OF THE JURY, MY CLIENT HAS NOTHING TO HIDE BECAUSE HE HAS DONE NOTHING WRONG. HE DID NOT RAPE MS. HENRY. HE IS INNOCENT.

MEMBERS OF THE JURY, MY CLIENT DOES NOT HAVE TO PROVE HIS INNOCENCE. INSTEAD, MY CLIENT IS PRESUMED INNOCENT, UNLESS AND UNTIL PROVEN GUILTY BEYOND A REASONABLE DOUBT. BUT MEMBERS OF THE JURY, IT IS CLEAR THAT A GREAT DEAL OF DOUBT EXISTS IN THIS CASE. IN FACT, THE CROWN HAS BEEN UNABLE TO PROVIDE EVEN A SINGLE SHRED OF EVIDENCE THAT POINTS UNEQUIVOCALLY TO THE GUILT OF MY CLIENT. ON THE CONTRARY, MY CLIENT HAS ANSWERED EVERY CONCERN RAISED BY THE CROWN.

MEMBERS OF THE JURY, MY CLIENT IS NOT A CRIMINAL. NO HE IS THE REAL VICTIM IN THIS CASE. A MAN FALSELY ACCUSED OF A CRIME HE DID NOT COMMIT. FOR THESE REASONS, MEMBERS OF THE JURY, I ASK YOU TO FIND GEORGE SIMONS NOT GUILTY OF SEXUAL ASSAULT.

JUDGE'S CHARGE - DEFENDANT LYING

MEMBERS OF THE JURY, YOU HAVE HEARD THE EVIDENCE IN THIS CASE AND NOW YOU MUST DELIBERATE TO A UNANIMOUS VERDICT. IT IS THE CONTENTION OF THE CROWN THAT MR. GEORGE SIMONS COMMITTED SEXUAL ASSAULT AGAINST MS. ELLEN HENRY.

ASSAULT IS DEFINED BY SECTION 244 OF THE CANADIAN CRIMINAL CODE AS FOLLOWS. A PERSON COMMITS SEXUAL ASSAULT WHEN:

(A) WITHOUT THE CONSENT OF ANOTHER PERSON, HE APPLIES FORCE INTENTIONALLY TO THE OTHER PERSON, DIRECTLY OR INDIRECTLY; AND

(B) HE ATTEMPTS OR THREATENS, BY ACT OR GESTURE, TO APPLY FORCE TO ANOTHER PERSON, IF HE HAS, OR CAUSES THAT OTHER PERSON TO BELIEVE UPON REASONABLE GROUNDS, THAT HE HAS, PRESENT ABILITY TO EFFECT HIS PURPOSE TO THAT PERSON.

LET ME REMIND YOU THAT THIS SECTION OF THE CRIMINAL CODE APPLIES TO ALL FORMS OF ASSAULT, INCLUDING SEXUAL ASSAULT.

MEMBERS OF THE JURY, YOU HAVE HEARD THE COMPLAINANT, MS. HENRY, TESTIFY UNDER OATH THAT THE DEFENDANT, MR. SIMONS, CAME TO HER DOOR AND FORCED HIS WAY INTO HER APARTMENT. SHE TESTIFIED THAT ONCE MR. SIMONS WAS INSIDE HER APARTMENT, HE ATTACKED HER. MS. HENRY TESTIFIED THAT SHE TRIED TO FEND OFF HIS ATTACK AND WAS THEN SEXUALLY ASSAULTED BY MR. SIMONS.

YOU HAVE HEARD MS. HENRY FURTHER TESTIFY THAT IN HER STRUGGLE WITH MR. SIMONS, SHE SCRATCHED THE LEFT SIDE OF HIS NECK. SHE ALSO TESTIFIED THAT MR. SIMONS USED THE BELT FROM HER SKIRT TO TIE HER LEFT WRIST TO THE BEDPOST, AND THREATENED TO BREAK HER ARM IF SHE DID NOT CO-OPERATE.

YOU HAVE ALSO HEARD THE TESTIMONY OF OTHER WITNESSES CALLED BY THE CROWN. YOU HEARD A POLICE OFFICER DESCRIBE THAT HE FOUND A WOMAN'S BELT TIED TO THE BEDPOST IN MS. HENRY'S APARTMENT. YOU HAVE HEARD A WITNESS WHO EXAMINED MS. HENRY FOR INJURIES TESTIFY THAT SHE HAD A SWOLLEN AND BRUISED LEFT WRIST. THIS WITNESS FURTHER TESTIFIED THAT THESE INJURIES WERE SUSTAINED AS A RESULT OF AN EXTREME AMOUNT OF PRESSURE BEING PLACED UPON HER WRIST. IN ADDITION, YOU HEARD

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MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS
STANDARD REFERENCE MATERIAL 1010a
(ANSI and ISO TEST CHART No. 2)

A WITNESS WHO EXAMINED MR. SIMONS TESTIFY THAT HE FOUND A FOUR AND ONE HALF INCH SCRATCH ON THE RIGHT SIDE OF MR. SIMONS NECK. HE FURTHER TESTIFIED THAT THE SCRATCH HAD BEEN CAUSED BY ANOTHER INDIVIDUALS FINGERNAILS WITHIN THE PRECEDING SEVENTY-TWO HOURS OF THE EXAMINATION.

MEMBERS OF THE JURY YOU HEARD A WITNESS WHO SERVED THE COMPLAINANT, MS. HENRY, AND THE DEFENDANT, MR. SIMONS, ALCOHOLIC DRINKS AT A TAVERN EARLIER IN THE EVENING. THIS WITNESS STATED THAT NEITHER MR. SIMONS NOR MS. HENRY APPEARED TO BE INTOXICATED AND THAT MS. HENRY LEFT THE ESTABLISHMENT ABOUT A HALF HOUR BEFORE THE DEFENDANT.

AS WELL, YOU HEARD THIS WITNESS TESTIFY THAT SHE DID NOT OBSERVE ANY FLIRTATIOUS BEHAVIOR BETWEEN THE COMPLAINANT AND DEFENDANT. YOU ALSO HEARD TESTIMONY FROM TWO WITNESSES WHO WERE AT THE TAVERN WITH THE COMPLAINANT AND DEFENDANT. THESE WITNESSES ALSO TESTIFIED THAT THEY DID NOT OBSERVE ANY FLIRTATIOUS BEHAVIOR BETWEEN MS. HENRY AND MR. SIMONS.

WITH REGARD TO THE CREDIBILITY OF TESTIMONY, A FURTHER ELEMENT HAS BEEN INTRODUCED INTO THIS TRIAL THROUGH THE

ADMISSION OF THE EVIDENCE OF A POLYGRAPH OR LIE-DETECTION EXPERT. THERE IS PRECEDENT FOR ADMISSION OF SUCH EVIDENCE IN CANADIAN LAW. IN THIS CASE THE ACCUSED VOLUNTEERED TO UNDERGO SUCH TESTING PRIOR TO THE TRIAL AND THE CROWN AND THE DEFENCE AGREED TO ADMIT THE RESULTS OF THE TEST NO MATTER WHAT THE RESULTS WERE-- WHETHER THE RESULTS FAVOURED THE ACCUSED OR NOT. I HAVE BEEN SATISFIED BY THE EVIDENCE THAT THE POLYGRAPH TEST WAS ADMINISTERED BY A SUFFICIENTLY EXPERT PERSON.

POLYGRAPH TESTING OR LIE DETECTION IS BASED ON THE THEORY THAT THERE IS A RELATIONSHIP BETWEEN LYING OR TRUTH-TELLING AND EMOTIONAL STATE, AND FURTHER, THAT THERE IS A DETECTABLE RELATIONSHIP BETWEEN EMOTIONAL STATES AND BODILY STATES. TO SIMPLIFY, THIS THEORY IS SIMPLY A SOPHISTICATED EXTENSION OF WHAT WE KNOW IN OUR OWN EXPERIENCE: WHEN A PERSON LIES, HE MAY FEEL GUILTY OR ANXIOUS ABOUT BEING DISCOVERED AND THIS SHOWS UP IN BODILY REACTIONS-- HIS PALMS MAY SWEAT, HIS MOUTH MAY BECOME DRY, HIS HEART RATE INCREASES, ETC. TO DETECT SUCH BODILY CHANGES, THE POLYGRAPH MEASURES HEART RATE, BLOOD PRESSURE, RESPIRATION RATE AND SWEAT GLAND ACTIVITY. BY MEASURING SUCH STATES OF BODILY AROUSAL DURING A CAREFULLY CONSTRUCTED INTERVIEW,

THE POLYGRAPH EXPERT CAN MEASURE CHANGES IN AROUSAL WHEN CERTAIN CRITICAL QUESTIONS ARE ASKED AND THUS DETERMINE WHETHER THE PERSON IS BEING TRUTHFUL OR DECEPTIVE.

ALTHOUGH SUCH EVIDENCE HAS BEEN ALLOWED FOR YOUR CONSIDERATION IT IS NECESSARY TO MAKE SOME CAUTIONARY REMARKS. THE EVIDENCE INDICATES THAT THE POLYGRAPH TEST IS APPROXIMATELY 80 TO 90% ACCURATE IN DETECTING TRUTH AND DECEPTION. IT THUS IS IN ERROR 10 TO 20% OF THE TIME AND THE PREPONDERANCE OF THESE ERRORS TENDS TO BE WHAT IS CALLED "FALSE POSITIVE"; THAT IS, WHEN AN ERROR IS MADE IN THE TESTING, A LARGER PERCENTAGE OF THESE ERRORS TENDS TO INDICATE THAT AN ACTUALLY INNOCENT PERSON IS GUILTY. THE OPPOSITE, FALSE NEGATIVES, ALSO OCCUR, THOUGH. YOU MUST NOT BE OVERIMPRESSED WITH THE TECHNICAL NATURE OF THIS EVIDENCE. THE TEST IS QUITE FALLIBLE. ALSO, BECAUSE THIS TEST IS FALLIBLE IT SHOULD NOT BE VIEWED AS, BY ANY MEANS, CONCLUSIVE BUT RATHER AS A GUIDE AND MUST BE CONSIDERED IN THE LIGHT OF ALL THE OTHER EVIDENCE YOU HAVE HEARD. ULTIMATELY, HOWEVER, IT IS YOUR DECISION AS TO WHAT WEIGHT YOU ATTACH TO THIS TESTIMONY.

NOW IT IS THE CONSIDERED OPINION OF THE POLYGRAPH EXPERT WHO TESTED GEORGE SIMONS THAT MR. SIMONS IS LYING WHEN HE SAYS HE DID NOT FORCE MISS HENRY AGAINST HER

WILL TO HAVE SEXUAL INTERCOURSE WITH HIM. THE CROWN, OF COURSE, SUGGESTS THAT THIS POINTS TO THE GUILT OF THE ACCUSED. THE DEFENCE SUGGESTS THAT THIS IS A CASE OF THE POLYGRAPH BEING IN ERROR AS THE CIRCUMSTANCES OF THE CASE AND THE OTHER TESTIMONIES CONTRADICT THIS POLYGRAPH EVIDENCE.

