

DIFFERENTIAL IMPACT OF RISK COMMUNICATION METHODS IN A
SEXUALLY VIOLENT PREDATOR TRIAL

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ABSTRACT

DIFFERENTIAL IMPACT OF RISK COMMUNICATION METHODS IN A SEXUALLY VIOLENT PREDATOR TRIAL

by Catherine Currell

Sexually Violent Predator (SVP) trials are associated with significant potential civil liberties violations in that confinement of the individual can be indefinite after completion of a predefined sentence. There remains a limited amount of research on juror decision-making in SVP trials. Research that has been conducted using mock jurors suggests that jurors tend to be more easily swayed by the less accurate clinical judgments rather than by more accurate actuarial prediction tools. Additionally, there has been limited research related to how pre-existing beliefs about sexual offenders impacts a juror's decision-making. Both of these questions were examined in the present study.

Participants were randomly assigned to one of four groups (actuarial prosecution and actuarial defense, clinical prosecution and clinical defense, actuarial prosecution and clinical defense, or clinical prosecution and actuarial defense). Participants reviewed the Kansas SVP statute and read a case summary. They completed a case evaluation regarding their belief that the defendant should be civilly committed, perceived likelihood of sexual and non-sexual recidivism, and amenability to treatment. Participants then read testimony from the prosecution, completed another case evaluation form, then read the testimony from the defense, and completed the case evaluation for a final time. Participants also completed a measure of their attitude towards sex offenders and rated the expert witness testimonies on their credibility, persuasiveness, and influence.

Overall, the majority of the participants (80.4%) believed the defendant should be civilly committed after reading both testimonies. Most participants believed he would re-

offend sexually if not committed and that he would benefit from treatment. Results indicated that type of testimony given (clinical vs. actuarial) did not have a significant impact on decision-making of the participants. However, participants' negative attitudes toward sex offenders were significantly correlated with increased civil commitment decision and belief that the defendant would sexually re-offend if not committed. Unfavorable attitude towards sex offenders was negatively correlated with belief that the participant would benefit from treatment. There was a significant effect for gender, with females having more negative attitudes towards sex offenders and believing the defendant would be more likely to sexually re-offend if not committed compared to males.

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CHAPTER I

INTRODUCTION

Sexual offending crimes are often viewed as highly emotionally charged, more so than many other types of crimes. As such, laws are constantly changing in an attempt to control sexual offenders upon release and to keep the community safe. One such law has been sexually violent predator (SVP) civil commitment statutes. Differing from typical civil commitment in several notable regards, SVP statutes relate specifically to sexual offenders and are placed in effect following an offender's time for release from prison. If the individual is civilly committed through the SVP hearing, he or she may be confined indefinitely for treatment (Gookin, 2007). SVP hearings frequently involve jury trials, and such trials heavily rely on expert witness assessment and testimony as part of the process (Lieberman, Krauss, Kyger, & Lehoux, 2007).

Although there exists much research on juror decision-making in cases related to predicting future dangerousness (e.g., Edens, Desforges, Fernandez, & Palac, 2009; Golding, Bradshaw, Dunlap, & Hodell, 2007; Krauss, Lieberman, & Olson, 2004; Krauss & Sales, 2001), there has been a relative lack of research specifically related to jury decision-making in SVP trials. Research that examines the impact on different types of assessment (actuarial and clinical) in SVP trials have led to discrepant findings (e.g., Guy & Edens, 2003). It remains the case that the impact of type of method used in evaluation and risk communication in SVP trials is not well understood. The present study will examine the differential impact of assessment methods and the influence of jurors' pre-existing beliefs regarding sexual offenders on juror decision-making/outcomes of SVP trials.

History of Sexually Violent Predator (SVP) Laws

Although the first SVP civil commitment statute was not passed until 1990 in Washington State (*Washington Laws* § 71.09.020, 1990), laws related to controlling sex offenders have been in effect for decades in the United States. Beginning in the 1930s with the *sexual psychopath laws* or *mentally disordered sex offender laws*, legislation was passed in many states to deal with the problem of sex offenders (Melton, Petrila, Poythress, & Slobogin, 2007). These laws applied to offenders who were considered to be of highest risk to the community and those who qualified could potentially be diverted into treatment programs of indeterminate length (Melton et al., 2007). Such laws were held as constitutional in 1940 by the U.S. Supreme Court if they were used with:

[...] persons who, by a habitual course of misconduct in sexual matters, have evidenced an utter lack of power to control their sexual impulses and who, as a result, are likely to attack or otherwise inflict injury, loss, pain, or other evil on the object of their uncontrolled and uncontrollable desire (*State of Minnesota ex rel. Pearson v. Probate Court*, 1940, p. 270).

