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The Effect of Crime Severity and Confidence on Mock Jurors' Verdicts

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THE EFFECT OF CRIME SEVERITY AND CONFIDENCE ON MOCK JURORS’ VERDICTS

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THE EFFECT OF CRIME SEVERITY AND CONFIDENCE ON MOCK JURORS’ VERDICTS

by

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Abstract

Previous studies of eyewitness testimony have found confidence and errors in testimony have an impact on credibility ratings and jurors’ verdicts. The current study used the three factors of confidence, errors, and crime severity to determine their effects on witness credibility, verdicts, and guilt ratios. It was hypothesized that highly confident witnesses of a violent crime would be rated as more credible and result in more convictions compared to low confident witnesses. It was also expected that well calibrated witnesses of a nonviolent crime would results in higher credibility ratings and more guilty verdicts compared to poorly calibrated witnesses. Results showed significant differences between groups regarding credibility and guilt ratios. Witnesses of a violent crime were rated as more credible if they were highly confident, whereas witnesses of a nonviolent crime were rated as more credible if they did not make an error during testimony. Further, defendants on trial for a violent crime were rated as more guilty if witnesses were highly confident and did not make an error. The results do not support the effects of calibration, and instead offer support for the confidence-trumps hypothesis in violent crime situations. The current study also provides evidence that crime severity does influence jurors’ ratings of credibility and guilt.
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The Effect of Crime Severity and Confidence on Mock Jurors’ Verdicts

Eyewitness evidence has been a major part of the criminal justice system, and it is also the leading cause of wrongful convictions in the United States (Innocence Project, n.d.). For these reasons, the role of eyewitnesses in the courtroom has been under scrutiny in psychological research for many years. In the eyes of a jury, an important aspect of witnesses is their credibility. In order for jurors to put trust into a witness’s statement, they must find the witness reliable. In the case of Neil v. Biggers, the Supreme Court identified “certainty” as one of five criteria that should be taken into consideration by the jury when deciding the credibility of a witness (Bradfield & Wells, 2000). Under the “certainty” criteria, the Court suggests that the witness’ perception of his or her accurate identification of the suspect is important. However, research on how juries make decisions based on eyewitness testimony has been mixed. Many studies have found that certainty as defined by confidence in an eyewitness statement has a profound effect in jurors’ verdicts (e.g., Brewer & Burke, 2002). Still other studies identified additional variables that also effect witness credibility above and beyond his or her confidence: one such variable is calibration. Whether or not a witness is aware of the limits of his or her memory (i.e., the witness makes a mistake but has low confidence in his or her testimony) has been shown to account for more variability than confidence alone (Tenney, MacCoun, Spellman, & Hastie, 2007; Tenney, Spellman, & MacCoun, 2008).

An additional factor that has been found to influence jurors’ decisions is the severity of the crime. Previous studies have not included all three factors of confidence, witness error during testimony, and crime severity, so it is unclear how the three will affect jurors’ decisions when presented together in different combinations. The goal of the current study is to incorporate the three factors of confidence, errors or inconsistencies in testimony, and severity of the crime to predict jurors’ perception of a witness’s credibility and jurors’ verdicts.
Confidence vs. Calibration

As previously stated, the Supreme Court believes witnesses’ certainty in their testimony accounts for part of their credibility. Research in this area has put the certainty criterion to the test. According to the confidence-trumps hypothesis, the amount of confidence witnesses express in their identification is the major deciding factor in whether or not jurors finds their testimony credible (Bradfield & Wells, 2000). Whitley & Greenberg (1986) varied verbal statements of confidence and hesitation in speech and found hesitation did not account for changes in ratings of credibility; if witnesses stated they were highly confident, jurors rated them as credible and rendered more guilty verdicts to the defendant regardless of speech hesitation. In addition, Brewer and Burke (2002) found that even when witnesses were inconsistent in their testimony, if they were confident (i.e., answered questions directly and without hesitation) they were rated as more believable by mock jurors. Through these studies, it appears as though jurors are following the Supreme Court’s recommendations and relying heavily on an eyewitness’ perception of accurate identification.

In contrast to the confidence trumps hypothesis, more recent studies have found that witness confidence may not be the most important factor; these studies show the interaction of confidence and inconsistencies in testimony play a major role in credibility ratings. In this case, a well calibrated witness may be more credible (Tenney et al., 2007). If witnesses are highly confident and highly accurate, they are well calibrated; if they are low in confidence and low in accuracy, they are also well calibrated. Witnesses are poor in calibration if they are highly confident and low in accuracy or low in confidence and highly accurate. Tenney et al. (2007) included calibration as well as confidence in two studies. The authors discovered when witnesses made an error with high confidence (demonstrating low calibration), they were rated the least credible. However, when witnesses made an error with low confidence, they were still rated as highly credible.
In additional studies, Tenney, et al. (2008) showed that even if witnesses erred during testimony, if that error was “justified,” i.e., about something which the witness was not expected to know, their credibility rating was not lowered. The authors use this evidence to support their argument that it is calibration, not confidence or justified errors, which is the main influence on ratings of witness credibility. It is important to note that the authors did not include results of the conviction rates among groups, only the confidence-in-guilty rates. It remains an empirical question whether well-calibrated witnesses result in more guilty verdicts and poorly calibrated witnesses result in more not guilty verdicts. In the present study, both credibility and guilty verdicts were examined.

**Crime Severity**

One possible important variable that has not been studied in regards to calibration of an eyewitness is the severity of the crime. Loftus (1980) reported that mock jurors were more likely to assign a guilty verdict if the defendant committed a violent crime compared to a nonviolent crime. In the violent vignette, an assailant killed a person while in the nonviolent vignette, the assailant’s gun was taken from him before any harm was done; all other case details, including amount of evidence and testimony, were the same. The author hypothesized that violent crimes are more likely to render a guilty verdict because the possibility of releasing a guilty suspect back to society causes jurors to err on the side of caution and to convict (Loftus, 1980). If jurors are more likely to assume a defendant on trial for a violent crime is guilty, during the course of the trial they may engage in confirmation bias and be more likely to seek evidence confirming the suspect’s guilt rather than evidence that disconfirms guilt (Nickerson, 1998).

According to past studies, emotions may also influence decision-making. Lerner and Keltner (2000), for example, found an increase in fear led to higher perceived risk of events or situations. In terms of the current study, if the violent crime condition causes participants more fear, specifically
fear of allowing a potentially violent, guilty suspect free, they may perceive higher risk and be more cautious. Perceiving higher risk may lead participants to render more guilty verdicts. Violent and nonviolent conditions may create a dual-process evaluation of evidence whereby mock jurors will be more likely to convict if they are in the violent condition because of emotions created.

Additional studies have also found a greater rate of conviction for more serious, violent, and intentional crimes. In a study by Finkel and Duff (1991), mock jurors were given a case summary of an accidental, heinous, or natural cause murder (i.e., died of heart attack rather than gunshot). Although the authors were mostly interested in how verdicts and sentencing varied between accomplices in the crime, the results of the study showed that the triggerman was more likely to be convicted of a felony-murder charge in the heinous crime, compared to the accident or natural cause conditions. It may be that the more violent and intentional the crime, the more likely jurors are to deliver a guilty verdict.

Instead of erring on the side of caution, jurors may also be more concerned with convicting the innocent; in this case, jurors may instead become more careful and require more evidence so an innocent person is not convicted (Freedman et al., 1994). Because the law states that one is innocent until proven guilty, this theory may be plausible. Kerr (1978) found that as the seriousness of the charge increased, the likelihood of a guilty verdict decreased. When the charge becomes more serious, the authors posited that the criterion on which a jurors bases their verdicts also increases (Kerr, 1978). In other words, the possibility of convicting an innocent person on a more serious charge, for example first degree murder compared to manslaughter, causes the juror to think more critically about the case. This study, however, only looked at murder charges; there was no nonviolent comparison condition. Perhaps if a nonviolent condition was added, the results would
mirror those of Finkel and Duff (1991), with more convictions for a violent crime compared to a nonviolent crime.

In a more recent study, Freedman et al. (1994) gave participants a murder case summary with one of three levels of seriousness of charge (first degree murder, second degree murder, or manslaughter) and one of three levels of penalty (1 to 5 years, 10 to 20 years, or 25 year to life). The authors found a significant decrease in percentage of guilty verdicts as the seriousness of the charge increased from manslaughter to first degree murder. However, it was recognized that conviction for first degree murder required more evidence than conviction for manslaughter. For this reason, a second experiment was run to compare crimes of murder, assault, and robbery, which all required the same amount of evidence for conviction. No significant differences were found between guilty verdicts of the three types of crime. It is also important to note that the authors in this study were mainly concerned with comparing guilty verdicts with seriousness of charge and severity of penalty. Even the least serious offense (i.e., robbery) still contained a potential threat to the victim’s life because the offender carried a gun. Comparing a breaking and entering case, as used in Tenney et al. (2007), to an assault case could provide significant differences in verdicts; perhaps in this case, a nonviolent crime would result in fewer guilty verdicts. While these studies do provide evidence that jurors uphold the notion that one is innocent until proven guilty in terms of seriousness of charge and severity of penalty, it may not hold true when comparing conviction rates of violent with nonviolent crimes.

Current Study

Those studies examining crime severity did not include eyewitness testimony, confidence statements, and inconsistencies in testimony together, therefore it is unclear if confidence or calibration would strengthen or weaken the case. Tenney et al. (2007, 2008) used a breaking and
entering case and a car accident case, respectively, and found calibration was more important than confidence alone. However, other researchers used more severe crimes of armed robbery and found confidence was more important than inconsistencies in witness testimony (Whitley & Greenberg, 1986; Brewer & Burke, 2002). While the methodologies of all four studies did vary, perhaps severity of crime played an important role in jurors’ verdicts. If Loftus (1980) is correct, jurors may be hesitant to let a potential suspect free if he committed a violent crime. Jurors may then place more trust in confidence statements alone, overwhelming or disregarding witness calibration. A witness to a violent crime, if confident, may also be perceived as more credible to the jury.