MEMBERS OF THE JURY, SEXUAL ASSAULT MEANS NON-CONSENSUAL SEXUAL RELATIONS. A PERSON WHO VOLUNTARILY ENGAGES IN SEX WITH ANOTHER PARTY AND WHO LATER REGRETS HAVING DONE SO HAS NOT BEEN SEXUALLY ASSAULTED BECAUSE THE SEXUAL ACT, DESPITE LATER REGRETS, WAS A NON-COERCED AND VOLUNTARY ACTION.

YOU HAVE HEARD THE DEFENCE CONTEND THAT MS. HENRY WAS NOT SEXUALLY ASSAULTED BY MR. SIMONS BUT INSTEAD VOLUNTARILY ENGAGED IN SEXUAL RELATIONS. IN CONTRADICTION TO THE TESTIMONY OF MS. HENRY, MR. SIMONS TESTIFIED THAT HE ENTERED MS. HENRY'S APARTMENT ONLY AFTER HE WAS ASKED TO DO SO. YOU ALSO HEARD MR. SIMONS TESTIFY THAT HE WAS INVITED TO SIT ON THE SOFA BY MS. HENRY. IT IS THE DEFENCE'S CONTENTION THAT MS. HENRY MADE OBVIOUS HER SEXUAL WILLINGNESS TO MR. SIMONS. THE DEFENCE DOES NOT CHALLENGE

THAT MR. SIMONS HAD SEXUAL INTERCOURSE WITH MS. HENRY. HOWEVER, THE DEFENCE CONTENDS THAT MS. HENRY VOLUNTARILY ENGAGED IN THE SEXUAL INTERCOURSE WITH MR. SIMONS. ALSO, THE DEFENCE DOES NOT CHALLENGE THE FACT THAT MS. HENRY SCRATCHED MR. SIMONS. HOWEVER, THE DEFENCE CONTENDS THAT MS. HENRY SCRATCHED MR. SIMONS ACCIDENTALLY IN THE HEAT OF SEXUAL EXCITEMENT.

THE DEFENCE ALSO DOES NOT DENY THAT MR. SIMONS TIED MS. HENRY'S LEFT WRIST TO THE BEDPOST. HOWEVER, WHAT THE DEFENCE DOES CONTEND IS THAT THIS ACTION WAS TAKEN BY MR. SIMONS ONLY UPON THE REQUEST OF MS. HENRY.

ACCORDING TO THE THEORY PRESENTED BY THE CROWN, MR. SIMONS WAS SEXUALLY AROUSED BY TO MS. HENRY AND TOOK ADVANTAGE OF THE FACT THAT HE KNEW WHERE SHE LIVED. ACCORDING TO THIS THEORY, MR. SIMONS WENT TO MS. HENRY'S APARTMENT, FORCED HIS WAY IN AND SEXUALLY ASSAULTED HER.

ACCORDING TO THE THEORY PRESENTED BY THE DEFENCE, AFTER HAVING CONSENSUAL SEXUAL RELATIONS WITH MR. SIMONS, MS. HENRY BECAME ENRAGED WHEN SHE LEARNED THAT NO

PERMANENT RELATIONSHIP WITH MR. SIMONS WAS FORTHCOMING. ACCORDING TO THIS THEORY, MS. HENRY THEN ACCUSED MR. SIMONS OF SEXUAL ASSAULT.

MEMBERS OF THE JURY, AS YOU DELIBERATE IT IS IMPORTANT THAT YOU REVIEW CAREFULLY ALL OF THE EVIDENCE THAT HAS BEEN PRESENTED. YOU SHOULD THINK CAREFULLY ABOUT THE TESTIMONY YOU HAVE HEARD AND WHERE THERE WAS CONFLICTING TESTIMONY YOU MUST MAKE JUDGEMENTS ABOUT THE CREDIBILITY OF THE WITNESSES INVOLVED. NOT EVERYTHING SAID IN A COURT OF LAW IS NECESSARILY THE TRUTH. PEOPLE ARE OFTEN SWAYED BY VARIOUS PERSONAL MOTIVATIONS TO PRESENT THEIR EVIDENCE IN A WAY THAT IS FAVOURABLE TO THE OUTCOME THEY FAVOUR.

IT IS UP TO YOU TO USE YOUR INTELLIGENCE AND COMMON SENSE WHEN EVALUATING THE EVIDENCE IN REACHING YOUR CONCLUSIONS. IF AFTER CAREFUL DELIBERATION YOU CONCLUDE THAT THE EVIDENCE PRESENTED BEFORE YOU PROVES BEYOND A REASONABLE DOUBT THAT MR. SIMONS SEXUALLY ASSAULTED MS. HENRY, THEN YOU SHOULD FIND MR. SIMONS GUILTY OF SEXUAL ASSAULT.

NOW A REASONABLE DOUBT CONCERNING DOUBT IS NOT MERELY THE POSSIBILITY OF INNOCENCE. A REASONABLE DOUBT IS A DOUBT THAT WOULD CAUSE A REASONABLE AND PRUDENT PERSON IN THE GRAVE 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 IT TENDS TO SUPPORT. PROOF BEYOND A REASONABLE DOUBT IS PROOF ENOUGH TO CONVINCE REASONABLE PEOPLE WHO HAVE EXAMINED THE EVIDENCE BEFORE THEM THAT THE CRIME THE DEFENDANT IS CHARGED WITH HAS BEEN COMMITTED BY THE DEFENDANT. PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT CONVINCES REASONABLE PEOPLE THAT NO OTHER REASONABLE CONCLUSION IS POSSIBLE.

MEMBERS OF THE JURY, YOU MAY NOW RETIRE AND BEGIN YOUR DELIBERATIONS.

PROSECUTION'S CLOSING STATEMENT RAPE EXPERT

MEMBERS OF THE JURY, THE EVIDENCE IN THIS CASE IS CLEAR AND CONSISTENT AND THAT EVIDENCE INDICATES BEYOND ANY REASONABLE DOUBT THAT GEORGE SIMONS BOUND AND RAPED ELLEN HENRY. THE EVIDENCE AGAINST MR. HENRY IS SO CLEAR, THAT IN ORDER TO ANSWER THE CHARGE, THE DEFENCE HAS RESORTED TO A DESPERATE STRATEGY. A STRATEGY OF FANTASY AND FABRICATION. IN THIS STRATEGY MR. SIMONS IS NO LONGER THE CULPRIT. INSTEAD HE IS PORTRAYED AS AN INNOCENT VICTIM OF A "TERRIBLE MISUNDERSTANDING". AND WHO IS THE CULPRIT IN THIS MISUNDERSTANDING? WHY, IT'S POOR MS. HENRY. IT ISN'T BAD ENOUGH THAT MR. SIMONS ATTACKED, BOUND AND RAPED MS. HENRY. NO, HE NOW TRIES TO PUT MS. HENRY ON TRIAL, BY CONCOCTING THIS RIDICULOUS STORY THAT SHE WAS THE JILTED AND VENGEFUL LOVER, AND HE THE INNOCENT VICTIM.

MEMBERS OF THE JURY, LET US LOOK CAREFULLY AT EACH PIECE OF EVIDENCE IN THIS CASE. WHEN WE DO THAT WE WILL SEE THAT THE EVIDENCE POINTS TO ONLY ONE CONCLUSION; THAT MR. SIMONS BOUND AND RAPED MS. HENRY.

WE HAVE A YOUNG MAN, MR. SIMONS, WHO IS OBVIOUSLY SEXUALLY AROUSED BY MS. HENRY. HOW AROUSED IS HE? HE IS SO AROUSED BY HER THAT HE GOES TO HER APARTMENT, FORCES HIS WAY IN AND TAKES WHAT HE WANTS.

AND HOW IS MR. SIMONS ABLE TO DO THIS? WELL HE KNOWS EXACTLY WHERE MS. HENRY LIVES; A FACT THAT MR. SIMONS USED TO HIS OWN ABHORRENT ADVANTAGE, AND TO THE DETRIMENT OF MS. HENRY.

ONCE MR. SIMONS FORCED HIS WAY INTO MS. HENRY'S APARTMENT, WHAT DO WE KNOW? WE KNOW AT SOME POINT, MR. SIMONS RECEIVED A SCRATCH TO HIS NECK WHILE STRUGGLING WITH MS. HENRY. A DOCTOR TESTIFIED THAT MR. SIMONS DID INDEED HAVE A FOUR AND A HALF INCH SCRATCH ON HIS NECK. THE DOCTOR ALSO TESTIFIED THAT THIS SCRATCH COULD HAVE BEEN ACQUIRED DURING A STRUGGLE WITH A WOMAN, AND MS. HENRY DESCRIBED EXACTLY HOW THE SCRATCH WAS INFLICTED. SHE SCRATCHED MR. SIMONS IN HER FUTILE ATTEMPT TO FIGHT HIM OFF. AND, AS A RESULT OF HER SCRATCHING HIM MR. SIMONS TIED HER WRIST TO THE BEDPOST SO SHE COULDN'T SCRATCH HIM AGAIN. NOW HOW DOES MR. SIMONS EXPLAIN THIS SCRATCH? HE STATES THAT IT WAS CAUSED ACCIDENTALLY BY MS. HENRY. MEMBERS OF THE JURY, DO YOU HONESTLY BELIEVE THAT A FOUR AND A HALF INCH SCRATCH COULD BE CAUSED ACCIDENTALLY DURING A SUPPOSED SEXUAL ENCOUNTER? NO, THAT IDEA IS ABSURD AND UTTERLY RIDICULOUS. WE ALSO KNOW THAT MS. HENRY'S WRIST WAS SEVERELY BRUISED

AFTER MR. SIMONS TIED IT TO THE BEDPOST. YOU HEARD A MEDICAL EXPERT TESTIFY THAT THIS BRUISING IS CONSISTENT WITH MS. HENRY BEING RESTRAINED. YOU HEARD MS. HENRY TESTIFY THAT MR. SIMONS, IN ORDER TO RESTRAIN HER, REMOVED HER BELT AND BOUND HER WRIST TO THE BEDPOST. YOU HEARD A POLICE OFFICER TESTIFY THAT HE FOUND A BELT TIED TO THE BEDPOST WHERE MS. HENRY SAID IT WOULD BE.

YET HOW DOES THE DEFENDANT TRY TO EXPLAIN ALL OF THIS? HE WOULD HAVE YOU BELIEVE THE RIDICULOUS STORY THAT MS. HENRY ASKED TO BE TIED UP FOR SEXUAL PLEASURE. NO, MEMBERS OF THE JURY, THE REASON MS. HENRY WAS TIED UP WAS BECAUSE SHE WAS TOUGHER THAN MR. SIMONS THOUGHT SHE WOULD BE. EVIDENCE OF THIS IS THE LARGE SCRATCH ON HIS NECK AND THE BRUISING AND SWELLING CAUSED BY HER DESPERATE STRUGGLES TO FREE HERSELF.