In the 1970s, many states repealed these laws following the general consensus that sexual offender treatments were not beneficial (Melton et al., 2007). More recently however, specific laws related to the control of sexual offenders upon their release has become more stringent, likely in response from legislators following several highly publicized cases in which a sexual offender has been released from prison and then commits further sexual offenses and/or homicides (Witt & Conroy, 2009). For instance, laws similar to Megan's Laws are a fixture in every state across the United States. Community residents can access information about sexual offenders residing in their

community, usually through an online sexual offender registry that is available to the public. Community notification laws, which exist in some form in all states, go a step further by notifying the residents of a community more directly (e.g., through flyers or community meetings) that a convicted sex offender is moving to their community. Despite the popularity of such laws, there has been little evidence to suggest that they are effective in reducing re-offense (Cohen & Jeglic, 2007; LaFond, 2000).

Current SVP Laws

Presently, 21 states and the District of Columbia utilize some form of SVP laws (Arizona, California, Florida, Illinois, Iowa, Kansas, Massachusetts, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, and Wisconsin). Seventy-five percent of the states with SVP laws provide the defendant with the option of having a jury trial, while Connecticut, Minnesota, New Jersey, North Dakota, and Pennsylvania require bench trials (National Center for Prosecution of Child Abuse, 2007).

Like the Megan's laws, the first SVP statute implemented in Washington State was also developed in response to a crime which received much publicity and outcry. In 1987, Earl Shriener was released from prison after serving his maximum time for a sexual offense. While in prison, he was said to have bragged to other inmates that he planned to assault and rape once released. Although Washington State officials acknowledged that they were aware of his claims, that they were unable to civilly commit him since he did not have a mental illness (a requirement for civil commitment cases). In 1989, two years

after his release, Shriner raped and castrated a seven-year-old Tacoma, Washington, boy. Public outcry to this crime was immense, and the SVP statute was passed one year later (LaFond, 2000).

Although each state that uses SVP statutes has its own legislation, there are certain elements that hold constant across all SVP legislation. For instance, to be eligible for SVP commitment, the individual must be at risk of committing a future sex offense, and must have some form of volitional impairment (Witt & Conroy, 2009). In addition, all states' SVP statutes require the individual to meet criteria for some form of mental abnormality or personality disorder. For instance, Kansas's definition of a Sexually Violent Predator is "any person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in the predatory acts of sexual violence" (*Kansas Stat. Ann.*, § 59-29a02, 2003).

One of the most well-known SVP cases occurred in Kansas and was the first SVP commitment to occur in the state. In 1997, Leroy Hendricks was nearing completion of a 10-year sentence for molesting at least ten children. When he was informed that he met criteria for SVP status, he made a series of legal challenges to this claim, which resulted in a Supreme Court hearing. In *Kansas v. Hendricks* (1997), the constitutionality of the Kansas SVP statute was upheld. One of Hendrick's primary arguments was that the SVP statute constituted double jeopardy, as he was being punished twice for the same crime. However, the Court decided that SVP laws do not constitute double jeopardy since SVP trials are civil proceedings rather than criminal proceedings, and as such, their intent is not punitive (*Kansas v. Hendricks*, 1997). Upon the Supreme Court finding that the

Kansas statute was constitutional, Kansas's SVP statute became the model from which many other states followed for their SVP legislation (Witt & Conroy, 2009).

As of December 2004, there have been approximately 3,500 individuals either being held for SVP evaluation or who have been civilly committed through such laws (Lieb & Gookin, 2005). By 2007, 9.4% of civilly committed individuals had been fully discharged and 5.7% were under conditional supervision (Davey & Goodnough, 2007) with some offenders having been civilly committed as early as 1990. As would be expected, SVP commitment programs tend to be costly, with \$224 million being spent annually on operating secure facilities for individuals committed under SVP statutes in the United States in 2005 (Lieb & Gookin, 2005).