Previous research in the area of witness credibility has also not examined the influence of confidence, inconsistencies, and crime severity on guilt ratings in the form of guilt ratios. A guilt ratio is taken by dividing the participants’ likelihood of commission by their burden of proof. These measures have been used in previous research independently (e.g., Kassin & Sukel, 1997; Henkel, 2008) and in a ratio form (Shpurik, 2003). Guilt ratios are useful because they may provide a more sensitive measure of defendant guilt compared to verdicts, and because guilt ratios take into account participants’ burden of proof, they may be more indicative of defendant guilt than using only participants’ likelihood of commission ratings. As an additional measures of culpability, the current study employed guilt ratios and likelihood of commission scores to assess juror decision making.

The present study used the variables of crime severity (violent vs. nonviolent), confidence (high vs. low), and error (present vs. absent) to assess conviction rates and witness credibility. Six hypotheses were tested: (1) mock jurors in the nonviolent crime condition would render more guilty verdicts if the witness was well calibrated (high confidence + no error or low confidence + error) compared to poorly calibrated (high confidence + error or low confidence + no error), (2) mock jurors in the violent crime condition would render more guilty verdicts, and have more confidence in
guilty verdicts, if the witness had high confidence compared to low confidence, (3) defendants convicted of a violent crime would be assigned longer sentences compared to defendants convicted of a nonviolent crime, (4) mock jurors in the nonviolent crime condition would rate witnesses that were well calibrated (high confidence + no error or low confidence + error) as more credible than witnesses that were poorly calibrated (high confidence + error or low confidence + no error), (5) mock jurors in the violent crime condition would rate witnesses with high confidence as more credible than witnesses with low confidence, regardless of error, (6) defendants in the nonviolent crime condition would have higher guilt ratios and likelihood of commission scores in the well calibrated witness conditions, while defendants in the violent crime condition would have higher guilt ratios and likelihood of commission scores in the high confidence witness condition.

Pilot Study

Prior to this study, a control version of the violent transcript and the nonviolent transcript was used in a pilot study to confirm that neither one was biased towards a guilty or not guilty verdict. The control versions of the transcripts did not contain any information about confidence of the witness’s identification or testimony; nor did it contain any inconsistencies in testimony from the witness. The pilot study was run on 47 students from the University of Texas at El Paso. The overall results showed slightly more guilty verdicts (59.6%) than not guilty verdicts; however, those participants that read the violent trial transcript were not more likely to vote guilty than those that read the nonviolent trial transcript, $r = -.06, p = .684$.

In addition, 13 students from UTEP read versions of the trial transcript that contained high and low witness confidence manipulations. Participants answered a series of short answer questions to ascertain that the confidence conditions were eliciting the correct responses. The high confidence condition led participants to correctly answer that the witness was high in confidence. The low
confidence condition, however, led participants to answer that the witness was also fairly high in confidence. To remedy this, hesitancies in speech were added to the witness’s testimony. For example, in the high confidence condition the witness states: “A guy was coming out of Gene Sharple’s room. He was in his early twenties with blond hair, about 6 feet tall, and he was wearing a dark jacket and jeans.” In the low confidence condition, this statement was changed to: “A guy was coming out of Gene Sharple’s room. He was in his early twenties, with uh, blond hair, about 6 feet tall, I guess, and he was wearing a dark jacket and jeans, I think.” This version of the low confidence trial transcript was run again on participants and was found to elicit the correct response of the witness being low in confidence.
Method

Current Study

Participants were 171 students from UTEP that received course credit for their participation. Eight participants were dropped because they did not complete all study materials, one was dropped because he or she participated twice, and one was dropped because he or she did not fully read the trial transcript before completing the study materials. Analyses were run on the remaining 161 participants. A majority of participants were female (64.6%) and Hispanic (85.1%). Their ages ranged from 18 to 54 ($M = 22.59$, $SD = 5.32$).

Materials

A voir dire form provided demographic information on each participant and their past involvement in the criminal justice system. It also assessed how often participants read and watch media pertaining to the legal system.

Eight versions of a trial transcript were created; four depicted a violent crime and four depicted a nonviolent crime. Within each of the crime type conditions, the transcript contained testimony from a witness with high or low confidence and error or no error during testimony. All trial transcripts contained a brief description of the crime, introducing the victim, eyewitness, and suspect. The eight transcripts contained the same instructions to the participant as well as a statement from the judge for the trial describing the basis for a guilty or not guilty conviction.

In the nonviolent crime transcript, the defendant was on trial for burglary of a habitation on a college campus, based on the transcript used in Tenney et al. (2007). Each version of the nonviolent crime trial transcripts contained the same information, except for the witness testimony and the statements of confidence made by the witness during the lineup procedure. To demonstrate high confidence, it was stated the witness chose the defendant out of a lineup with 95% confidence; in
addition, during cross examination, the defense attorney asked the witness, “Are you absolutely sure of your testimony?”, and the witness replied: “Yes, sir, absolutely. I’m certain of it.” To demonstrate low confidence, it was stated the witness chose the defendant out of a lineup with only 65% confidence. In addition, during cross examination the defense attorney asked the witness, “Are you absolutely sure of your testimony?”, and the witness replied, “Um, I’m fairly sure, sir.” Hesitations in speech throughout the witness’s testimony were also included.

To demonstrate an error during testimony, the witness testified that he saw a man with blonde hair leaving the victim’s dorm room. However, the defense attorney pointed out that in the witness’ original written statement to police, he claimed the man had black hair. The attorney asked the witness: “So you only changed your story to say the man was blonde after you found out that my client has blonde hair, correct?”

In the violent crime transcript, the defendant was on trial for burglary of a habitation and aggravated assault. Again, each version of the violent crime trial transcripts contained the same information, except for the witness testimony and statements of confidence made during the lineup procedure. High and low confidence, as well as error present and absent testimony, were the same as outlined above in the nonviolent crime condition.

A verdict form was used to assess guilty and not guilty verdicts, as well as participants’ confidence in their verdicts on a scale from 1 (not at all confident) to 10 (completely confident). If guilty, a measure of sentence length in years and an optional fine were also obtained.

The post verdict questionnaire was a measure of witness credibility, based on the measures used in Tenney et al. (2007). The witness’s believability, honesty, and trustworthiness were rated on three scales, from 1 (not at all) to 7 (completely). The average of these three ratings was the witness’s credibility rating.
A juror questionnaire assessed standard of proof to convict the defendant in this trial and likelihood that the defendant committed the crime. Both questions were measured on a scale from 0 to 100 percent. From these two measures, a guilt ratio was created by dividing the likelihood of commission by the burden of proof scores. Higher ratios would be indicative of more guilt.

Procedure

The experiment was administered in groups of 1 to 25. They were randomly assigned to read one of the eight trial transcripts. Upon arrival, they received a packet of materials containing a manila envelope, a voir dire form, trial transcript, verdict form, a post-verdict questionnaire, and a juror questionnaire. Participants were seated apart from one another to ensure anonymity. They were instructed to take on the role of a juror in a criminal trial and to complete the materials in their folders individually and in the order in which they appeared. Once each item was completed, they were asked to place it in their manila envelope and were asked to not go back and reread or change any answers. When participants completed all materials, they were debriefed and thanked for their participation.
Results

A power analysis was done on the Tenney et al. (2007) study and with 48 participants in their sample, they had a power of .91 with a medium effect size. Based on a sample of 160, with a medium effect size, the power of the current study was 80%. There were three factors resulting in eight groups – violent crime vs. nonviolent crime, high confidence vs. low confidence, and no error vs. error. The dependent variables were verdicts of guilty or not guilty, confidence-in-verdict ratings, witness’s credibility ratings, guilt ratios, and likelihood of commission scores. All dependent variables were highly and significantly correlated with each other. See Table 1 in Appendix A for a table of the inter-correlations.

Verdicts

The first and second hypotheses predicted an interaction between crime severity and confidence; that is, jurors in the nonviolent crime condition would take into account confidence statements as well as errors made during testimony. They would render more guilty verdicts for witnesses that are well calibrated (high confidence + no error or low confidence + error) compared to poorly calibrated (high confidence + error or low confidence + no error). While Tenney et al. (2007) did not report the results of calibration on guilty or not guilty verdicts, it was implied that well-calibrated witnesses led to more guilty verdicts compared to poorly calibrated witnesses; the first hypothesis predicted this implied finding. The first and second hypotheses also predicted that jurors in the violent crime condition would be more likely to render a guilty verdict for witnesses high in confidence, regardless of error, compared to jurors in the nonviolent condition. A 2 x 2 x 2 (crime severity x confidence x error) was run on the percentage of guilty verdicts to test for differences between groups. Results showed a non-significant main effect of crime severity, $F(1, 153) = .82, p = .366$, partial $\eta^2 = .01$, of error, $F(1, 153) = 2.43, p = .12$, partial $\eta^2 = .02$, and of confidence, $F(1, 153) =$
The interaction of crime severity by error was also not statistically significant, $F(1, 153) = .52, p = .472$, partial $\eta^2 = .00$, nor was the interaction of crime severity by confidence, $F(1, 153) = .07, p = .798$, partial $\eta^2 = .00$, nor the interaction of confidence by error, $F(1, 153) = .82, p = .366$, partial $\eta^2 = .00$. Finally, the 3-way interaction was not significant, $F(1, 153) = .52, p = .472$, partial $\eta^2 = .00$.

A 2 x 2 (confidence x error) ANOVA was run in the nonviolent crime condition, and an interaction of confidence by error was expected. Results indicated no significant differences between groups, $F(3, 77) = .15, p = .930$, partial $\eta^2 = .01$, and no significant interaction of confidence by error, $F(1, 77) = .02, p = .899$, partial $\eta^2 = .00$. See Figure 1, panel 1 in Appendix B for a graph of the results.