MEMBERS OF THE JURY, MR. SIMONS STORY IS ABSURD. IT WAS CREATED BY HIM, AFTER THE FACT, IN ORDER TO INCLUDE JUST THOSE ELEMENTS THAT MS. HENRY WOULD TESTIFY TO. BUT THERE IS NOT A SINGLE SHRED OF CORROBORATION FOR EVEN A SINGLE ELEMENT OF MR. SIMONS STORY. IT IS SIMPLY FANTASY AND FABRICATION. IN OTHER WORDS, LIES FROM BEGINNING TO END.

IN ADDITION, YOU HEARD A RAPE EXPERT TESTIFY THAT PSYCHOLOGICAL REACTIONS LIKE THOSE EXHIBITED BY MS. HENRY ARE CONSISTENT WITH HAVING BEEN RAPED. THIS EXPERT ALSO TESTIFIED THAT A MAN'S HAVING A STEADY JOB AND NO PREVIOUS CRIMINAL RECORD IS NO INDICATION THAT HE IS NOT A RAPIST.

NOW THE DEFENCE COUNCIL ASKS WHY IT TOOK MS. HENRY A DAY A HALF TO REPORT TO THE POLICE THAT SHE HAD BEEN RAPED. THE ANSWER IS OBVIOUS. MY CLIENT WAS OVERWHELMED BY THE EVENTS; SHE WAS CONFUSED AND EMBARRASSED. SHE WAS TERRIFIED THAT SHE WOULD HAVE TO RELIVE THESE HORRIBLE EVENTS AS SHE DESCRIBED THEM TO THE POLICE. THE THOUGHT OF HAVING TO DESCRIBE THE DISGUSTING PERSONAL EVENTS OF HER RAPE TO TOTAL STRANGERS OVERWHELMED AND FRIGHTENED HER. FINALLY SHE REALIZED THAT SHE HAD TO TELL SOMEONE. YET SHE WAS EMBARRASSED.

SO SHE CALLED SOMEONE SHE COULD TRUST, HER FRIEND SUSAN WILSON. SHE TOLD HER FRIEND ABOUT THE HORRIBLE EVENTS OF THE PREVIOUS EVENING, AND AFTER CAREFUL THOUGHT AND OBVIOUS CONCERN FOR HER OWN SAFETY AND THE SAFETY OF OTHER WOMEN SHE DECIDED TO GO TO THE POLICE.

MEMBERS OF THE JURY, WHETHER A WOMAN REPORTS A SEXUAL ASSAULT TWO HOURS, TWO DAYS OR TWO MONTHS AFTER ITS OCCURRENCE SHOULD NOT BE AT QUESTION HERE. IT IS A WELL KNOWN FACT THAT RAPES ARE OFTEN NOT REPORTED RIGHT AWAY BECAUSE OF THE WOMAN'S INTENSE EMBARRASSMENT. THIS DOES NOT MEAN THAT THE CRIME NEVER OCCURRED. ON THE CONTRARY, THE FACT THAT MS. HENRY DID REPORT THE CRIME IS A TESTAMENT TO HER COURAGE AND HER CONCERN FOR OTHERS WHO MIGHT HAVE BEEN MR. SIMONS' NEXT VICTIMS.

MEMBERS OF THE JURY, MR. SIMONS THOUGHT HE COULD GET AWAY WITH HIS CRIME BY FRIGHTENING HIS VICTIM. YET WHEN THIS FAILED, HE WAS FORCED TO CREATE THIS PACK OF LIES TO TRY AND COVER THE FACTS OF THE CASE. THERE IS NOT A SINGLE SHRED OF EVIDENCE TO SUPPORT ANY OF HIS CLAIMS.

MEMBERS OF THE JURY, SEXUAL ASSAULT IS A BRUTAL VIOLATION OF A WOMAN'S PERSONAL FREEDOM AND PRIVACY. IT LEAVES EMOTIONAL SCARS WHICH CAN LAST A LIFETIME. MS. HENRY WILL NEVER FORGET WHAT HAPPENED TO HER ON OCTOBER 10, 1990.

IN ORDER TO PROTECT OTHER WOMEN, GIVE MS. HENRY PEACE OF MIND, AND GIVE MR. SIMONS THE PUNISHMENT HE SO RIGHTLY DESERVES, I ASK YOU TO FIND GEORGE SIMONS GUILTY OF SEXUAL ASSAULT.

CLOSING STATEMENT DEFENCE RAPE EXPERT

MEMBERS OF THE JURY, AT THE BEGINNING OF THIS TRIAL I TOLD YOU THAT SEXUAL ASSAULT IS A SERIOUS AND REPUGNANT CRIME WHICH DESERVES TO BE PUNISHED TO THE FULL EXTENT OF THE LAW. BUT MEMBERS OF THE JURY, THIS TRIAL IS NOT ABOUT SEXUAL ASSAULT. NO, IT IS ABOUT AN INSECURE WOMAN WHO FELT REJECTED AND VENTED HER FRUSTRATION IN A VINDICTIVE WAY. A WOMAN WHO FELT USED AND FALSELY ACCUSED MY CLIENT OF SEXUAL ASSAULT IN ORDER TO GET EVEN WITH HIM.

MEMBERS OF THE JURY, MY CLIENT, MR. GEORGE SIMONS IS NOT A RAPIST. HE IS AN UPSTANDING, HARD-WORKING MEMBER OF THE COMMUNITY. MEMBERS OF THE JURY, THE CROWN'S CASE MAKES NO

SENSE. YOU HAVE ALL HEARD MR. SIMONS ON THE WITNESS STAND. HE IS OBVIOUSLY AN INTELLIGENT MAN. AN INTELLIGENT MAN WOULDN'T RAPE A WOMAN AFTER HAVING SPENT AN EVENING WITH HER AND TWO OTHER PEOPLE. WHY? BECAUSE HIS IDENTITY IS KNOWN NOT ONLY TO HER, BUT ALSO TO THE TWO FRIENDS IN THE TAVERN. IF HE WAS TO ASSAULT HER, HE WOULD HAVE NO DEFENCE. IT WOULD MAKE NO SENSE BECAUSE HE WOULD BE IDENTIFIED IMMEDIATELY. OBVIOUSLY AN INTELLIGENT MAN LIKE MR. SIMONS WOULD NOT DO SUCH A THING.

MEMBERS OF THE JURY, MY CLIENT IS NOT A RAPIST. HE DID NOT BIND AND RAPE MS. HENRY. HE IS THE REAL VICTIM IN THIS CASE.

HE IS THE VICTIM OF A VERY CONFUSED, MISGUIDED AND VINDICTIVE WOMAN WHO HAS MADE FALSE ACCUSATIONS IN ORDER TO DEAL WITH HER OWN INSECURITIES.

LET US CONSIDER MS. HENRY'S ACCUSATIONS AND WHY THEY WERE MADE. MS. HENRY TESTIFIED HERSELF THAT SHE WOULD HAVE LIKED TO HAVE BEEN IN A SERIOUS RELATIONSHIP. MS. HENRY SPENT THE EVENING SOCIALIZING WITH MR. SIMONS. THEY BOTH HAD A LOT IN COMMON, AND GOT ALONG VERY WELL TOGETHER. MS. HENRY REALIZED THAT MR. SIMONS WAS ALSO ATTRACTED TO HER, HOW DID

SHE KNOW THIS? SHE KNEW BECAUSE HE RECIPROCATED HER SEXUALLY FLIRTATIOUS BEHAVIOR UNDER THE TAVERN TABLE.

SO HERE WAS A MAN WHO WAS JUST WHAT MS. HENRY WAS LOOKING FOR. A NICE GUY, ATTRACTIVE AND SOMEONE WITH WHOM SHE SHARED COMMON INTERESTS. HOW DID SHE SIGNAL HIM THAT SHE WOULD LIKE TO PURSUE A RELATIONSHIP? SHE SAYS TO MR. SIMONS, "I'LL SEE YOU LATER", KNOWING FULL WELL THAT MR. SIMONS IS MORE THAN AWARE OF EXACTLY WHERE SHE LIVES. MS. HENRY LEFT THE TAVERN AND WAITED FOR MR. SIMONS ARRIVAL. WHEN HE ARRIVED SHE ASKED HIM TO COME INSIDE TO WARM UP AND HAVE COFFEE. ONCE INSIDE SHE SEDUCED HIM. MR. SIMONS OBVIOUSLY DID NOT RESIST, WHY WOULD HE? HE WAS ATTRACTED TO HER. HOWEVER, ONCE IN BED WITH MS. HENRY, HE REALIZED THAT SHE WAS NOT WHAT HE EXPECTED. SHE BECAME QUITE AGGRESSIVE. BY HER OWN TESTIMONY, SHE ADMITS THAT SHE SCRATCHED MY CLIENT ON THE SIDE OF HIS NECK DURING SEX.

MEMBERS OF THE JURY, YOU HEARD A MEDICAL EXPERT WHO EXAMINED MR. SIMONS TESTIFY THAT THE SCRATCH ON HIS NECK COULD HAVE BEEN CAUSED BY A WOMAN DIGGING HER NAILS INTO HIM DURING SEXUAL EXCITEMENT.

AS WELL, MS. HENRY TOLD MY CLIENT THAT SHE FOUND INTERCOURSE TO BE MORE AROUSING 'F SHE WAS TIED UP. MR. SIMONS TIED MS. HENRY'S LEFT WRIST TO THE BEDPOST IN ORDER TO INCREASE HER SEXUAL PLEASURE. IN THE HEAT OF PASSION SHE PULLED VIOLENTLY AGAINST THE BELT AROUND HER WRIST, AND CAUSED BRUISING AND SWELLING TO APPEAR ON THAT WRIST. MEMBERS OF THE JURY, YOU HEARD A DOCTOR TESTIFY THAT THE BRUISING AND SWELLING TO MS. HENRY'S WRIST COULD HAVE BEEN CAUSED BY HER OWN ACTIONS. AND THIS IS, IN FACT, HOW THIS INJURY OCCURRED.

AFTER THEY HAD INTERCOURSE, MS. HENRY WAS CONFIDENT THAT SHE HAD FOUND SOMEONE TO FORM A STEADY RELATIONSHIP WITH. AS YOU HEARD MR. SIMONS TESTIFY, SHE STATED THAT SHE WAS GLAD SHE HAD FINALLY FOUND A MAN WHO UNDERSTOOD AND CARED FOR HER. HAVING JUST MET MS. HENRY, MR. SIMONS FELT UNCOMFORTABLE WITH THIS TALK OF A STEADY RELATIONSHIP. ALSO, MR. SIMONS FELT THAT MS. HENRY WAS KINKIER THAN HE EXPECTED OR DESIRED. AS A RESULT, HE DID NOT WISH TO GET INVOLVED IN A RELATIONSHIP WITH HER.