Mental Health Experts' Role in the Court for SVP Cases

As more legislation is passed that necessitates decision-making in sexual offender cases in court, forensic mental health practitioners have played an increasingly important role in the evaluation of such offenders in terms of risk for future offending (Witt & Conroy, 2009). There has been little consensus in the field as to what the best practices are for SVP assessments (Witt & Conroy, 2009). Although current research is focused more on how to conduct these assessments (e.g., Otto & Petrilla, 2006), other research (e.g., Heilbrun, Dvoskin, Hart, & McNeil) suggests that there still remains a great deal of discrepancy in the evaluation process used by expert witnesses. Guidelines for conducting SVP evaluations from the California Department of Mental Health state:

While some evaluators prefer to give a more extensive battery of tests, others may find that a thorough clinical interview and record review provides adequate basis to determine which offenders are at risk for future

sexual reoffense by reason of their diagnosed mental disorder. (California Department of Mental Health, 2004, p. 21).

Due to the seriousness of the implications of expert witnesses' conclusions and evaluations, it is surprising that there continues to remain such a discrepancy in the field. Part of the discrepancy may be explained by the fact that SVP laws in and of themselves can be vary widely from state to state (Lieb & Gookin, 2005). Another reason there remains disagreement in how to conduct evaluations for SVP trials is that following *Kansas v Hendricks* (1997), one of the primary requirements for a defendant to be eligible for commitment is a volitional impairment leading to further sexual offending; that is, a defendant's mental disorder impairs him/her to the point that his/her behaviors are beyond his/her control (e.g., *In re Leon G.*, 2002; *In re Martinelli*, 2002; *In re Thorell*, 2003; *Kansas v. Crane*, 2002). This requirement, which was included by the Court in 2002 after *Kansas v. Crane*, would require some form of mental health expert testimony within the court. However, there is no agreed upon measure of volitional impairment in the forensic field and some legal experts have criticized this requirement because volitional impairment cannot necessarily be reliably and validly measured (La Fond, 2000; Mercado, Schopp, & Bornstein, 2005). Although much research exists in the neuropsychological field related to impulsive decision making that is associated with certain orbitofrontal abnormalities (Bechara, Damasio, & Damasio, 2000; Blair & Cipolitti, 2000; Burns & Swerdlow, 2003), this research is typically not relevant to sexual offenders, who are more likely to carefully plan out their offenses (Witt & Conroy, 2009). Some attorneys argue that the forensic mental health experts should make the assessment of volitional impairment of the defendant on the basis of common sense; if,

for instance, the defendant commits offenses despite the extreme negative consequences that he/she incurs as a result, the defendant likely lacks volitional impairment (Witt & Conroy, 2009). However, it is well known that basing an assessment solely on common sense is not ethical or responsible clinical practice. Presently, there is no validated instrument that measures whether an individual has more or less ability to control his/her impulses compared to the average individual, or even compared to another sexual offender (Witt & Conroy, 2009). Additionally, even if such test existed, the mental health expert would have the challenging task of linking this volitional impairment with the primary diagnosis the defendant was given for the SVP proceedings (Witt & Conroy, 2009). Thus, it is unsurprising that there is not an accepted and standardized method of measuring volitional impairment in SVP defendants.

Prediction of Dangerousness by Mental Health Experts

For just as long as SVP laws have been implemented, psychologists and other mental health practitioners have attempted to provide insight to the courts and legal proceedings as to the risk of violence an offender poses and his/her risk of re-offending upon release. *Barefoot v. Estelle* (1983) afforded mental health practitioners the ability to provide expert testimony to the courts regarding the level of risk of dangerousness or violence with the decision noting that such testimony is constitutional. The *Barefoot* case involved testimony from two psychiatrists in a death penalty trial in Texas in which one of the experts testified that he was "...one hundred percent and absolutely certain" (*Barefoot v. Estelle*, p. 919) that the defendant would commit a future crime if released, despite never interviewing the defendant. In this landmark Supreme Court case, it was

decided that jurors had the capacity and ability to effectively weigh the opinions, including the shortcomings, from expert witness testimony, and to make reasoned decisions based on such testimony. The decision by the Court was that jurors would be able to accurately decipher the testimonies given by expert witnesses in such trials and determine potential problems in these testimonies. The Court “[was] not persuaded that such testimony is always unreliable and that the fact-finder and the adversary will not be competent to uncover, recognize, and take due account of its shortcoming” (*Barefoot v. Estelle*, p. 893).