A 2 x 2 (confidence x error) ANOVA was also run in the violent crime condition. A main effect for confidence was predicted, however, no differences were found between groups, $F(3, 76) = 1.56, p = .206$, partial $\eta^2 = .06$, and no significant main effect of confidence was found, $F(1, 76) = .51, p = .478$, partial $\eta^2 = .01$. See Figure 1, panel 2 in Appendix B for a graph of the results.

In addition, two planned 2 x 2 ANOVAs were run between the nonviolent and violent crime condition. The first was a 2 x 2 (crime severity x confidence) ANOVA in the no error group. A main effect for confidence is expected; again, there were no significant differences between groups, $F(3, 77) = .04, p = .988$, partial $\eta^2 = .00$, and no significant main effect of confidence was found, $F(1, 77) = .02, p = .900$, partial $\eta^2 = .00$. The interaction of confidence and crime severity was also not significant, $F(1, 77) = .10, p = .752$, partial $\eta^2 = .00$.

Finally, a 2 x 2 (crime severity x confidence) ANOVA was conducted in the error condition. An interaction of confidence by crime severity was expected; results showed no differences between
groups, $F(3, 76) = 1.17, p = .340$, partial $\eta^2 = .04$, and no significant interaction was found, $F(1, 76) = .52, p = .473$, partial $\eta^2 = .01$.

Because there was a larger decrease in guilty verdicts for witness that made an error and were low in confidence, this condition was contrasted with an average of the other 3 conditions for both the nonviolent and violent crimes. In the nonviolent crime, the low confidence, error present witness condition was not significantly different from an average of the remaining 3 conditions, $F(1, 79) = .36, p = .553$. In the violent condition, the low confidence, error present witness condition was significantly different from the other 3 conditions, $F(1, 78) = 4.31, p = .041$. Witnesses that were low in confidence and made an error during testimony resulted in fewer guilty verdicts ($M = .15, SD = .37$) than an average of the other 3 conditions ($M = .40, SD = .49$).

Confidence-in-verdicts

The first and second hypotheses were also tested using a 2 x 2 x 2 (crime severity x confidence x error) ANOVA on a confidence-in-verdict scale (cf. Tenney et al., 2007). Participants’ ratings of confidence in their verdict were changed to a 20-point verdict-preference scale, ranging from -9.5 to 9.5. Each confidence rating was reduced by .5 and multiplied by -1 if the verdict was not guilty. On the new scale, -9.5 indicated complete confidence in a not guilty verdict and a 9.5 indicated complete confidence in a guilty verdict. Because 17 participants failed to answer this question during the study, analyses were run on the remaining 144 participants. The mean confidence-in-verdict ratings were compared for each group to test if an interaction of crime severity and confidence was significant. See Table 2 in Appendix A for a summary of the means and standard deviations in each group. The main effect of crime severity was not statistically significant, $F(1, 136) = 2.54, p = .113$, partial $\eta^2 = .02$, nor was the main effect of error, $F(1, 136) = 1.78, p = .184$, partial $\eta^2 = .01$, nor was the main effect of confidence, $F(1, 136) = 1.65, p = .202$, partial $\eta^2 = .01$. The
interaction of crime severity by error was not significant, $F(1, 136) = .08, p = .779$, partial $\eta^2 = .00$, nor was the interaction of crime severity by confidence, $F(1, 136) = .01, p = .921$, partial $\eta^2 = .00$, nor the interaction of error by confidence, $F(1, 136) = 1.20, p = .275$, partial $\eta^2 = .01$. Finally, the 3-way interaction was also not statistically significant, $F(1, 136) = .17, p = .683$, partial $\eta^2 = .00$.

Planned comparisons were then conducted in the nonviolent and violent conditions, as well as the error and no error conditions. A $2 \times 2$ (confidence x error) ANOVA was run in nonviolent crime condition and an interaction of confidence by error was expected. Results showed no differences between groups, $F(3, 64) = .44, p = .723$, partial $\eta^2 = .02$. A significant main effect of confidence was also not found, $F(1, 64) = .61, p = .438$, partial $\eta^2 = .01$, nor was an interaction of confidence by error, $F(1, 64) = .21, p = .651$, partial $\eta^2 = .00$. As depicted in Figure 2, panel 1 in Appendix B, the data is in the opposite direction found in Tenney et al. (2007), but is non-significant. Further, in the error condition, there is a sharper decline in confidence-in-not guilty-verdicts for witnesses that are low in confidence compared to the difference seen in the no error condition.

A $2 \times 2$ (confidence x error) ANOVA was also run in the violent crime condition, and a main effect of confidence was expected. Instead, results showed no significant differences between groups, $F(3, 72) = 1.26, p = .295$, partial $\eta^2 = .05$, and a non-significant main effect of confidence, $F(1, 72) = 1.10, p = .298$, partial $\eta^2 = .02$. See Figure 2, panel 2 in Appendix B for a graph of the results. The interaction of confidence by error is also non-significant, $F(1, 72) = 1.30, p = .257$, partial $\eta^2 = .02$. Similar to the nonviolent condition, there is a sharper decline in the error condition of confidence-in-not guilty-verdicts with witnesses that are low in confidence compared to the difference seen in the no error condition. Again, this trend is in the opposite direction of Tenney et al. (2007) where the authors found higher confidence-in-guilty verdicts for the low confidence and error condition.
A 2 x 2 (crime severity x confidence) ANOVA was run in the no error condition and a main effect of confidence was predicted. Results showed no significant differences between groups, $F(3, 69) = .29, p = .831$, partial $\eta^2 = .01$, and a non-significant main effect of confidence, $F(1, 69) = .02, p = .897$, partial $\eta^2 = .00$. The interaction of confidence by crime severity was also non-significant, $F(1, 69) = .05, p = .829$, partial $\eta^2 = .00$.

In the error condition, a 2 x 2 (crime severity x confidence) ANOVA was run and an interaction of confidence by crime severity was predicted. Results showed no significant differences between groups, $F(3, 67) = 1.60, p = .198$, partial $\eta^2 = .07$, and a non-significant interaction of confidence by crime severity, $F(1, 67) = .13, p = .717$, partial $\eta^2 = .00$. The main effect of confidence was also non-significant, $F(1, 67) = 2.90, p = .093$, partial $\eta^2 = .04$.

Two contrasts were done in the nonviolent and violent crime conditions comparing the low confidence, error present witness condition to an average of the remaining 3 conditions. In the nonviolent condition, the low confidence, error present witness condition was not significantly different than the other 3 conditions, $F(1, 66) = 1.31, p = .256$. In the violent condition, when the low confidence, error present witness condition was compared to an average of the other 3 conditions, differences were approaching significance, $F(1, 74) = 3.87, p = .053$. Witness that were low in confidence and made an error resulted in more confidence-in-not-guilty verdicts ($M = -4.83, SD = 6.17$) compared to the other 3 conditions ($M = -1.19, SD = 7.06$).

**Sentencing**

The third hypothesis predicted that sentencing would increase as crime severity increases; that is, defendants convicted of aggravated assault would receive significantly longer sentences in years compared to defendants convicted of burglary of a habitation. A one-way ANOVA on participants with guilty verdicts was run to test this hypothesis. Results showed significant differences between
groups, \( F(1, 57) = 6.00, p = .017 \), partial \( \eta^2 = .10 \). See Figure 3 in Appendix B for a graph of the results. In the violent condition, guilty defendants were given longer sentences \( (M = 3.69, SD = 2.54) \) compared to guilty defendants in the nonviolent condition \( (M = 2.47, SD = 1.19) \). Total sentence length ranged from 0 to 12 years.

*Credibility Ratings*

Credibility ratings were created by averaging participants’ ratings on the believability, honesty, and trustworthiness scales. These three scales were highly correlated in all eight conditions with values ranging from \( r = .650 \) and \( r = .905 \). The only discrepancy was found in the violent, high confidence, error present condition where slightly weaker, but still significant correlations were found between the honesty and trustworthiness scale \( (r = .459) \) and the believability and trustworthiness scale \( (r = .555) \).

The fourth hypothesis predicted an interaction of confidence by error for witness credibility ratings in the nonviolent condition; in other words, mock jurors in the nonviolent crime condition would rate witnesses that are well calibrated as more credible than poorly calibrated witnesses. Participants’ believability, honesty, and trust scores were averaged into one credibility score. A 2 x 2 (confidence x error) ANOVA was run on average credibility ratings to test this hypothesis. See Table 3 in Appendix A for a summary of the means and standard deviations of each group. The main effect of error was statistically significant, \( F(1, 77) = 4.11, p = .046 \), partial \( \eta^2 = .05 \). See Figure 4, panel 1 in Appendix B for a graph of the results. Participants rated witnesses in the no error condition as more credible \( (M = 4.88, SD = 1.43) \) than witnesses in the error condition \( (M = 4.23, SD = 1.47) \). The main effect of confidence was not significant, \( F(1, 77) = .46, p = .501 \), partial \( \eta^2 = .01 \), nor was the interaction of error by confidence, \( F(1, 77) = 2.12, p = .150 \), partial \( \eta^2 = .03 \). Because the interaction of error by confidence was not found, results failed to replicate findings of Tenney et al. (2007). Data
was also trending in the opposite direction, whereby poorly calibrated witnesses were rated as more credible than well calibrated witnesses.

The fifth hypothesis predicted that mock jurors in the violent crime condition would rate witnesses with high confidence as more credible than witnesses with low confidence, regardless of error. A 2 x 2 (confidence x error) ANOVA indicated that the main effect of confidence was significant, $F(1, 75) = 11.34, p = .001$, partial $\eta^2 = .13$. See Figure 4, panel 2 in Appendix B for a graph of the results. Participants in the high confidence condition rated witnesses as more credible ($M = 5.23, SD = 1.24$) than those in the low confidence condition ($M = 4.17, SD = 1.52$). The main effect of error was not statistically significant, $F(1, 75) = .02, p = .877$, partial $\eta^2 = .00$, nor was the interaction of error by confidence, $F(1, 75) = .18, p = .670$, partial $\eta^2 = .00$.