SO WE HAVE A WOMAN, MS. HENRY, WHO FELT SHE'S FOUND THE MAN TO FILL HER NEEDS AND PROVIDE HER WITH THE STEADY RELATIONSHIP SHE HAD BEEN SEEKING. BUT MR. SIMONS DECIDED TO LEAVE AND WHEN MS. HENRY ASKED ABOUT SEEING HIM AGAIN, HE BECAME EVASIVE. WHY? OBVIOUSLY HE DIDN'T WANT WHAT MS. HENRY HAD ALREADY PLANNED; A RELATIONSHIP BETWEEN THE TWO OF THEM. WHEN MR. SIMONS TRIED TO LEAVE, MS. HENRY STARTED TO BECOME HYSTERICAL. SHE ACCUSED HIM OF SEEING SOMEBODY ELSE, AND THAT HE HAD USED HER ONLY FOR SEX. AT THIS POINT, MS. HENRY SCREAMED AT MY CLIENT THAT HE "WOULDN'T GET AWAY WITH IT".

SO HOW DOES SHE GET EVEN WITH MY CLIENT? SHE FALSELY ACCUSES HIM OF SEXUALLY ASSAULTING HER, KNOWING FULL WELL THAT THE INTERCOURSE HAD BEEN CONSENSUAL. AND REMEMBER, SHE HAD EVIDENCE WHICH SHE COULD TWIST AND MAKE LOOK INCRIMINATING. THE BRUISES AND SWELLING ON HER WRIST. THE SCRATCH ON MR. SIMONS NECK, WHICH SHE HERSELF PUT THERE DURING THEIR INTERCOURSE. ALL OF THESE PIECES OF EVIDENCE LOOK INCRIMINATING ON THE SURFACE; HOWEVER WHEN THE FACTS ARE REVEALED, THEY ARE EASILY EXPLAINED. ALSO, WHY DID MS. HENRY WAIT ALMOST TWO DAYS BEFORE REPORTING THIS SUPPOSED

CRIME TO THE POLICE? BECAUSE IT TOOK MS. HENRY THIS TIME TO FABRICATE THIS RIDICULOUS STORY. SHE EVEN CALLS HER FRIEND MS. WILSON, AND TELLS HER THAT SHE HAS BEEN SEXUALLY ASSAULTED BY MR. SIMONS. WHY? TO TRY AND LEND CREDIBILITY TO HER ALLEGATIONS OF COURSE.

FOR INSTANCE, WHEN MS. HENRY FINALLY CALLED THE POLICE WHAT DOES THE OFFICER FIND? A BELT TIED TO A BEDPOST; NO SIGNS OF A STRUGGLE; AND A SUPPOSED VICTIM WHO SHOWS LITTLE SIGN OF INJURY, AND APPEARS BY THE OFFICERS' OWN TESTIMONY TO BE NERVOUS, BUT OTHERWISE RELATIVELY CALM.

WHEN THE POLICE ARRIVE AT MR. SIMON'S WHAT DOES HE TELL THEM? HE TELLS THEM THE TRUTH. YES HE WAS AT "FRASER'S TAVERN" ON OCTOBER 10, 1990. YES HE KNOWS ELLEN HENRY. YES HE HAD INTERCOURSE WITH HER. HE ADMITS THIS FREELY. MEMBERS OF THE JURY, MY CLIENT HAS NOTHING TO HIDE BECAUSE HE HAS DONE NOTHING WRONG. HE DID NOT RAPE MS. HENRY. HE IS INNOCENT.

MEMBERS OF THE JURY, THE DEFENSE CALLED AN EXPERT WHO TESTIFIED ABOUT THE PSYCHOLOGICAL REACTIONS OF WOMEN WHO HAVE BEEN RAPED. HOWEVER DURING CROSS-EXAMINATION THE

EXPERT ADMITTED THAT THESE PSYCHOLOGICAL REACTIONS CAN OCCUR FOR MANY REASONS OTHER THAN RAPE. IN ADDITION THE EXPERT ADMITTED THAT SOME WOMEN LIE ABOUT HAVING BEEN RAPED AND THAT THE SYMPTOMS OF STRESS ASSOCIATED WITH RAPE TRAUMA SYNDROME ARE COMMON KNOWLEDGE AND THEREFORE CAN BE EASILY FAKED.

MEMBERS OF THE JURY, MY CLIENT DOES NOT HAVE TO PROVE HIS INNOCENCE. INSTEAD, MY CLIENT IS PRESUMED INNOCENT, UNLESS AND UNTIL PROVEN GUILTY BEYOND A REASONABLE DOUBT. BUT MEMBERS OF THE JURY, IT IS CLEAR THAT A GREAT DEAL OF DOUBT EXISTS IN THIS CASE. IN FACT, THE CROWN HAS BEEN UNABLE TO PROVIDE EVEN A SINGLE SHRED OF EVIDENCE THAT POINTS UNEQUIVOCALLY TO THE GUILT OF MY CLIENT. ON THE CONTRARY, MY CLIENT HAS ANSWERED EVERY CONCERN RAISED BY THE CROWN.

MEMBERS OF THE JURY, MY CLIENT IS NOT A CRIMINAL. NO HE IS THE REAL VICTIM IN THIS CASE. A MAN FALSELY ACCUSED OF A CRIME HE DID NOT COMMIT. FOR THESE REASONS, MEMBERS OF THE JURY, I ASK YOU TO FIND GEORGE SIMONS NOT GUILTY OF SEXUAL ASSAULT.

JUDGE'S CHARGE RAPE EXPERT

MEMBERS OF THE JURY, YOU HAVE HEARD THE EVIDENCE IN THIS CASE AND NOW YOU MUST DELIBERATE TO A UNANIMOUS VERDICT. IT IS THE CONTENTION OF THE CROWN THAT MR. GEORGE SIMONS COMMITTED SEXUAL ASSAULT AGAINST MS. ELLEN HENRY.

ASSAULT IS DEFINED BY SECTION 244 OF THE CANADIAN CRIMINAL CODE AS FOLLOWS. A PERSON COMMITS SEXUAL ASSAULT WHEN:

(A) WITHOUT THE CONSENT OF ANOTHER PERSON, HE APPLIES FORCE INTENTIONALLY TO THE OTHER PERSON, DIRECTLY OR INDIRECTLY;

AND

(B) HE ATTEMPTS OR THREATENS, BY ACT OR GESTURE, TO APPLY FORCE TO ANOTHER PERSON, IF HE HAS, OR CAUSES THAT OTHER PERSON TO BELIEVE UPON REASONABLE GROUNDS, THAT HE HAS, PRESENT ABILITY TO EFFECT HIS PURPOSE TO THAT PERSON.

LET ME REMIND YOU THAT THIS SECTION OF THE CRIMINAL CODE APPLIES TO ALL FORMS OF ASSAULT, INCLUDING SEXUAL ASSAULT.

MEMBERS OF THE JURY, YOU HAVE HEARD THE COMPLAINANT, MS. HENRY, TESTIFY UNDER OATH THAT THE DEFENDANT, MR. SIMONS, CAME TO HER DOOR AND FORCED HIS WAY INTO HER APARTMENT. SHE TESTIFIED THAT ONCE MR. SIMONS WAS INSIDE HER APARTMENT, HE ATTACKED HER. MS. HENRY TESTIFIED THAT SHE TRIED TO FEND OFF HIS ATTACK AND WAS THEN SEXUALLY ASSAULTED BY MR. SIMONS.

YOU HAVE HEARD MS. HENRY FURTHER TESTIFY THAT IN HER STRUGGLE WITH MR. SIMONS, SHE SCRATCHED THE LEFT SIDE OF HIS NECK. SHE ALSO TESTIFIED THAT MR. SIMONS USED THE BELT FROM HER SKIRT TO TIE HER LEFT WRIST TO THE BEDPOST, AND THREATENED TO BREAK HER ARM IF SHE DID NOT CO-OPERATE.

YOU HAVE ALSO HEARD THE TESTIMONY OF OTHER WITNESSES CALLED BY THE CROWN. YOU HEARD A POLICE OFFICER DESCRIBE THAT HE FOUND A WOMAN'S BELT TIED TO THE BEDPOST IN MS. HENRY'S APARTMENT. YOU HAVE HEARD A WITNESS WHO EXAMINED MS. HENRY FOR INJURIES TESTIFY THAT SHE HAD A SWOLLEN AND BRUISED LEFT WRIST. THIS WITNESS FURTHER TESTIFIED THAT THESE INJURIES WERE SUSTAINED AS A RESULT OF AN EXTREME AMOUNT OF PRESSURE BEING PLACED UPON HER WRIST. IN ADDITION, YOU HEARD A WITNESS WHO EXAMINED MR. SIMONS TESTIFY THAT HE FOUND A FOUR AND ONE HALF INCH SCRATCH ON THE RIGHT SIDE OF MR.

SIMONS NECK. HE FURTHER TESTIFIED THAT THE SCRATCH HAD BEEN CAUSED BY ANOTHER INDIVIDUALS FINGERNAILS WITHIN THE PRECEDING SEVENTY-TWO HOURS OF THE EXAMINATION.

MEMBERS OF THE JURY YOU HEARD A WITNESS WHO SERVED THE COMPLAINANT, MS. HENRY, AND THE DEFENDANT, MR. SIMONS, ALCOHOLIC DRINKS AT A TAVERN EARLIER IN THE EVENING. THIS WITNESS STATED THAT NEITHER MR. SIMONS NOR MS. HENRY APPEARED TO BE INTOXICATED AND THAT MS. HENRY LEFT THE ESTABLISHMENT ABOUT A HALF HOUR BEFORE THE DEFENDANT.

AS WELL, YOU HEARD THIS WITNESS TESTIFY THAT SHE DID NOT OBSERVE ANY FLIRTATIOUS BEHAVIOR BETWEEN THE COMPLAINANT AND DEFENDANT. YOU ALSO HEARD TESTIMONY FROM TWO WITNESSES WHO WERE AT THE TAVERN WITH THE COMPLAINANT AND DEFENDANT. THESE WITNESSES ALSO TESTIFIED THAT THEY DID NOT OBSERVE ANY FLIRTATIOUS BEHAVIOR BETWEEN MS. HENRY AND MR. SIMONS.

MEMBERS OF THE JURY, YOU ALSO HEARD THE TESTIMONY OF AN EXPERT WITNESS WHO TESTIFIED ON THE NATURE OF RAPE AND ON THE POPULAR MISCONCEPTIONS CONCERNING ITS PREVALENCE IN

SOCIETY. HOWEVER, IT IS AGAIN YOUR DECISION AS TO WHAT WEIGHT YOU WILL ATTACH TO THE EXPERT'S TESTIMONY.

MEMBERS OF THE JURY, SEXUAL ASSAULT MEANS NON-CONSENSUAL SEXUAL RELATIONS. A PERSON WHO VOLUNTARILY ENGAGES IN SEX WITH ANOTHER PARTY AND WHO LATER REGRETS HAVING DONE SO HAS NOT BEEN SEXUALLY ASSAULTED BECAUSE THE SEXUAL ACT, DESPITE LATER REGRETS, WAS A NON-COERCED AND VOLUNTARY ACTION.

YOU HAVE HEARD THE DEFENCE CONTEND THAT MS. HENRY WAS NOT SEXUALLY ASSAULTED BY MR. SIMONS BUT INSTEAD VOLUNTARILY ENGAGED IN SEXUAL RELATIONS. IN CONTRADICTION TO THE TESTIMONY OF MS. HENRY, MR. SIMONS TESTIFIED THAT HE ENTERED MS. HENRY'S APARTMENT ONLY AFTER HE WAS ASKED TO DO SO. YOU ALSO HEARD MR. SIMONS TESTIFY THAT HE WAS INVITED TO SIT ON THE SOFA BY MS. HENRY. IT IS THE DEFENCE'S CONTENTION THAT MS. HENRY MADE OBVIOUS HER SEXUAL WILLINGNESS TO MR. SIMONS. THE DEFENCE DOES NOT CHALLENGE THAT MR. SIMONS HAD SEXUAL INTERCOURSE WITH MS. HENRY. HOWEVER, THE DEFENCE CONTENDS THAT MS. HENRY VOLUNTARILY ENGAGED IN THE SEXUAL INTERCOURSE WITH MR. SIMONS. ALSO, THE DEFENCE DOES NOT CHALLENGE THE FACT THAT MS. HENRY

SCRATCHED MR. SIMONS. HOWEVER, THE DEFENCE CONTENDS THAT MS. HENRY SCRATCHED MR. SIMONS ACCIDENTALLY IN THE HEAT OF SEXUAL EXCITEMENT.

THE DEFENCE ALSO DOES NOT DENY THAT MR. SIMONS TIED MS. HENRY'S LEFT WRIST TO THE BEDPOST. HOWEVER, WHAT THE DEFENCE DOES CONTEND IS THAT THIS ACTION WAS TAKEN BY MR. SIMONS ONLY UPON THE REQUEST OF MS. HENRY.

ACCORDING TO THE THEORY PRESENTED BY THE CROWN, MR. SIMONS WAS SEXUALLY AROUSED BY TO MS. HENRY AND TOOK ADVANTAGE OF THE FACT THAT HE KNEW WHERE SHE LIVED. ACCORDING TO THIS THEORY, MR. SIMONS WENT TO MS. HENRY'S APARTMENT, FORCED HIS WAY IN AND SEXUALLY ASSAULTED HER.

ACCORDING TO THE THEORY PRESENTED BY THE DEFENCE, AFTER HAVING CONSENSUAL SEXUAL RELATIONS WITH MR. SIMONS, MS. HENRY BECAME ENRAGED WHEN SHE LEARNED THAT NO PERMANENT RELATIONSHIP WITH MR. SIMONS WAS FORTHCOMING. ACCORDING TO THIS THEORY, MS. HENRY THEN ACCUSED MR. SIMONS OF SEXUAL ASSAULT.

MEMBERS OF THE JURY, AS YOU DELIBERATE IT IS IMPORTANT THAT YOU REVIEW CAREFULLY ALL OF THE EVIDENCE THAT HAS BEEN PRESENTED. YOU SHOULD THINK CAREFULLY ABOUT THE TESTIMONY YOU HAVE HEARD AND WHERE THERE WAS CONFLICTING TESTIMONY YOU MUST MAKE JUDGEMENTS ABOUT THE CREDIBILITY OF THE WITNESSES INVOLVED. NOT EVERYTHING SAID IN A COURT OF LAW IS NECESSARILY THE TRUTH. PEOPLE ARE OFTEN SWAYED BY VARIOUS PERSONAL MOTIVATIONS TO PRESENT THEIR EVIDENCE IN A WAY THAT IS FAVORABLE TO THE OUTCOME THEY FAVOUR.

IT IS UP TO YOU TO USE YOUR INTELLIGENCE AND COMMON SENSE WHEN EVALUATING THE EVIDENCE IN REACHING YOUR CONCLUSIONS. IF AFTER CAREFUL DELIBERATION YOU CONCLUDE THAT THE EVIDENCE PRESENTED BEFORE YOU PROVES BEYOND A REASONABLE DOUBT THAT MR. SIMONS SEXUALLY ASSAULTED MS. HENRY, THEN YOU SHOULD FIND MR. SIMONS GUILTY OF SEXUAL ASSAULT.

NOW A REASONABLE DOUBT CONCERNING DOUBT IS NOT MERELY THE POSSIBILITY OF INNOCENCE. A REASONABLE DOUBT IS A

DOUBT THAT WOULD CAUSE A REASONABLE AND PRUDENT PERSON IN THE GRAVE 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 IT TENDS TO SUPPORT. PROOF BEYOND A REASONABLE DOUBT IS PROOF ENOUGH TO CONVINCE REASONABLE PEOPLE WHO HAVE EXAMINED THE EVIDENCE BEFORE THEM THAT THE CRIME THE DEFENDANT IS CHARGED WITH HAS BEEN COMMITTED BY THE DEFENDANT. PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT CONVINCES REASONABLE PEOPLE THAT NO OTHER REASONABLE CONCLUSION IS POSSIBLE.

MEMBERS OF THE JURY, YOU MAY NOW RETIRE AND BEGIN YOUR DELIBERATIONS.

**PROSECUTION'S CLOSING STATEMENT DEFENDANT TRUTHFUL RAPE
EXPERT**

MEMBERS OF THE JURY, THE EVIDENCE IN THIS CASE IS CLEAR AND CONSISTENT AND THAT EVIDENCE INDICATES BEYOND ANY REASONABLE DOUBT THAT GEORGE SIMONS BOUND AND RAPED ELLEN HENRY. THE EVIDENCE AGAINST MR. HENRY IS SO CLEAR, THAT IN ORDER TO ANSWER THE CHARGE, THE DEFENCE HAS RESORTED TO A DESPERATE STRATEGY. A STRATEGY OF FANTASY AND FABRICATION. IN THIS STRATEGY MR. SIMONS IS NO LONGER THE CULPRIT. INSTEAD HE IS PORTRAYED AS AN INNOCENT VICTIM OF A "TERRIBLE MISUNDERSTANDING". AND WHO IS THE CULPRIT IN THIS MISUNDERSTANDING? WHY, IT'S POOR MS. HENRY. IT ISN'T BAD ENOUGH THAT MR. SIMONS ATTACKED, BOUND AND RAPED MS. HENRY. NO, HE NOW TRIES TO PUT MS. HENRY ON TRIAL, BY CONCOCTING THIS RIDICULOUS STORY THAT SHE WAS THE JILTED AND VENGEFUL LOVER, AND HE THE INNOCENT VICTIM.

MEMBERS OF THE JURY, LET US LOOK CAREFULLY AT EACH PIECE OF EVIDENCE IN THIS CASE. WHEN WE DO THAT WE WILL SEE THAT THE EVIDENCE POINTS TO ONLY ONE CONCLUSION; THAT MR. SIMONS BOUND AND RAPED MS. HENRY.

WE HAVE A YOUNG MAN, MR. SIMONS, WHO IS OBVIOUSLY SEXUALLY AROUSED BY MS. HENRY. HOW AROUSED IS HE? HE IS SO AROUSED BY HER THAT HE GOES TO HER APARTMENT, FORCES HIS WAY IN AND TAKES WHAT HE WANTS. AND HOW IS MR. SIMONS ABLE TO DO THIS? WELL HE KNOWS EXACTLY WHERE MS. HENRY LIVES; A FACT THAT MR. SIMONS USED TO HIS OWN ABHORRENT ADVANTAGE, AND TO THE DETRIMENT OF MS. HENRY.

ONCE MR. SIMONS FORCED HIS WAY INTO MS. HENRY'S APARTMENT, WHAT DO WE KNOW? WE KNOW AT SOME POINT, MR. SIMONS RECEIVED A SCRATCH TO HIS NECK WHILE STRUGGLING WITH MS. HENRY. A DOCTOR TESTIFIED THAT MR. SIMONS DID INDEED HAVE A FOUR AND A HALF INCH SCRATCH ON HIS NECK. THE DOCTOR ALSO TESTIFIED THAT THIS SCRATCH COULD HAVE BEEN ACQUIRED DURING A STRUGGLE WITH A WOMAN, AND MS. HENRY DESCRIBED EXACTLY HOW THE SCRATCH WAS INFLICTED. SHE SCRATCHED MR. SIMONS IN HER FUTILE ATTEMPT TO FIGHT HIM OFF. AND, AS A RESULT OF HER SCRATCHING HIM MR. SIMONS TIED HER WRIST TO THE BEDPOST SO SHE COULDN'T SCRATCH HIM AGAIN. NOW HOW DOES MR. SIMONS EXPLAIN THIS SCRATCH? HE STATES THAT IT WAS CAUSED ACCIDENTALLY BY MS. HENRY. MEMBERS OF THE JURY, DO YOU HONESTLY BELIEVE THAT A FOUR AND A HALF INCH SCRATCH

COULD BE CAUSED ACCIDENTALLY DURING A SUPPOSED SEXUAL ENCOUNTER? NO, THAT IDEA IS ABSURD AND UTTERLY RIDICULOUS. WE ALSO KNOW THAT MS. HENRY'S WRIST WAS SEVERELY BRUISED AFTER MR. SIMONS TIED IT TO THE BEDPOST. YOU HEARD A MEDICAL EXPERT TESTIFY THAT THIS BRUISING IS CONSISTENT WITH MS. HENRY BEING RESTRAINED. YOU HEARD MS. HENRY TESTIFY THAT MR. SIMONS, IN ORDER TO RESTRAIN HER, REMOVED HER BELT AND BOUND HER WRIST TO THE BEDPOST. YOU HEARD A POLICE OFFICER TESTIFY THAT HE FOUND A BELT TIED TO THE BEDPOST WHERE MS. HENRY SAID IT WOULD BE.

YET HOW DOES THE DEFENDANT TRY TO EXPLAIN ALL OF THIS? HE WOULD HAVE YOU BELIEVE THE RIDICULOUS STORY THAT MS. HENRY ASKED TO BE TIED UP FOR SEXUAL PLEASURE. NO, MEMBERS OF THE JURY, THE REASON MS. HENRY WAS TIED UP WAS BECAUSE SHE WAS TOUGHER THAN MR. SIMONS THOUGHT SHE WOULD BE. EVIDENCE OF THIS IS THE LARGE SCRATCH ON HIS NECK AND THE BRUISING AND SWELLING CAUSED BY HER DESPERATE STRUGGLES TO FREE HERSELF.