Two planned comparisons were also run in the no error and error conditions to test for effects on credibility ratings. A main effect of confidence was predicted in the no error condition and an interaction of crime severity by confidence was predicted in the error condition. A 2 x 2 (crime severity x confidence) ANOVA was run in the no error condition and results showed a significant interaction of confidence by crime severity, $F(1, 76) = 5.19, p = .026$, partial $\eta^2 = .06$. The main effect of confidence was not statistically significant, $F(1, 76) = 2.22, p = .141$, partial $\eta^2 = .03$, nor was the main effect of crime severity, $F(1, 76) = .24, p = .626$, partial $\eta^2 = .00$. See Figure 4, left side of panels 1 and 2 in Appendix B for a graph of the results. Participants in the low confidence condition that read a nonviolent transcript rated the witness as more credible ($M = 5.00, SD = 1.29$), compared to the violent transcript ($M = 4.12, SD = 1.48$), $t(38) = 2.00, p = .052$. This significant difference between levels of crime severity was found only in the low confidence condition; there were no significant differences between participants in the high confidence condition that read a nonviolent transcript ($M = 4.75, SD = 1.59$) and those that read the violent transcript ($M = 5.32, SD = 1.30$), $t(38)$
To explain further the significant interaction of confidence by crime severity, an additional t-test was run in the no error condition. A significant difference was found between the violent, high confidence condition and the violent, low confidence condition, $t(37) = 2.68, p = .011$. Those in the high confidence condition rated the witness as more credible compared to those in the low confidence condition. This significant difference between confidence levels was found in the violent condition only; there were no significant differences between confidence levels in the nonviolent condition, $t(39) = -.56, p = .582$.

A 2 x 2 (crime severity x confidence) ANOVA was run in the error condition and showed a significant main effect of confidence, $F(1, 76) = 6.37, p = .014$, partial $\eta^2 = .08$. See Figure 4, right side of panels 1 and 2 in Appendix B for a graph of the results. Participants in the high confidence condition rated witnesses as more credible ($M = 4.85$, $SD = 1.20$), compared to those in the low confidence condition ($M = 4.05$, $SD = 1.62$). The main effect of crime severity was not significant, $F(1, 76) = 1.96, p = .166$, partial $\eta^2 = .03$, nor was the interaction of confidence by crime severity $F(1, 76) = .14, p = .705$, partial $\eta^2 = .00$.

Results were also analyzed by replacing the average credibility rating with each of the three scales that made up this variable: the trustworthiness, honesty, and believability scales. See Table 4 in Appendix A for a summary of means and standard deviations for each group. Three 2 x 2 (confidence by error) ANOVAs were run in the nonviolent and violent conditions in order to ensure the results matched the above findings. In the nonviolent condition, both analyses using trustworthiness and honesty resulted in only significant main effects of error, mirroring the findings described above. However, the analysis with believability did not produce a significant main effect of error nor any differences between groups, $F(3, 77) = .97, p = .413$, partial $\eta^2 = .04$. In the violent crime condition,
all analyses resulted in only a significant main effect of confidence, mirroring the results described above.

_Guilt Ratios_

As an additional measure of culpability, a guilt ratio was created by dividing each participants’ likelihood that the defendant committed the crime by their burden of proof score. When reviewing the data, it appeared as though some participants did not fully understand the measure because they answered 0% as their burden of proof; for this reason, two participants were excluded from further analyses. The remaining guilt ratios ranged from .00 to 1.80; the higher the ratio, the more guilty the participant found the defendant. Each individual’s likelihood of commission and burden of proof scores were examined in order to ensure when the likelihood of commission score was greater than the burden of proof, a guilty verdict was given, and vice versa. For most participants (84.5%), this statement held true; however, there were 25 (15.5%) participants whose likelihood of commission scores did not exceed their burden of proof and a guilty verdict was given, or vice versa. These participants were not excluded from further analyses, but likelihood of commission scores were analyzed individually (see next subsection) to ensure that they match results from guilt ratio analyses.

It was expected that there would be a high correlation between the likelihood of commission and the guilt ratio based on previous studies (e.g., Shpurik, 2003). A bivariate correlation was run between participants’ likelihood of commission scores and guilt ratios; results were in line with previous research, producing a strong, significant correlation, \( r(157) = .916, p < .001 \). Burden of proof scores also did not differ significantly by crime severity, \( r(157) = .027, p = .733 \), with very similar means between the nonviolent \((M = 88.55, SD = 13.35)\) and the violent conditions \((M = 89.24, SD = 12.11)\).
A 2 x 2 x 2 (crime severity x confidence x error) ANOVA was run on the remaining guilt ratios. See Table 5 in Appendix A for a summary of means and standard deviations from each group. Results indicated a significant main effect of error, $F(1, 151) = 6.47, p = .012$, partial $\eta^2 = .04$.

Participants in the no error condition considered the defendant more guilty ($M = .77, SD = .35$) than those in the error present condition ($M = .63, SD = .36$). The interaction of confidence by crime severity was also statistically significant, $F(1, 151) = 4.98, p = .027$, partial $\eta^2 = .03$, as was the interaction of confidence by error, $F(1, 151) = 3.91, p = .050$, partial $\eta^2 = .03$. In order to explain fully the significant main effects and interactions that were found, additional 2 x 2 ANOVA’s were conducted in the nonviolent and violent conditions, as well as the no error and error conditions.

A 2 x 2 (confidence by error) ANOVA was run in the nonviolent crime condition on guilt ratios and produced non-significant results, $F(3, 76) = 1.65, p = .184$, partial $\eta^2 = .06$. See Figure 5, panel 1 in Appendix B for a graph of the results. The interaction of error by confidence was not significant, $F(1, 76) = 2.92, p = .092$, partial $\eta^2 = .04$.

The same test was run in the violent condition and results showed a significant main effect of error, $F(1, 75) = 5.17, p = .026$, partial $\eta^2 = .06$, and of confidence, $F(1, 75) = 7.17, p = .009$, partial $\eta^2 = .09$. See Figure 5, panel 2 in Appendix B for a graph of the results. Participants in the no error condition rated defendants as more guilty ($M = .76, SD = .36$) than those in the error present condition ($M = .58, SD = .35$). Participants in the high confidence condition rated defendants as more guilty ($M = .78, SD = .27$) than those in the low confidence condition ($M = .57, SD = .41$).

Two 2 x 2 (crime severity x confidence) ANOVA’s were also run in the no error and error present conditions. In the no error condition, the interaction of crime severity by confidence was approaching significance, $F(1, 76) = 3.66, p = .059$, partial $\eta^2 = .05$. See Figure 5, left side of panels 1 and 2 in Appendix B for a graph of the results. Participants in the nonviolent condition rated
defendants as more guilty in the low confidence condition ($M = .86, SD = .32$) than those in the high confidence condition ($M = .69, SD = .35$), $t(39) = -.98, p = .335$. There were no significant differences between the nonviolent, high confidence condition and the nonviolent, low confidence condition. Participants in the violent condition rated defendants in the low confidence condition as less guilty ($M = .70, SD = .44$) than those in the high confidence condition ($M = .82, SD = .26$), $t(38) = 1.08, p = .288$. Again, there were no significant differences between the violent, high confidence condition and the violent, low confidence condition. Two more independent samples t-tests were run between the violent and nonviolent conditions. The first showed no significant differences between the nonviolent, high confidence condition and the violent, high confidence condition, $t(38) = -1.40, p = .169$. The second also showed no significant differences between the nonviolent, low confidence condition and the violent, low confidence condition, $t(39) = .98, p = .335$.

The 2 x 2 (crime severity x confidence) ANOVA in the error condition produced a significant main effect of confidence, $F(1, 75) = p = .016$, partial $\eta^2 = .07$. See Figure 5, right side of panels 1 and 2 in Appendix B for a graph of the results. Participants in the high confidence condition rated defendants as more guilty ($M = .72, SD = .32$) compared to the low confidence condition ($M = .53, SD = .37$).

Two contrasts were done in the nonviolent and violent crime conditions comparing the low confidence, error present witness condition to an average of the remaining 3 conditions. In the nonviolent condition, the low confidence, error present witness condition was not significantly different than the other 3 conditions, $F(1, 78) = 2.13, p = .149$. However, in the violent condition, the low confidence, error present witness condition was significantly different when compared to an average of the other 3 conditions, $F(1, 77) = 12.36, p = .001$. Witnesses that were low in confidence
and made an error resulted in lower guilt ratios ($M = .44, SD = .35$) compared to the other 3 conditions ($M = .75, SD = .34$).

*Likelihood of Commission Scores*

Because it was clear some participants did not fully understand the burden of proof measure, likelihood of commission scores were analyzed alone as a final measure of culpability. A 2 x 2 x 2 (crime severity x confidence x error) ANOVA was run to assess differences between groups on likelihood of commission scores. See Table 6 in Appendix A for a summary of the means and standard deviations for each group. Results showed a significant main effect of confidence, $F(1, 153) = 4.23, p = .041$, partial $\eta^2 = .03$ and of error, $F(1, 153) = 5.15, p = .025$, partial $\eta^2 = .03$. The interaction of crime severity by confidence was also significant, $F(1, 153) = 4.07, p = .046$, partial $\eta^2 = .03$. The main effect of crime severity was not statistically significant, $F(1, 153) = .52, p = .470$, partial $\eta^2 = .00$, nor was the interaction of crime severity by error, $F(1, 153) = .82, p = .367$, partial $\eta^2 = .01$, nor the interaction of error by confidence, $F(1, 153) = 1.19, p = .278$, partial $\eta^2 = .01$. Finally, the 3-way interaction was not statistically significant, $F(1, 153) = .05, p = .828$, partial $\eta^2 = .00$.

A 2 x 2 (confidence by error) ANOVA was run in the nonviolent condition and produced non-significant results, $F(3, 77) = .60, p = .614$, partial $\eta^2 = .02$. See Figure 6, panel 1 in Appendix B for a graph of the results. The expected interaction of confidence by error was not statistically significant, $F(1, 77) = .86, p = .357$, partial $\eta^2 = .01$.