MEMBERS OF THE JURY, IT IS IMPORTANT THAT YOU DO NOT PLACE CREDENCE IN THE FACT THAT MR. SIMONS PASSED A LIE DETECTOR TEST. AS THE POLYGRAPHER HIMSELF WAS FORCED TO ADMIT THESE TESTS ARE FAR FROM INFALLIBLE. IN FACT, THE POLYGRAPHER WAS

FORCED TO ADMIT UNDER OATH THAT MANY EXPERTS CONSIDER THE TEST WORTHLESS AS AN INDICATION OF TRUTH.

IN ADDITION YOU HEARD A RAPE EXPERT TESTIFY THAT PSYCHOLOGICAL REACTIONS LIKE THOSE EXHIBITED BY MS. HENRY ARE CONSISTENT WITH HAVING BEEN RAPED. THIS EXPERT ALSO TESTIFIED THAT A MAN'S HAVING A STEADY JOB AND NO PREVIOUS CRIMINAL RECORD IS NO INDICATION THAT HE IS NOT A RAPIST.

MEMBERS OF THE JURY, MR. SIMONS STORY IS ABSURD. IT WAS CREATED BY HIM, AFTER THE FACT, IN ORDER TO INCLUDE JUST THOSE ELEMENTS THAT MS. HENRY WOULD TESTIFY TO. BUT THERE IS NOT A SINGLE SHRED OF CORROBORATION FOR EVEN A SINGLE ELEMENT OF MR. SIMONS STORY. IT IS SIMPLY FANTASY AND FABRICATION. IN OTHER WORDS, LIES FROM BEGINNING TO END.

NOW THE DEFENCE COUNCIL ASKS WHY IT TOOK MS. HENRY A DAY A HALF TO REPORT TO THE POLICE THAT SHE HAD BEEN RAPED. THE ANSWER IS OBVIOUS. MY CLIENT WAS OVERWHELMED BY THE EVENTS; SHE WAS CONFUSED AND EMBARRASSED. SHE WAS TERRIFIED THAT SHE WOULD HAVE TO RELIVE THESE HORRIBLE EVENTS AS SHE DESCRIBED THEM TO THE POLICE. THE THOUGHT OF HAVING TO

DESCRIBE THE DISGUSTING PERSONAL EVENTS OF HER RAPE TO TOTAL STRANGERS OVERWHELMED AND FRIGHTENED HER. FINALLY SHE REALIZED THAT SHE HAD TO TELL SOMEONE. YET SHE WAS EMBARRASSED.

SO SHE CALLED SOMEONE SHE COULD TRUST, HER FRIEND SUSAN WILSON. SHE TOLD HER FRIEND ABOUT THE HORRIBLE EVENTS OF THE PREVIOUS EVENING, AND AFTER CAREFUL THOUGHT AND OBVIOUS CONCERN FOR HER OWN SAFETY AND THE SAFETY OF OTHER WOMEN SHE DECIDED TO GO TO THE POLICE.

MEMBERS OF THE JURY, WHETHER A WOMAN REPORTS A SEXUAL ASSAULT TWO HOURS, TWO DAYS OR TWO MONTHS AFTER ITS OCCURRENCE SHOULD NOT BE AT QUESTION HERE. IT IS A WELL KNOWN FACT THAT RAPES ARE OFTEN NOT REPORTED RIGHT AWAY BECAUSE OF THE WOMAN'S INTENSE EMBARRASSMENT. THIS DOES NOT MEAN THAT THE CRIME NEVER OCCURRED. ON THE CONTRARY, THE FACT THAT MS. HENRY DID REPORT THE CRIME IS A TESTAMENT TO HER COURAGE AND HER CONCERN FOR OTHERS WHO MIGHT HAVE BEEN MR. SIMONS' NEXT VICTIMS.

MEMBERS OF THE JURY, MR. SIMONS THOUGHT HE COULD GET AWAY WITH HIS CRIME BY FRIGHTENING HIS VICTIM. YET WHEN THIS FAILED, HE WAS FORCED TO CREATE THIS PACK OF LIES TO TRY AND COVER THE FACTS OF THE CASE. THERE IS NOT A SINGLE SHRED OF EVIDENCE TO SUPPORT ANY OF HIS CLAIMS.

MEMBERS OF THE JURY, SEXUAL ASSAULT IS A BRUTAL VIOLATION OF A WOMAN'S PERSONAL FREEDOM AND PRIVACY. IT LEAVES EMOTIONAL SCARS WHICH CAN LAST A LIFETIME. MS. HENRY WILL NEVER FORGET WHAT HAPPENED TO HER ON OCTOBER 10, 1990.

IN ORDER TO PROTECT OTHER WOMEN, GIVE MS. HENRY PEACE OF MIND, AND GIVE MR. SIMONS THE PUNISHMENT HE SO RIGHTLY DESERVES, I ASK YOU TO FIND GEORGE SIMONS GUILTY OF SEXUAL ASSAULT.

DEFENCE'S CLOSING STATEMENT DEFENDANT TRUTHFUL RAPE EXPERT

MEMBERS OF THE JURY, AT THE BEGINNING OF THIS TRIAL I TOLD YOU THAT SEXUAL ASSAULT IS A SERIOUS AND REPUGNANT CRIME WHICH DESERVES TO BE PUNISHED TO THE FULL EXTENT OF THE LAW. BUT MEMBERS OF THE JURY, THIS TRIAL IS NOT ABOUT SEXUAL ASSAULT. NO, IT IS ABOUT AN INSECURE WOMAN WHO FELT REJECTED AND VENTED HER FRUSTRATION IN A VINDICTIVE WAY. A WOMAN WHO FELT USED AND FALSELY ACCUSED MY CLIENT OF SEXUAL ASSAULT IN ORDER TO GET EVEN WITH HIM.

MEMBERS OF THE JURY, MY CLIENT, MR. GEORGE SIMONS IS NOT A RAPIST. HE IS AN UPSTANDING, HARD-WORKING MEMBER OF THE COMMUNITY. MEMBERS OF THE JURY, THE CROWN'S CASE MAKES NO SENSE. YOU HAVE ALL HEARD MR. SIMONS ON THE WITNESS STAND. HE IS OBVIOUSLY AN INTELLIGENT MAN. AN INTELLIGENT MAN WOULDN'T RAPE A WOMAN AFTER HAVING SPENT AN EVENING WITH HER AND TWO OTHER PEOPLE. WHY? BECAUSE HIS IDENTITY IS KNOWN NOT ONLY TO HER, BUT ALSO TO THE TWO FRIENDS IN THE TAVERN. IF HE WAS TO ASSAULT HER, HE WOULD HAVE NO DEFENCE. IT WOULD MAKE NO SENSE BECAUSE HE WOULD BE IDENTIFIED

IMMEDIATELY. OBVIOUSLY AN INTELLIGENT MAN LIKE MR. SIMONS WOULD NOT DO SUCH A THING.

MEMBERS OF THE JURY, MY CLIENT IS NOT A RAPIST. HE DID NOT BIND AND RAPE MS. HENRY. HE IS THE REAL VICTIM IN THIS CASE.

HE IS THE VICTIM OF A VERY CONFUSED, MISGUIDED AND VINDICTIVE WOMAN WHO HAS MADE FALSE ACCUSATIONS IN ORDER TO DEAL WITH HER OWN INSECURITIES.

LET US CONSIDER MS. HENRY'S ACCUSATIONS AND WHY THEY WERE MADE. MS. HENRY TESTIFIED HERSELF THAT SHE WOULD HAVE LIKED TO HAVE BEEN IN A SERIOUS RELATIONSHIP. MS. HENRY SPENT THE EVENING SOCIALIZING WITH MR. SIMONS. THEY BOTH HAD A LOT IN COMMON, AND GOT ALONG VERY WELL TOGETHER. MS. HENRY REALIZED THAT MR. SIMONS WAS ALSO ATTRACTED TO HER, HOW DID SHE KNOW THIS? SHE KNEW BECAUSE HE RECIPROCATED HER SEXUALLY FLIRTATIOUS BEHAVIOR UNDER THE TAVERN TABLE.

SO HERE WAS A MAN WHO WAS JUST WHAT MS. HENRY WAS LOOKING FOR. A NICE GUY, ATTRACTIVE AND SOMEONE WITH WHOM SHE SHARED COMMON INTERESTS. HOW DID SHE SIGNAL HIM THAT SHE WOULD LIKE TO PURSUE A RELATIONSHIP? SHE SAYS TO MR.

SIMONS, "I'LL SEE YOU LATER", KNOWING FULL WELL THAT MR. SIMONS IS MORE THAN AWARE OF EXACTLY WHERE SHE LIVES. MS. HENRY LEFT THE TAVERN AND WAITED FOR MR. SIMONS ARRIVAL. WHEN HE ARRIVED SHE ASKED HIM TO COME INSIDE TO WARM UP AND HAVE COFFEE. ONCE INSIDE SHE SEDUCED HIM. MR. SIMONS OBVIOUSLY DID NOT RESIST, WHY WOULD HE? HE WAS ATTRACTED TO HER. HOWEVER, ONCE IN BED WITH MS. HENRY, HE REALIZED THAT SHE WAS NOT WHAT HE EXPECTED. SHE BECAME QUITE AGGRESSIVE. BY HER OWN TESTIMONY, SHE ADMITS THAT SHE SCRATCHED MY CLIENT ON THE SIDE OF HIS NECK DURING SEX.

MEMBERS OF THE JURY, YOU HEARD A MEDICAL EXPERT WHO EXAMINED MR. SIMONS TESTIFY THAT THE SCRATCH ON HIS NECK COULD HAVE BEEN CAUSED BY A WOMAN DIGGING HER NAILS INTO HIM DURING SEXUAL EXCITEMENT.

AS WELL, MS. HENRY TOLD MY CLIENT THAT SHE FOUND INTERCOURSE TO BE MORE AROUSING IF SHE WAS TIED UP. MR. SIMONS TIED MS. HENRY'S LEFT WRIST TO THE BEDPOST IN ORDER TO INCREASE HER SEXUAL PLEASURE. IN THE HEAT OF PASSION SHE PULLED VIOLENTLY AGAINST THE BELT AROUND HER WRIST, AND CAUSED BRUISING AND SWELLING TO APPEAR ON THAT WRIST. MEMBERS OF THE JURY, YOU HEARD A DOCTOR TESTIFY THAT THE

BRUISING AND SWELLING TO MS. HENRY'S WRIST COULD HAVE BEEN CAUSED BY HER OWN ACTIONS. AND THIS IS, IN FACT, HOW THIS INJURY OCCURRED.

AFTER THEY HAD INTERCOURSE, MS. HENRY WAS CONFIDENT THAT SHE HAD FOUND SOMEONE TO FORM A STEADY RELATIONSHIP WITH. AS YOU HEARD MR. SIMONS TESTIFY, SHE STATED THAT SHE WAS GLAD SHE HAD FINALLY FOUND A MAN WHO UNDERSTOOD AND CARED FOR HER. HAVING JUST MET MS. HENRY, MR. SIMONS FELT UNCOMFORTABLE WITH THIS TALK OF A STEADY RELATIONSHIP. ALSO, MR. SIMONS FELT THAT MS. HENRY WAS KINKIER THAN HE EXPECTED OR DESIRED. AS A RESULT, HE DID NOT WISH TO GET INVOLVED IN A RELATIONSHIP WITH HER.

SO WE HAVE A WOMAN, MS. HENRY, WHO FELT SHE'S FOUND THE MAN TO FILL HER NEEDS AND PROVIDE HER WITH THE STEADY RELATIONSHIP SHE HAD BEEN SEEKING. BUT MR. SIMONS DECIDED TO LEAVE AND WHEN MS. HENRY ASKED ABOUT SEEING HIM AGAIN, HE BECAME EVASIVE. WHY? OBVIOUSLY HE DIDN'T WANT WHAT MS. HENRY HAD ALREADY PLANNED; A RELATIONSHIP BETWEEN THE TWO OF THEM. WHEN MR. SIMONS TRIED TO LEAVE, MS. HENRY STARTED

TO BECOME HYSTERICAL. SHE ACCUSED HIM OF SEEING SOMEBODY ELSE, AND THAT HE HAD USED HER ONLY FOR SEX.

AT THIS POINT, MS. HENRY SCREAMED AT MY CLIENT THAT HE "WOULDN'T GET AWAY WITH IT".

SO HOW DOES SHE GET EVEN WITH MY CLIENT? SHE FALSELY ACCUSES HIM OF SEXUALLY ASSAULTING HER, KNOWING FULL WELL THAT THE INTERCOURSE HAD BEEN CONSENSUAL. AND REMEMBER, SHE HAD EVIDENCE WHICH SHE COULD TWIST AND MAKE LOOK INCRIMINATING. THE BRUISES AND SWELLING ON HER WRIST. THE SCRATCH ON MR. SIMONS NECK, WHICH SHE HERSELF PUT THERE DURING THEIR INTERCOURSE. ALL OF THESE PIECES OF EVIDENCE LOOK INCRIMINATING ON THE SURFACE; HOWEVER WHEN THE FACTS ARE REVEALED, THEY ARE EASILY EXPLAINED. ALSO, WHY DID MS. HENRY WAIT ALMOST TWO DAYS BEFORE REPORTING THIS SUPPOSED CRIME TO THE POLICE? BECAUSE IT TOOK MS. HENRY THIS TIME TO FABRICATE THIS RIDICULOUS STORY. SHE EVEN CALLS HER FRIEND MS. WILSON, AND TELLS HER THAT SHE HAS BEEN SEXUALLY ASSAULTED BY MR. SIMONS. WHY? TO TRY AND LEND CREDIBILITY TO HER ALLEGATIONS OF COURSE.

BUT WHEN SHE DOES FINALLY CALL THE POLICE WHAT DOES THE OFFICER FIND? A BELT TIED TO A BEDPOST; NO SIGN OF A STRUGGLE; AND A SUPPOSED VICTIM WHO SHOWS LITTLE SIGN OF INJURY, AND APPEARS BY THE OFFICERS OWN TESTIMONY TO BE NERVOUS, BUT OTHERWISE RELATIVELY CALM.

WHEN THE POLICE ARRIVE AT MR. SIMONS' HOUSE, WHAT DOES HE TELL THEM? HE TELLS THEM THE TRUTH. YES HE WAS AT "FRASER'S TAVERN" ON OCTOBER 10, 1990. YES HE KNOWS ELLEN HENRY. YES HE HAD INTERCOURSE WITH HER. HE ADMITS THIS FREELY. MEMBERS OF THE JURY, MY CLIENT HAS NOTHING TO HIDE BECAUSE HE HAS DONE NOTHING WRONG. HE DID NOT RAPE MS. HENRY. HE IS INNOCENT.

MEMBERS OF THE JURY, THE DEFENSE CALLED AN EXPERT WHO TESTIFIED ABOUT THE PSYCHOLOGICAL REACTIONS OF WOMEN WHO HAVE BEEN RAPED. HOWEVER DURING CROSS-EXAMINATION THE EXPERT ADMITTED THAT THESE PSYCHOLOGICAL REACTIONS CAN OCCUR FOR MANY REASONS OTHER THAN RAPE. IN ADDITION THE EXPERT ADMITTED THAT SOME WOMEN LIE ABOUT HAVING BEEN RAPED AND THAT THE SYMPTOMS OF STRESS ASSOCIATED WITH RAPE

TRAUMA SYNDROME ARE COMMON KNOWLEDGE AND THEREFORE CAN BE EASILY FAKED.

MEMBERS OF THE JURY, MY CLIENT DOES NOT HAVE TO PROVE HIS INNOCENCE. INSTEAD, MY CLIENT IS PRESUMED INNOCENT, UNLESS AND UNTIL PROVEN GUILTY BEYOND A REASONABLE DOUBT. BUT MEMBERS OF THE JURY, IT IS CLEAR THAT A GREAT DEAL OF DOUBT EXISTS IN THIS CASE. IN FACT, THE CROWN HAS BEEN UNABLE TO PROVIDE EVEN A SINGLE SHRED OF EVIDENCE THAT POINTS UNEQUIVOCALLY TO THE GUILT OF MY CLIENT. ON THE CONTRARY, MY CLIENT HAS ANSWERED EVERY CONCERN RAISED BY THE CROWN.

MEMBERS OF THE JURY, MY CLIENT IS NOT A CRIMINAL. NO HE IS THE REAL VICTIM IN THIS CASE. A MAN FALSELY ACCUSED OF A CRIME HE DID NOT COMMIT. FOR THESE REASONS, MEMBERS OF THE JURY, I ASK YOU TO FIND GEORGE SIMONS NOT GUILTY OF SEXUAL ASSAULT.

JUDGE'S CHARGE DEFENDANT TRUTHFUL RAPE EXPERT

MEMBERS OF THE JURY, YOU HAVE HEARD THE EVIDENCE IN THIS CASE AND NOW YOU MUST DELIBERATE TO A UNANIMOUS VERDICT. IT IS THE CONTENTION OF THE CROWN THAT MR. GEORGE SIMONS COMMITTED SEXUAL ASSAULT AGAINST MS. ELLEN HENRY.

ASSAULT IS DEFINED BY SECTION 244 OF THE CANADIAN CRIMINAL CODE AS FOLLOWS. A PERSON COMMITS SEXUAL ASSAULT WHEN:

**(A) WITHOUT THE CONSENT OF ANOTHER PERSON, HE APPLIES FORCE INTENTIONALLY TO THE OTHER PERSON, DIRECTLY OR INDIRECTLY;
AND**

(B) HE ATTEMPTS OR THREATENS, BY ACT OR GESTURE, TO APPLY FORCE TO ANOTHER PERSON, IF HE HAS, OR CAUSES THAT OTHER PERSON TO BELIEVE UPON REASONABLE GROUNDS, THAT HE HAS, PRESENT ABILITY TO EFFECT HIS PURPOSE TO THAT PERSON.

LET ME REMIND YOU THAT THIS SECTION OF THE CRIMINAL CODE APPLIES TO ALL FORMS OF ASSAULT, INCLUDING SEXUAL ASSAULT.

MEMBERS OF THE JURY, YOU HAVE HEARD THE COMPLAINANT, MS. HENRY, TESTIFY UNDER OATH THAT THE DEFENDANT, MR.

SIMONS, CAME TO HER DOOR AND FORCED HIS WAY INTO HER APARTMENT. SHE TESTIFIED THAT ONCE MR. SIMONS WAS INSIDE HER APARTMENT, HE ATTACKED HER. MS. HENRY TESTIFIED THAT SHE TRIED TO FEND OFF HIS ATTACK AND WAS THEN SEXUALLY ASSAULTED BY MR. SIMONS.

YOU HAVE HEARD MS. HENRY FURTHER TESTIFY THAT IN HER STRUGGLE WITH MR. SIMONS, SHE SCRATCHED THE LEFT SIDE OF HIS NECK. SHE ALSO TESTIFIED THAT MR. SIMONS USED THE BELT FROM HER SKIRT TO TIE HER LEFT WRIST TO THE BEDPOST, AND THREATENED TO BREAK HER ARM IF SHE DID NOT CO-OPERATE.

YOU HAVE ALSO HEARD THE TESTIMONY OF OTHER WITNESSES CALLED BY THE CROWN. YOU HEARD A POLICE OFFICER DESCRIBE THAT HE FOUND A WOMAN'S BELT TIED TO THE BEDPOST IN MS. HENRY'S APARTMENT. YOU HAVE HEARD A WITNESS WHO EXAMINED MS. HENRY FOR INJURIES TESTIFY THAT SHE HAD A SWOLLEN AND BRUISED LEFT WRIST. THIS WITNESS FURTHER TESTIFIED THAT THESE INJURIES WERE SUSTAINED AS A RESULT OF AN EXTREME AMOUNT OF PRESSURE BEING PLACED UPON HER WRIST. IN ADDITION, YOU HEARD A WITNESS WHO EXAMINED MR. SIMONS TESTIFY THAT HE FOUND A

FOUR AND ONE HALF INCH SCRATCH ON THE RIGHT SIDE OF MR. SIMONS NECK. HE FURTHER TESTIFIED THAT THE SCRATCH HAD BEEN CAUSED BY ANOTHER INDIVIDUALS FINGERNAILS WITHIN THE PRECEDING SEVENTY-TWO HOURS OF THE EXAMINATION.

MEMBERS OF THE JURY YOU HEARD A WITNESS WHO SERVED THE COMPLAINANT, MS. HENRY, AND THE DEFENDANT, MR. SIMONS, ALCOHOLIC DRINKS AT A TAVERN EARLIER IN THE EVENING. THIS WITNESS STATED THAT NEITHER MR. SIMONS NOR MS. HENRY APPEARED TO BE INTOXICATED AND THAT MS. HENRY LEFT THE ESTABLISHMENT ABOUT A HALF HOUR BEFORE THE DEFENDANT.

AS WELL, YOU HEARD THIS WITNESS TESTIFY THAT SHE DID NOT OBSERVE ANY FLIRTATIOUS BEHAVIOR BETWEEN THE COMPLAINANT AND DEFENDANT. YOU ALSO HEARD TESTIMONY FROM TWO WITNESSES WHO WERE AT THE TAVERN WITH THE COMPLAINANT AND DEFENDANT. THESE WITNESSES ALSO TESTIFIED THAT THEY DID NOT OBSERVE ANY FLIRTATIOUS BEHAVIOR BETWEEN MS. HENRY AND MR. SIMONS.