A 2 x 2 (confidence by error) ANOVA was also run in the violent condition and produced a significant main effect of confidence, $F(1, 76) = 8.26, p = .005$, partial $\eta^2 = .10$ and of error, $F(1, 76) = 5.02, p = .028$, partial $\eta^2 = .06$. See Figure 6, panel 2 in Appendix B for a graph of the results. Witnesses that were high in confidence led to higher likelihood of commission scores ($M = 67.37, SD = 24.47$) than those that were low in confidence ($M = 49.25, SD = 32.57$). In addition, witnesses that
did not make an error during testimony led to higher likelihood of commission scores ($M = 65.38$, $SD = 27.81$) than those that did make an error ($M = 51.25$, $SD = 30.86$). These findings are similar, though stronger, to the findings with guilt ratios.

A 2 x 2 (crime severity by confidence) ANOVA was run in the no error condition and produced non-significant results, $F(3, 77) = 1.13, p = .343$, partial $\eta^2 = .04$. See Figure 6, left side of panels 1 and 2 in Appendix B for a graph of the results. The expected main effect of confidence was not statistically significant, $F(1, 77) = .54, p = .465$, partial $\eta^2 = .01$.

A 2 x 2 (crime severity by confidence) ANOVA was also run in the error condition and produced a significant main effect of confidence, $F(1, 76) = 4.38, p = .040$, partial $\eta^2 = .05$. See Figure 6, right side of panels 1 and 2 in Appendix B for a graph of the results. Witnesses that were high in confidence led to higher likelihood of commission scores ($M = 61.88$, $SD = 26.72$) than those that were low in confidence ($M = 47.87$, $SD = 33.05$). Again, these findings are similar to those found in the error condition with guilt ratios.

Two contrasts were done in the nonviolent and violent crime conditions comparing the low confidence, error present witness condition to an average of the remaining 3 conditions. In the nonviolent condition, the low confidence, error present witness condition was not significantly different than the other 3 conditions, $F(1, 79) = 1.26, p = .264$. However, in the violent condition, the low confidence, error present witness condition was significantly different when compared to an average of the other 3 conditions, $F(1, 78) = 10.84, p = .001$. Witnesses that were low in confidence and made an error resulted in lower likelihood of commission scores ($M = 40.24$, $SD = 31.52$) compared to the other 3 conditions ($M = 64.33$, $SD = 27.22$).
Discussion

As predicted, the current study does provide evidence that crime severity plays a role in whether jurors take into account eyewitness confidence statements or errors made during testimony when evaluating witness credibility and defendant guilt. The results also help to explain why some previous studies found evidence for the confidence-trumps hypothesis (Bradfield & Wells, 2000; Brewer & Burke, 2002; Whitley & Greenberg, 1986) instead of support for the hypothesis of calibration (Tenney et al., 2007; Tenney et al., 2008). Studies using a violent crime found more support for the confidence trumps hypothesis, and the same effect was found with the current study. In the violent crime condition, eyewitnesses with higher confidence had higher credibility ratings despite inconsistency or errors in testimony. Further evidence was found in the violent crime condition regarding guilt ratios and likelihood of commission scores; defendants that had highly confident witnesses testifying against them were seen as more guilty, even though witnesses made errors during testimony. These results are in contrast to predictions made in Tenney et al. (2007) that it is calibration, not confidence or errors alone, that jurors take into account when evaluating witness credibility and rendering verdicts.

In addition, with most of the dependent variables, there was a significant decrease in culpability, as measured by verdicts, guilt ratios, and likelihood of commission scores, for witnesses that were low in confidence and made an error during testimony when compared to an average of the remaining 3 conditions. This effect was found only for violent crimes. It appears as though jurors in a violent criminal trial find a witness that is low in confidence and is inconsistent to be more damaging to the trial. Again, this is in contrast to predictions made by Tenney et al. (2007) that this witness should help the case and increase culpability for the defendant.
Despite significant findings regarding witness credibility and guilt ratios, the first and second hypotheses of the current study were not supported by statistically significant results. The variables of witness confidence, witness error, and crime severity did not have a significant impact on jurors’ verdicts or their confidence-in-verdicts. Results did, however, show significantly fewer guilty verdicts in the violent criminal trial for witnesses that were low in confidence and inconsistent when compared to an average of the other 3 conditions. The data do not support the implied finding of Tenney et al. (2007) of more guilty verdicts for well calibrated witnesses. It may be that the dichotomous variable of verdict does not offer enough variability to detect significant differences between groups with the sample size of the study.

The null effect found with the confidence-in-verdict scale is surprising because it fails to replicate findings from Tenney et al. (2007). It was expected that calibration would play a significant role in the nonviolent crime condition; however, an interaction of witness confidence by error was not found. It may be that the current study was unable to replicate previous studies because we operationalized confidence and error in a different and stronger manner. While the majority of the transcript remained the same as in Tenney et al. (2007) in the current study, stronger manipulations of confidence and error were added because a pilot study of the original transcript did not show the intended effects of the low confidence condition. While Tenney et al. (2007) used a witness statement akin to, “I’m absolutely sure of my testimony”, versus, “No, I’m not certain of it”, to demonstrate high and low witness confidence, the current study used actual statements of confidence (95% vs. 65%), and the presence or absence of hesitations in speech to demonstrate high or low confidence. Further, a longer, more ecologically valid demonstration of witness error in testimony was used in the current study. Using stronger operational definitions of confidence and error may have brought more attention to high and low confidence or the presence or absence of error. Results of a pilot study, if
conducted, were not reported in Tenney et al. (2007) so it may be that their participants put less significance on confidence because it was not as clear if the witness was highly confident.

Significant differences with confidence-in-verdicts were also not found for the violent crime. Both for nonviolent and violent crime, data trends indicated only more confidence in overall verdicts for those witnesses that were well calibrated. It is also interesting that the low in confidence witnesses appeared to have the largest impact on data when witnesses made an error during testimony. In the violent criminal trial, there was a larger increase in confidence-in-not-guilty verdicts for witnesses that were low in confidence and made an error. Witnesses that make an error and are low in confidence are considered well calibrated and should, according to Tenney et al. (2007), result in more confidence-in-guilty verdicts. With results in the opposite direction, the current study provides evidence that the combination of inconsistencies and low confidence works against witnesses instead of in their favor. Because the combination of consistent and highly confident witnesses did not produce a similar jump in higher confidence-in-guilty verdicts, it seems as though information that witnesses are unreliable has a stronger effect on jurors than information that witnesses are reliable. It should also be noted that full power was not achieved for these analyses because some participants failed to answer the confidence-in-verdict question; total participants in each cell ranged from 15 to 18. It is unlikely that the addition of more participants would change the appearance of the data, but it may lead to significant findings in the opposite direction of Tenney et al. (2007).

The third hypothesis regarding sentencing was supported, with jurors assigning defendants convicted of a violent crime significantly more years in jail compared to those convicted of a nonviolent crime. This result is in line with previous research (e.g., Finkel & Duff, 1991). Despite the fact that both crimes are second degree felonies, jurors did take into account the severity of the crime when making sentencing decisions. The theory put forward by Lerner and Keltner (2000) may also
apply to sentencing decisions; with violent crimes, there may be a higher perceived threat and jurors are more inclined to be cautious when determining sentences for convicted defendants.

The results found with witness credibility ratings suggest that crime severity does play a role in jurors’ evaluation of credibility. As expected for violent crime, witnesses with high confidence were rated as more credible than witnesses with low confidence, despite errors made during testimony. Further, for nonviolent crime, witnesses that made an error during testimony were rated as less credible than those that did not make an error. These finding are in contrast with previous research that suggests it is calibration, not confidence or errors/inconsistencies alone that influences jurors the most when evaluating credibility (Tenney et al., 2007). With violent crimes, it appears that mock jurors were focusing on witness confidence more than inconsistencies in testimony or calibration; the results of the current study are along the same lines as previous research that has found evidence for the confidence-trumps hypothesis when using a violent crime vignette (Bradfield & Wells, 2000; Brewer & Burke, 2002; Whitley & Greenberg, 1986). Differences between the violent and nonviolent crimes may be explained by the central versus the peripheral mode of processing. In their elaboration likelihood model, Cacioppo and Petty (1989) propose that there are two modes of processing: central and peripheral. Central processing is categorized by decisions that are more effortful, while peripheral processing is characterized by decisions that are made very quickly. Past research has shown that when people are in a heightened state of emotion, they are less able to process information in a deliberate manner (Wilder & Simon, 1996 as cited in Salerno & Bottoms, 2009), similar to the peripheral mode. Past research has also shown that the emotion of anger results in less effortful and faster processing (Lerner & Tiedens, 2006), which is also similar to the peripheral mode. Perhaps jurors on a violent crime trial are more likely to be in a heightened emotional state because of the severity of the crime, specifically feeling more anger; therefore, they
may be more likely to use the peripheral mode of processing. They may focus on the salient, readily available confident statements to assess credibility. Jurors in nonviolent crime trials are less likely to be in a heightened emotional state and will use a central mode of processing; they will remember statements made by the witness prior to cross-examination, and will be more likely to notice errors made during testimony.

It is interesting that when the credibility variable was broken down into its three component parts and re-analyzed, most findings were similar to those found with the average credibility rating except for the believability scale in the nonviolent condition. Instead of finding witnesses that did not make an error as more believable than those that did make an error, no differences were found between groups. This may point to some problems in the traditional measure of credibility in the literature. It may be that jurors find credibility of witnesses different than credibility of witness’s testimony. Perhaps the ratings of trustworthiness and honesty tap more into witness credibility, while believability may be more related to credibility of witness testimony. Future research should explore whether jurors will rate witness credibility differently than witness testimony and which variables are most related to credibility of a person versus credibility of testimony.

In addition to verdicts, guilt ratios and likelihood of commission scores were also used in the current study as a measure of culpability. Previous research on coerced confessions has examined the likelihood of commission and burden of proof statements independently (e.g., Henkel, 2008; Kassin & Sukel, 1997), and both were examined in the current study. Guilt ratios were used in order to obtain a more sensitive measure of defendant guilt, and likelihood of commission scores were used as an independent measure of guilt.

Significant results for guilt ratios and likelihood of commission scores in the violent crime suggest that jurors may use confidence as well as inconsistencies in testimony when making overall
guilt decisions. As with confidence-in-verdict results, there was a stronger drop in guilt ratings for witnesses that made an error and were low in confidence. Again this drop was seen more so in the violent crime condition. It appears as though jurors were especially hesitant to find the defendant guilty of a violent crime if an inconsistent and low-in-confidence witness testified against him. Witness that were high in confidence and did not make an error during testimony resulted in higher ratings of defendant guilt.

While the main effects of confidence with credibility ratings, guilt ratios, and likelihood of commission scores were expected, the main effects of error were not. This finding, however, is not surprising. Previous research suggests that inconsistencies during testimony are fairly common among eyewitnesses (Brewer et al., 1999), and that there is a strong belief that witnesses that make errors or are inconsistent during testimony are less accurate (Brewer, Potter, Fisher, Bond, Lusczc, 1999; Fisher & Cutler, 1995). If mock jurors believe witnesses are not credible, this may lead to less belief in the defendant’s guilt. Despite the belief that witness inconsistency equals inaccuracy, research has failed to replicate this relationship. Fisher & Cutler (1995) measured consistency and actual accuracy of mock witnesses and found, while significantly positively related, inconsistency only explained a small amount of the variance in overall witness accuracy. Brewer et al. (1999) also found a weak, though significant relationship between inconsistency and accuracy. The authors suggest an additive model of overall accuracy and inconsistency in testimony is just a small portion of the variance accounted for in accuracy; they also suggest the existence of other variables, when added to inconsistency that would give a better idea of witness accuracy.

On the other hand, research has shown that witness confidence is more strongly related to accuracy for choosers in lineup identifications (Sporer, Penrod, Read, & Cutler, 1995). The current study used a witness that chose the defendant out of a lineup and stated his confidence in choice; in
this manner, previous research would support the notion that the witness’s high statement of confidence is reflective of his correctly choosing the defendant out of a lineup. It is important to note that we also used hesitancies in speech and statements implying high or low confidence during the witness’s testimony. In this case, because previous research has not found a relationship between overall confident testimony and accuracy, we cannot say that a witness’s highly confident testimony is reflective of his accuracy in choosing the defendant. Data from the current study support the idea that low witness confidence and inconsistencies in testimony create an additive damaging effect on the trial, and result in lower guilt ratings of the defendant. The same additive elevating effect, however, is not seen for those witnesses that were high in confidence and made no errors. Future research could explore whether jurors should place more weight on witnesses that are highly confident and consistent because previous research has shown both to be related to accuracy.

Though all hypotheses were not confirmed, the current study does help clarify conflicting results found in previous research regarding witness credibility ratings and defendant guilt. With violent crimes, the confidence-trumps hypothesis was supported for witness credibility. While the effect of calibration was not found, it does appear as though inconsistencies in testimony have a larger effect on jurors’ ratings of defendant’s guilt for violent crimes than predicted. The current study also showed differences in how jurors rate the credibility of witnesses and guilt of defendants in regards to crime severity. Witnesses testifying in a nonviolent criminal trial were less credible if they made errors during testimony, while those testifying in a violent criminal trial were less credible if they were low in confidence. In terms of guilt ratios, witnesses in a nonviolent criminal trial showed no differences in influencing guilt, while witnesses in violent criminal trials contributed to less defendant guilt if they made an error during testimony and were low in confidence. It appears as though inconsistencies and confidence level impact juror decision making at different levels.
depending on the type of crime committed. The current study lends the support to the idea that crime severity does play an important moderating role in juror decision making and should be included in future research.

More research is needed to explain why jurors might rely on confidence more than accuracy, or vice versa depending on the level of crime severity. In order to confirm that jurors use differential processing modes according to crime severity, research would be needed to manipulate the processing mode of mock jurors and compare credibility ratings, verdicts, and guilt ratios to mock jurors that simply read violent or nonviolent criminal trials. Future research could also manipulate processing mode by giving mock jurors materials intended to put them in an emotional or a rational state of mind and observe whether credibility, verdicts, and guilt ratios vary by processing mode.

Future research should also explore the relationship between inconsistency, confidence, and calibration on eyewitness accuracy. While confidence appears to be taken by jurors to be a better indicator of witness accuracy than inconsistency, the effects of calibration on accuracy have not yet been studied. It is not yet known whether calibration affects only perceived accuracy as reported by credibility ratings in Tenney et al. (2007), or if well calibrated witnesses are truly more accurate than poorly calibrated witnesses. Because research has shown that confidence is positively related to witness accuracy and inconsistencies are negatively related to overall witness accuracy, future research should explore whether confidence and inconsistency contribute additively to the perception of witness accuracy. Perhaps using confidence and inconsistency together would help jurors better judge witness credibility and accuracy.
References


Table 1: Correlations between Dependent Variables

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<th>Guilt Ratios</th>
<th>Likelihood of Commission</th>
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**p < .01.

Table 2: Summaries of Means and Standard Deviations on Confidence-in-Verdicts

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Table 6:
Summaries of Means and Standard Deviations on Likelihood of Commission Scores

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Figure 1

Nonviolent Transcript:
Percentage of Guilty Verdicts by Condition

Violent Transcript:
Percentage of Guilty Verdicts by Condition
Nonviolent Transcript:  
Mean Confidence-in-Verdict Ratings by Condition

Violent Transcript:  
Mean Confidence-in-Verdict Ratings by Condition

Figure 2
Figure 3

Sentences for Guilty Defendants by Crime Severity

Sentence (Years)

Violent Crime
Nonviolent Crime

Figure 3
Nonviolent Transcript:
Mean Witness Credibility Ratings by Condition

Violent Transcript:
Mean Witness Credibility Ratings by Condition

Figure 4
Figure 5

Nonviolent Transcript:
Mean Guilt Ratios by Condition

Guilt Ratio

No Error | Error Present

High Confidence | Low Confidence

Violent Transcript:
Mean Guilt Ratios by Condition

Guilt Ratio

No Error | Error Present

High Confidence | Low Confidence

Figure 5
Nonviolent Transcript:
Mean Likelihood of Commission Scores by Condition

Violent Transcript:
Mean Likelihood of Commission Scores by Condition

Figure 6
Appendix A: Voir Dire Form

Demographic Information:

Age: ______  Gender: ____________________  Ethnicity: ____________________

Years Lived in El Paso: ____________________

Licensed Driver: Yes _____  No ______

Registered Voter: Yes _____  No ______

Marital Status: Married ____  Never Married ____  Divorced ____  Widowed ____

If Married: Years Married _____________

If You Have Children: Number of Children: ______

Your Occupation and Employer: __________________________________________

Name of Last School or College Attended, Grade Completed, or Degree Received:
________________________________________________________________________

What is (was) the principal profession or vocation of your parents?

Father: ________________  Mother: ________________

Your religious preference (if any): _________________________________

Experiences with the Legal System:

In this section, you will be asked some general questions about your personal experiences with the legal system. Please answer these questions honestly. Again, please remember that these answers are completely anonymous.

Have you served on a jury before? Yes _____  No ______

If yes, how many times? _______

Was it Civil _______  Criminal _______  Grand Jury ________?

Was a verdict rendered? Yes _____  No ______

Are you now or have you ever been a law enforcement officer? __ Yes __ No

If yes, state what type and when: ________________________________

Do you have a close friend or relative who is now or ever has been a law enforcement officer? Yes _____  No ______
If yes, state the nature of the relationship, type of law enforcement officer, and when the individual was (is) a law enforcement officer: 

Have you ever been a victim of a crime? Yes _____ No _______

If yes, state the nature of the crime and when it occurred: 

Has any close friend or relative ever been the victim of a crime? Yes _____ No _______

If yes, state the nature of the crime and when it occurred: 

Have you ever been a witness in a criminal case? Yes _____ No _______

If yes, state the type of case and when it occurred: 

Do you have a close friend or relative who is now or ever has been an attorney? Yes _____ No _______

If yes, state the nature of the relationship, type of attorney, and when the individual was (is) practicing law: 

Overall, how do you feel about police officers?

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Have you ever spoken with a police officer? Yes _____ No _______

If yes, how many times?

_____ Once or twice
_____ A few times
_____ Several times
_____ Many times

If yes, in what contexts? (check all that apply)

_____ Speeding ticket / traffic accident
_____ Answering questions about something I had seen
_____ Answering questions about something I may have done
_____ Answering questions about something that happened to me
Talking about general issues or concerns such as safety

In a social context

Other (please explain)

Have you ever reported a crime to the police? Yes __ No _____

Overall, how do you feel about lawyers?

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Have you ever spoken with a lawyer? Yes __ No _____

If yes, how many times?

Once or twice

A few times

Several times

Many times

If yes, in what contexts? (check all that apply)

Answering questions about something I had seen

Getting advice on a civil matter, such as a divorce, will, or lawsuit

Getting advice on a criminal matter

Lawyer called me to offer services

In a social context

Other (please explain)

Please circle the numbers that best describe your behavior.

a. I read the newspaper.

Never __ 1-3 times per week __

Less than once per month __ 4-6 times per week __

Less than once per week __ Everyday __
b. I watch television news.

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c. I watch television shows about the police or legal system.

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d. I read books about the police or legal system.

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e. I see movies about the police or legal system.

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Appendix B: Trial Transcript

PEOPLE v. ROBERT KLOB

Thank you for participating in this research project. We are interested in examining how jurors evaluate evidence and make judgments about legal cases. We would like you to serve as a juror and make decisions about a legal case involving the [nonviolent: burglary of a dorm room/violent: burglary of a dorm room and aggravated assault] of a college student at Adrian College, a private liberal arts college in Texas. Below you will find a brief description of the incident and a summary of some of the crucial elements of the trial. Only material which is redundant or superficial has been omitted. Please read this booklet carefully and when you are done, notify your experimenter and he or she will give you a brief questionnaire to fill out. Ask the experimenter for clarification if you have any questions.