WITH REGARD TO THE CREDIBILITY OF TESTIMONY, A FURTHER ELEMENT HAS BEEN INTRODUCED INTO THIS TRIAL THROUGH THE

ADMISSION OF THE EVIDENCE OF A POLYGRAPH OR LIE-DETECTION EXPERT. THERE IS PRECEDENT FOR ADMISSION OF SUCH EVIDENCE IN CANADIAN LAW. IN THIS CASE THE ACCUSED VOLUNTEERED TO UNDERGO SUCH TESTING PRIOR TO THE TRIAL AND THE CROWN AND THE DEFENCE AGREED TO ADMIT THE RESULTS OF THE TEST NO MATTER WHAT THE RESULTS WERE-- WHETHER THE RESULTS FAVOURED THE ACCUSED OR NOT. I HAVE BEEN SATISFIED BY THE EVIDENCE THAT THE POLYGRAPH TEST WAS ADMINISTERED BY A SUFFICIENTLY EXPERT PERSON.

POLYGRAPH TESTING OR LIE DETECTION IS BASED ON THE THEORY THAT THERE IS A RELATIONSHIP BETWEEN LYING OR TRUTH-TELLING AND EMOTIONAL STATE, AND FURTHER, THAT THERE IS A DETECTABLE RELATIONSHIP BETWEEN EMOTIONAL STATES AND BODILY STATES. TO SIMPLIFY, THIS THEORY IS SIMPLY A SOPHISTICATED EXTENSION OF WHAT WE KNOW IN OUR OWN EXPERIENCE: WHEN A PERSON LIES, HE MAY FEEL GUILTY OR ANXIOUS ABOUT BEING DISCOVERED AND THIS SHOWS UP IN BODILY REACTIONS-- HIS PALMS MAY SWEAT, HIS MOUTH MAY BECOME DRY, HIS HEART RATE INCREASES, ETC. TO DETECT SUCH BODILY CHANGES, THE POLYGRAPH MEASURES HEART RATE, BLOOD PRESSURE, RESPIRATION RATE AND SWEAT GLAND ACTIVITY. BY MEASURING SUCH STATES OF BODILY AROUSAL DURING A CAREFULLY CONSTRUCTED INTERVIEW,

THE POLYGRAPH EXPERT CAN MEASURE CHANGES IN AROUSAL WHEN CERTAIN CRITICAL QUESTIONS ARE ASKED AND THUS DETERMINE WHETHER THE PERSON IS BEING TRUTHFUL OR DECEPTIVE.

ALTHOUGH SUCH EVIDENCE HAS BEEN ALLOWED FOR YOUR CONSIDERATION IT IS NECESSARY TO MAKE SOME CAUTIONARY REMARKS. THE EVIDENCE INDICATES THAT THE POLYGRAPH TEST IS APPROXIMATELY 80 TO 90% ACCURATE IN DETECTING TRUTH AND DECEPTION. IT THUS IS IN ERROR 10 TO 20% OF THE TIME AND THE PREPONDERANCE OF THESE ERRORS TENDS TO BE WHAT IS CALLED "FALSE POSITIVE"; THAT IS, WHEN AN ERROR IS MADE IN THE TESTING, A LARGER PERCENTAGE OF THESE ERRORS TENDS TO INDICATE THAT AN ACTUALLY INNOCENT PERSON IS GUILTY. THE OPPOSITE, FALSE NEGATIVES, ALSO OCCUR, THOUGH. YOU MUST NOT BE OVERIMPRESSED WITH THE TECHNICAL NATURE OF THIS EVIDENCE. THE TEST IS QUITE FALLIBLE. ALSO, BECAUSE THIS TEST IS FALLIBLE IT SHOULD NOT BE VIEWED AS, BY ANY MEANS, CONCLUSIVE BUT RATHER AS A GUIDE AND MUST BE CONSIDERED IN THE LIGHT OF ALL THE OTHER EVIDENCE YOU HAVE HEARD. ULTIMATELY, HOWEVER, IT IS YOUR DECISION AS TO WHAT WEIGHT YOU ATTACH TO THIS TESTIMONY.

NOW IT IS THE CONSIDERED OPINION OF THE POLYGRAPH EXPERT WHO TESTED GEORGE SIMONS THAT MR. SIMONS IS TELLING THE TRUTH WHEN HE SAYS HE DID NOT FORCE MISS HENRY

AGAINST HER WILL TO HAVE SEXUAL INTERCOURSE WITH HIM. THE DEFENSE, OF COURSE, SUGGESTS THAT THIS POINTS TO THE INNOCENCE OF THE ACCUSED. THE CROWN SUGGESTS THAT THIS IS A CASE OF THE POLYGRAPH BEING IN ERROR AS THE CIRCUMSTANCES OF THE CASE AND THE OTHER TESTIMONIES CONTRADICT THIS POLYGRAPH EVIDENCE.

MEMBERS OF THE JURY, YOU ALSO HEARD THE TESTIMONY OF AN EXPERT WITNESS WHO TESTIFIED ON THE NATURE OF RAPE AND ON THE POPULAR MISCONCEPTIONS CONCERNING ITS PREVALENCE IN SOCIETY. HOWEVER, IT IS AGAIN YOUR DECISION AS TO WHAT WEIGHT YOU WILL ATTACH TO THE EXPERT'S TESTIMONY.

MEMBERS OF THE JURY, SEXUAL ASSAULT MEANS NON-CONSENSUAL SEXUAL RELATIONS. A PERSON WHO VOLUNTARILY ENGAGES IN SEX WITH ANOTHER PARTY AND WHO LATER REGRETS HAVING DONE SO HAS NOT BEEN SEXUALLY ASSAULTED BECAUSE THE SEXUAL ACT, DESPITE LATER REGRETS, WAS A NON-COERCED AND VOLUNTARY ACTION.

YOU HAVE HEARD THE DEFENCE CONTEND THAT MS. HENRY WAS NOT SEXUALLY ASSAULTED BY MR. SIMONS BUT INSTEAD VOLUNTARILY ENGAGED IN SEXUAL RELATIONS. IN CONTRADICTION TO THE TESTIMONY OF MS. HENRY, MR. SIMONS TESTIFIED THAT HE

ENTERED MS. HENRY'S APARTMENT ONLY AFTER HE WAS ASKED TO DO SO. YOU ALSO HEARD MR. SIMONS TESTIFY THAT HE WAS INVITED TO SIT ON THE SOFA BY MS. HENRY. IT IS THE DEFENCE'S CONTENTION THAT MS. HENRY MADE OBVIOUS HER SEXUAL WILLINGNESS TO MR. SIMONS. THE DEFENCE DOES NOT CHALLENGE THAT MR. SIMONS HAD SEXUAL INTERCOURSE WITH MS. HENRY. HOWEVER, THE DEFENCE CONTENDS THAT MS. HENRY VOLUNTARILY ENGAGED IN THE SEXUAL INTERCOURSE WITH MR. SIMONS. ALSO, THE DEFENCE DOES NOT CHALLENGE THE FACT THAT MS. HENRY SCRATCHED MR. SIMONS. HOWEVER, THE DEFENCE CONTENDS THAT MS. HENRY SCRATCHED MR. SIMONS ACCIDENTALLY IN THE HEAT OF SEXUAL EXCITEMENT.

THE DEFENCE ALSO DOES NOT DENY THAT MR. SIMONS TIED MS. HENRY'S LEFT WRIST TO THE BEDPOST. HOWEVER, WHAT THE DEFENCE DOES CONTEND IS THAT THIS ACTION WAS TAKEN BY MR. SIMONS ONLY UPON THE REQUEST OF MS. HENRY.

ACCORDING TO THE THEORY PRESENTED BY THE CROWN, MR. SIMONS WAS SEXUALLY AROUSED BY TO MS. HENRY AND TOOK ADVANTAGE OF THE FACT THAT HE KNEW WHERE SHE LIVED.

ACCORDING TO THIS THEORY, MR. SIMONS WENT TO MS. HENRY'S APARTMENT, FORCED HIS WAY IN AND SEXUALLY ASSAULTED HER.

ACCORDING TO THE THEORY PRESENTED BY THE DEFENCE, AFTER HAVING CONSENSUAL SEXUAL RELATIONS WITH MR. SIMONS, MS. HENRY BECAME ENRAGED WHEN SHE LEARNED THAT NO PERMANENT RELATIONSHIP WITH MR. SIMONS WAS FORTHCOMING. ACCORDING TO THIS THEORY, MS. HENRY THEN ACCUSED MR. SIMONS OF SEXUAL ASSAULT.

MEMBERS OF THE JURY, AS YOU DELIBERATE IT IS IMPORTANT THAT YOU REVIEW CAREFULLY ALL OF THE EVIDENCE THAT HAS BEEN PRESENTED. YOU SHOULD THINK CAREFULLY ABOUT THE TESTIMONY YOU HAVE HEARD AND WHERE THERE WAS CONFLICTING TESTIMONY YOU MUST MAKE JUDGEMENTS ABOUT THE CREDIBILITY OF THE WITNESSES INVOLVED. NOT EVERYTHING SAID IN A COURT OF LAW IS NECESSARILY THE TRUTH. PEOPLE ARE OFTEN SWAYED BY VARIOUS PERSONAL MOTIVATIONS TO PRESENT THEIR EVIDENCE IN A WAY THAT IS FAVORABLE TO THE OUTCOME THEY FAVOUR.

IT IS UP TO YOU TO USE YOUR INTELLIGENCE AND COMMON SENSE WHEN EVALUATING THE EVIDENCE IN REACHING YOUR CONCLUSIONS. IF AFTER CAREFUL DELIBERATION YOU CONCLUDE THAT THE EVIDENCE PRESENTED BEFORE YOU PROVES BEYOND A REASONABLE DOUBT THAT MR. SIMONS SEXUALLY ASSAULTED MS. HENRY, THEN YOU SHOULD FIND MR. SIMONS GUILTY OF SEXUAL ASSAULT.

NOW A REASONABLE DOUBT CONCERNING DOUBT IS NOT MERELY THE POSSIBILITY OF INNOCENCE. A REASONABLE DOUBT IS A DOUBT THAT WOULD CAUSE A REASONABLE AND PRUDENT PERSON IN THE GRAVE 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 IT TENDS TO SUPPORT. PROOF BEYOND A REASONABLE DOUBT IS PROOF ENOUGH TO CONVINCE REASONABLE PEOPLE WHO HAVE EXAMINED THE EVIDENCE BEFORE THEM THAT THE CRIME THE DEFENDANT IS CHARGED WITH HAS BEEN COMMITTED BY THE DEFENDANT. PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT CONVINCES REASONABLE PEOPLE THAT NO OTHER REASONABLE CONCLUSION IS POSSIBLE.

**MEMBERS OF THE JURY, YOU MAY NOW RETIRE AND BEGIN YOUR
DELIBERATIONS.**

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