THE INCIDENT:

At approximately 9:30pm on Wednesday, March 4th, 2009, Gene Sharple, sophomore at Adrian College, [nonviolent: returned to his dormitory after meeting with an economics study group. As he approached his room, he was surprised to discover that his door was ajar. He rushed into the room and found he’d been burglarized/violent: regained consciousness after a blow to the head. He had a sharp pain in his head where he’d been struck, and there was blood on his face. As he came to, he realized he’d been burglarized.] The place was in complete disarray; his dresser drawers had beenransacked, crates and boxes were overturned, and clothing, books, and papers were scattered all over the floor. A frantic inventory revealed that several valuable possessions had been stolen.

After a brief tantrum, Gene regained his composure and called the college’s Department of Public Safety to notify them that his dorm room had been [nonviolent: burglarized/violent: burglarized and he had been assaulted]. The DPS officers arrived at about 9:50pm, searched the room, but were not able to find clear fingerprints or other clues to the culprit’s identity. The DPS officers then surveyed the dorm residents to determine if any of the might have witnessed the burglary. One student, Kevin Barth, reported seeing a white male in his mid 20’s leaving Sharple’s dorm room earlier that evening with a laptop in his arms. Barth claimed that the man had blond hair and was wearing a dark jacket.

Minutes later, DPS officers found a tall, blonde-haired man wearing a blue denim jacket in a parking lot on campus. The man, Robert Kolb, age 24, was holding an iPod, which was one of the items that Sharple reported at stolen. Kolb was not a student at the college; he claimed that he was trying to visit a friend but wasn’t able to find him, and that he had found the iPod on the ground in the parking lot. The DPS officers arrested him on charges of [nonviolent: burglary of habitation/violent: burglary of habitation and aggravated assault].

DPS officers also reviewed the security cameras from the night of the incident. There were many people going in and out of the building alone and also in large groups. It was clear that Sharple
left the building around 8:15 that night, however, a clear identification of the suspect could not be made from the surveillance tape.

The next morning, DPS arranged a lineup. In the lineup were Kolb and five other blond-haired men of approximately the same age and height. Barth examined the lineup briefly and then indicated that Kolb was the man he had seen leaving Sharple’s room. [High confidence: Barth took less than 10 seconds to make an identification from the lineup and reported that he was 95% confident that the person he identified was the culprit/low confidence: Barth took over a minute and reported that he was 65% confident that the person he identified was the culprit.] As a result, Robert Kolb was charged with [nonviolent: burglary of habitation/violent: burglary of habitation and aggravated assault].

THE TRIAL:

Kolb was tried in Texas District Court for the charges of [nonviolent: burglary of habitation/violent: burglary of habitation and aggravated assault], and pled “Not Guilty.” In his opening statement, the prosecutor argued that the evidence would reveal the Robert Kolb broke into Sharple’s room, [violent: assaulted him with a pistol when he found him inside the room], and stole over $2000 worth of personal property, property that Sharple had worked long and hard to earn by holding down two summer jobs. The prosecution would demonstrate that Kolb was identified by an eyewitness in a fair police lineup, and that Kolb was unable to provide a verifiable alibi.

Next, Kolb’s defense attorney approached the jury and stated that he would convince them that his client was an innocent victim of circumstance. He informed the jury that Kolb was an ordinary young man who held a part-time job while taking classes at a local community college. He acknowledged that his client was on the Adrian College campus on the night of the incident, but that Kolb was simply visiting the college to look up an old high school friend. Unfortunately, his friend wasn’t around that evening, and while walking home, Kolb was mistaken for the burglar, even though he’d never entered Gene Sharples’s dormitory. Finally, the defense attorney stated that the prosecution’s eyewitness, though well-meaning, had mistakenly identified Kolb as the perpetrator in the crime, allowing the true culprit to run free.

The prosecutor called Gene Sharples, the victim of the [nonviolent: theft/violent: assault and theft]. Sharples was sworn in, and was asked for some factual information about himself. Then the prosecutor asked him:

PROSECUTOR: Mr. Sharples, could you tell us where you went on the evening of Wednesday, March 4th?

GENE SHARPLE: Well, I was in my dorm room after dinner, but then I had to go to
Lassiter Hall to attend a study group for my Econometrics class. [Nonviolent: That lasted about an hour, and then I came back to my room./violent: I left the building, but I had to come back because I forgot my notes. I must have surprised someone in my dorm room because before I could leave again, someone hit me on the head with a heavy object. I never saw the person’s face. I guess I passed out for awhile.]

Q. And what happened next?

A. [Nonviolent: I found my door partially opened, so I ran in and found that I’d been ripped off./violent: I woke up and my head was killing me. There was blood coming down on my face from where I’d been hit in the head. I looked around and found that I’d been ripped off.] The place was a mess. So I called DPS.

Q. Could you tell us exactly what was stolen?

A. About $65 in cash, a gold watch, an iPod, and my laptop.

[At this point, the Prosecutor presented receipts for the stolen goods which were admitted as evidence.]

Q. Mr. Sharple, when you left your dorm room, did you lock your door?

A. Yes, of course. I always do. But those dorm locks are worthless. Some guys who’ve locked themselves out of their room have broken back in again using a credit card.

Q. Thank you, Mr. Sharple.

Next, the defense attorney cross-examined Gene Sharple:

DEFENSE ATTORNEY: Mr. Sharple, I’d just like to clarify one thing. Could you tell us exactly when and for how long you were [nonviolent: away from your dorm room during the evening when the theft took place?/violent: how long you were unconscious on the evening when the theft took place?]

GENE SHARPLE: Well, my meeting started at 8:30pm, [nonviolent: and I left maybe fifteen minutes earlier at about 8:15pm. The meeting was over at about twenty after nine, so I guess I got home about 9:30 or so./violent: and I left maybe fifteen minutes earlier at about 8:15pm. I came back to room to get my notes and was getting ready to leave again at about 8:20pm. I came to and it was about 9:30 or so.]
Q. Nonviolent: Were you still in the room at 7pm?

A. Yes, sir. [Nonviolent: I didn’t leave until at least 8:15pm./violent: I didn’t start to get ready to leave again until 8:20pm.]

Q. Thank you, Mr. Sharple. No further questions, your honor.

The prosecutor called Kevin Barth to the stand. Barth was sworn in and asked to tell the jury some factual information about himself. Then the prosecutor asked him:

Q. Kevin, where were you on the night of Wednesday, March 4th?

A. I was studying in my dorm from about [low confidence: um,] 6pm until I went to sleep around one in the morning.

Q. And did you see anything unusual in your dormitory on that night?

A. Well, I went upstairs to the 4th floor to return a book to a friend and I saw a man with [low confidence: uh,] blonde hair and a dark jacket [low confidence: I think,] leaving Gene Sharple’s room with a laptop in his arms. At the time, I thought it was a little fishy, but I don’t really know the guys on that floor very well so I figured it was probably a friend of Gene’s borrowing or buying the stuff, or maybe just a dorm neighbor playing a prank.

Q. And then what happened?

A. I went back to my room and studied until the DPS officers knocked on my door and asked me if I’d seen anyone prowling around the building. So I told them what I saw and later they called me back and asked me to come to the police lineup the following morning.

Q. And was the man you had seen leaving Gene Sharple’s room in the police lineup?

A. [low confidence: Um,] Yes, he was.

Q. And can you identify that same man in the room today?

A. Yes, sir. (Points across courtroom at Kolb.)

Q. Your Honor, may the record show that Mr. Barth is pointing at the defendant, Mr. Robert Kolb. I have no further questions for this witness, Your Honor.
At this point, the defense attorney cross-examined the witness:

DEFENSE ATTORNEY: Mr. Barth, can you describe exactly what you saw?

KEVIN BARTH: A guy was coming out of Gene Sharple’s room. He was in his early twenties, [low confidence: with uh,] with blond hair, about 6 feet tall, [low confidence: I guess,] and he was wearing a dark jacket and jeans [low confidence: I think].

Q. [Error: You testified that you saw a man with blonde hair leaving Mr. Sharple’s dorm room, correct?

A. Yes, sir.

Q. But on the night of the robbery, you gave a written statement to police, correct?

A. Yes, sir.

Q. And in that statement, you told police that the man you saw had black hair, correct?

A. I don’t remember saying that.

Q. Do you recognize this document as the written statement you gave police?

A. Yes, this is the statement.

Q. And doesn’t your written statement say that the man had black hair?

A. [low confidence: Um,] Yes, sir.

Q. So you only changed your story to say the man was blonde after you found out that my client has blonde hair, correct?

A. No, that’s not true.

Q. Mr. Barth, was there anything particularly unusual about the physical appearance of the man you saw? Any especially distinct physical characteristics that would make him stand out in a crowd?

A. Well, no, not really. Not anything really unusual.
Q. Aren’t there many men at Adrian College and in the town of Adrian that could be described as being “in their early twenties, blonde, about 6 feet tall, with a dark jacket and jeans”?

A. Yes, sir, but I [low confidence: I think I] recognize his face.

Q. Are you absolutely sure of your testimony?

A. [High confidence: Yes, sir, absolutely. I’m certain of it./low confidence: Um, I’m fairly sure.]

Q. I have no further questions, Your Honor.

Next, the prosecutor called the Department of Public Safety Officer Daniel Holland to the stand.

PROSECUTOR: Officer Holland, according to Mr. Sharple, the locks on the dormitory room doors can be opened with a credit card. In your opinion, is that true?

OFFICER HOLLAND: Yes, unfortunately, it’s true. We’ve been urging the college administrators to replace the locks for several years. Perhaps now they will. We try to keep an eye on all the dorm rooms at night, but we’re understaffed.

Q. In your opinion, would a person need to be a professional thief to burglarize a room like Mr. Sharple’s [violent: and then assault him]?

A. No, anyone who wanted to badly enough could probably do it.

[The prosecutor then asked Officer Holland about the events that occurred on the night of the theft from the moment Sharple notified DPS.]

Q. Can you tell us where you found Robert Kolb, the defendant?

A. Yes, we found him in the parking lot on the north side of the campus, unlocking his car door.

Q. Why did you suspect the defendant?

A. Well, Kevin Barth had described seeing a white man, about 6 feet tall, with blonde hair and a dark jacked. Robert Kolb is 5’11”, has blonde hair and was wearing a blue denim jacket. And he was holding an iPod, and we knew that such an MP3 player was stolen. So I started asking
him questions, and then my partner found the stolen goods [violent: and a bloody pistol] nearby. And he wasn’t from the school and couldn’t find anyone to provide an alibi for him.

Q. And where did you find the stolen goods [violent: and the pistol]?

A. They were in a large trash bag stuffed under a garbage dumpster behind the Student Union building.

Q. And how far away was the defendant’s parked car from the garbage dumpster, in your estimation?

A. Oh, about 90 feet away, around the corner of the building.

Q. Thank you. No further questions, Your Honor.

Next the defense attorney cross-examined Officer Holland:

DEFENSE ATTORNEY: Officer Holland, did you search for fingerprints in and around Gene Sharple’s dorm room?

OFFICER HOLLAND: Yes, sir, we did.

Q. Did you find Robert Kolb’s fingerprints anywhere?

A. Well, no, we weren’t able to find a positive match, but there were some partial prints that weren’t clear enough for identification.

Q. Do these partial prints indicate in any way that Robert Kolb was in Gene Sharple’s room?

A. No sir.

Q. And did you find any prints on the stolen goods [violent: or the pistol]?

A. We only found Gene Sharple’s prints on the stolen goods [violent: and there were no prints on the pistol] – but we believe that the suspect probably wore gloves to avoid leaving fingerprints.

Q. Thank you. No further questions.
At this point, the defense attorney called the defendant, Robert Kolb, to the stand. The defense attorney asked him several questions about his family, his job, and his girlfriend. Examination proceeded as follows:

DEFENSE ATTORNEY: Robert, could you tell us what happened on the night of March 4th?

ROBERT KOLB: Yes sir. I decided that I wanted to see how my old high school friend, Richard Osborne, was going because we had kind of lost touch in the past few years – you know, just doing different things and everything. So I drove over to campus and stopped by his dorm room but he wasn’t in. I waited for a little while in case he had just stepped out for a minute. And then I headed back to the parking lot. As I was walking to my car, I saw an iPod on the ground by a garbage dumpster, so I picked it up. I thought maybe someone had thrown it away because it was broken, so I brought it over to my car to look at it in the light and see how badly broken it was and if there was a name on it or something. And then all of a sudden the police officers come over and tell me that I’m under arrest for a robbery that I didn’t have anything to do with.

Q. Thank you, Mr. Kolb.

Then the prosecutor cross-examined the defendant:

PROSECUTOR: Mr. Kolb, you say that you were on the college campus to visit an old friend. Did your friend know you were coming to visit?

ROBERT KOLB: No sir. It was going to be kind of a surprise.

Q. I see. When you arrived on campus, how did you know where his dorm room was located?

A. I looked it up in a campus phone book in the Student Union building.

Q. And is there anyone who can testify that you were in the Union looking up your friend’s address?

A. No sir, there wasn’t anyone around at the time. It was pretty quick.

Q. And was there anyone in his dorm that can testify that you were knocking on his door?

A. No sir, I guess everyone was in their rooms at the time.
Q. Thank you, Mr. Kolb. I have no further questions, Your Honor.

Next, the defense attorney called Richard Osborne to the stand.

DEFENSE ATTORNEY: Mr. Osborne, you are currently a senior at Adrian College and you live on campus, is that correct?

RICHARD OSBORNE: Yes sir.

Q. Do you know the defendant, Robert Kolb?

A. Yes, I do. We went to high school together. He was a senior when I was a freshman, and we played on the wrestling team together for a year.

Q. I see. Were you on campus the night of March 4th?

A. No sir. I was in Houston that evening, for a rock concert, and then I spent the night at a friend’s apartment in the city.

Q. Would you say that Robert Kolb was the kind of friend that might just drop by for a visit without calling first?

A. Well, I guess so. We’re both pretty informal about things like that. He doesn’t live that far from campus so it’d be no big deal.

Q. Have you ever known Robert Kolb to be the kind of person who might commit a crime?

A. No he’s not the kind of person, not at all.

Q. Thank you, Mr. Osborne.

The prosecution then cross-examined the witness:

PROSECUTOR: Mr. Osborne, has Robert Kolb ever visited you on campus before?

RICHARD OSBORNE: No, sir.

Q. And when was the last time that you saw him?
A. Well, I guess it was awhile ago – during the spring of my first year of college.

Q. And where did you see him?

A. In town, at a party.

Q. So you really had no reason to expect a visit from Mr. Kolb this spring, did you?

A. Well, no, but he knows he’d always be welcome to – we’ve both just been real busy with work and school and girlfriends and things.

Q. Thank you Mr. Osborne. I think that will be all.

At this point, each attorney made a closing statement. The prosecution argued that the eyewitness testimony clearly established that Robert Kolb was the person who committed the crime. Kolb was on campus during the crime, he met the description given by the eyewitness, he had the stolen MP3 player in his possession, and he emphasized the fact that Kolb was unable to corroborate his alibi and that it seemed suspicious that Kolb would suddenly drop in on his acquaintance unannounced after a two year lapse.

The defense attorney argued that Robert Kolb was an innocent man who was simply in the wrong place at the wrong time, and he asked the jury to consider the possibility that the eyewitness was mistaken. He pointed out that most people would pick up a tape recorder if they saw it lying on the road near a dumpster. He also reminded the jury that the DPS officers were unable to incriminate Kolb using fingerprint analyses, and that many young men would meet the same physical description as Kolb.

Finally, the judge instructed the jury. Portions of his instructions follow:

“Members of the jury, it is now my function to instruct you on the law that you must apply to the facts that you find in this case. Under our system, a defendant is presumed to be innocent until his guilt may be drawn from the fact that a person has been arrested and placed on trial. Proof beyond a reasonable doubt is what the words imply, a doubt for which you can give a reason, a doubt which would cause you to hesitate in the ordinary affairs of life. Now in this case, the charge is [nonviolent: burglary of habitation/violent: burglary of habitation and aggravated assault], and the questions that you must decide is whether or not the defendant is the person who [nonviolent: burglarized Gene Sharple’s dorm room/violent: assaulted Gene Sharple and burglarized his dorm room]. If you believe that the prosecution has established beyond a reasonable doubt that the defendant is the person who committed this act, then you must find him Guilty. However, if you believe that there is a reasonable doubt as to whether the defendant is the person who committed this act, then you must find him Not Guilty.
Appendix C: Verdict Form for Nonviolent Crime

1. For the charge of Burglary of Habitation,
   _____ I find the defendant **GUILTY** of burglary of habitation (continue to bottom portion of form).
   _____ I find the defendant **NOT GUILTY** of burglary of habitation (stop here).

   1 2 3 4 5 6 7 8 9 10
   Not at all                     Completely

   __________________________________________________________________________________

   Continue ONLY if you checked GUILTY.

   If you found the defendant GUILTY, for how many years would you sentence the defendant?

   The sentencing guideline in the State of Texas for this offense of Second Degree Felony of Burglary of Habitation is punishment by imprisonment for not more than 20 years and no less than 2 years. In addition, the defendant, if charged, may be punished by a fine not to exceed $10,000.

   My sentence is: __________ Years and $___________ Fine (optional)

   How confident are you in your verdict decision of guilty or not guilty? (Circle one)
Appendix D: Verdict Form for Violent Crime

1. For the charge of Burglary of Habitation,

      _____ I find the defendant **GUILTY** of burglary of habitation.
      _____ I find the defendant **NOT GUILTY** of burglary of habitation.

2. For the charge of second degree murder,

      _____ I find the defendant **GUILTY** of aggravated assault (continue to bottom portion of form).
      _____ I find the defendant **NOT GUILTY** of aggravated assault (stop here).

      1  2  3  4  5  6  7  8  9  10
Not at all                                      Completely

____________________________________________________________________________

Continue ONLY if you checked GUILTY.

If you found the defendant GUILTY, for how many years would you sentence the defendant?

The sentencing guideline in the State of Texas for this offense of Second Degree Felony Aggravated Assault is punishment by imprisonment for not more than 20 years and no less than 2 years. In addition, the defendant, if charged, may be punished by a fine not to exceed $10,000.

My sentence is: ____________ Years and $______________ Fine (optional)

How confident are you in your verdict decision of guilty or not guilty? (Circle one)
Appendix E: Post-Verdict Questionnaire

How believable did you find the witness, Kevin Barth, in this trial? Please circle one.

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How honest do you think the witness, Kevin Barth, was in this trial? Please circle one.

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Based on this trial, how trustworthy did you find the witness, Kevin Barth? Please circle one.

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Appendix F: Juror Questionnaire

1. In your opinion, how certain must you be of defendant’s guilt in order to vote “guilty” in a [nonviolent: burglary/violent: aggravated assault] case like this?
   (Between 0% and 100%) _______ %

2. What is the likelihood that Robert Kolb committed the [nonviolent: burglary/violent: aggravated assault]?
   0% 5 10 15 20 25 30 35 40 45 50 55 60 65 70 75 80 85 90 95 100%
Curriculum Vita

Abigail Moore was born in Fredericksburg, Virginia. She graduated from Blacksburg High School in Blacksburg, VA in the spring of 2003 and entered the University of Mary Washington in the fall of the same year. While pursuing her bachelor’s of science degree in psychology, Abigail had the opportunity to work on a variety of research projects including the effects of color on mood, learning in rats, and finally, cross-race face recognition. She was able to present her research on face recognition at the Virginia Psychological Association Conference in Richmond, VA. It was her interest in research that ultimately led her to pursue a graduate degree in psychology after graduating in the spring of 2007. In the fall of 2008, Abigail entered the Legal Psychology graduate program at the University of Texas at El Paso.

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