SVP Evaluation and Assessment

As discussed previously, mental health experts play a substantial role in SVP proceedings, as they provide risk evaluations of the individuals being tried for SVP commitment. In fact, the expert testimony given by the mental health expert is typically one of the only pieces of evidence given in such hearings (Guy & Edens, 2003; Miller, Amenta, & Conroy, 2005). Just as assessment related to measuring volitional impairment varies widely, expert testimonies proffered to the courts also vary from being less reliable and less scientifically based (e.g., making predictions based on a clinical hunch) to more reliable and empirically derived (e.g., through a standardized risk assessment instrument).

These evaluations may include actuarial assessment tools which were developed through empirical process and typically include both static and dynamic factors to predict risk of re-offense. Static risk factors involve those variables that do not change, such as the individual’s gender, age at first offense, or previous victim type (e.g., victim gender, age, etc). Static factors are thought to be the strongest predictors used in actuarial risk

tools (Witt & Conroy, 2009); however some shortcomings exist with actuarial tools in that they do not take into account the effects of treatment response or incarceration time, since they are factors that cannot be changed (Witt & Conroy, 2009).

Variables that can change over time, such as level of social support, substance abuse, and sexual preoccupation, are known as dynamic risk factors (Hanson & Harris, 2000; Hanson & Morton-Bourgon, 2005). It has been argued that such risk factors should be considered more strongly in SVP evaluations, since they can change and potentially improve with effective treatment (Witt & Conroy, 2009). Actuarial tools for SVP evaluations appreciate the importance of evaluating both the static and dynamic risk factors of an individual. Some commonly used actuarial measures are the Sex Offender Risk Appraisal Guide (SORAG; Quinsey, Harris, Rice, & Cormier, 1998), the Static-99 (Hanson & Thornton, 1999), the Violence Risk Appraisal Guide (VRAG; Quinsey, Harris, Rice, & Cormier, 2006) and the Minnesota Sex Offender Screening Tool, Revised (MnSOST-R; Epperson, Hesselton, & Kaul, 1999).

Despite limitations involved with actuarial approaches, these methods are favored by many because their predictive validity can be scientifically established and can be replicated across populations (e.g., Grove & Meehl, 1996; Quinsey et al., 2006). The superiority of actuarial predictions over clinical judgment has been well-evidenced, beginning with Meehl's (1954) seminal work on the topic. Hanson and Morton-Bourgon (2009) performed a recent large-scale meta-analysis examining clinical judgments and a variety of actuarial prediction methods spanning over 45,000 participants and 16 countries. They examined several outcomes of interest including general and sexual recidivism and sexual violence. The findings of the meta-analysis revealed that actuarial

prediction methods were significantly more accurate on all three outcomes of interest than predictions based solely on clinical judgment. Specifically, in terms of predicting sexual re-offense using an actuarial tool developed specifically to predict sexual re-offending, results of the meta-analyses revealed a $d = 0.67$ compared to $d = 0.42$ using unstructured professional judgment alone. Even more striking, when predicting any recidivism (sexual or otherwise), empirically-based actuarial tools had a $d = 0.97$ compared to $d = 0.11$ using unstructured professional judgment.

Although the evidence overwhelmingly supports the superiority of actuarial methods, clinical judgment remains widely used in SVP evaluations (Meeks, Boccaccini, & Turner, 2009). Clinical assessments typically include an interview with the individual and a review of the offender's file. Clinical judgments of risk tend to be less accurate than actuarial predictions for several reasons that have been outlined in decision-making research. For one, a clinician may be more likely to make decisions using heuristics, rather than basing their decisions on a more effortful processing (Grove & Meehl, 1996; Krauss, Lieberman, & Olson, 2004; Tversky & Kahneman, 1982). Jurors as well as clinicians have difficulty combining multiple risk factors and accurately weighting their significance to form a meaningful prediction of violence. When clinicians ignore base rate data for their dependent variable of interest (i.e., likelihood of committing a violent offense) they can easily overestimate the chance of the offender re-offending (Krauss, McCabe, & Lieberman, 2009).

Actuarial tools are also not error-free. For one, they often do not take into consideration changeable (dynamic) risk factors that could reduce (or increase) risk for re-offense (Witt & Conroy, 2009). Also, actuarial tools often provide little room for

flexibility for unusual cases. For example, an offender who is elderly and immobile would likely not pose the same risk as an offender who is physically strong; however, based on their static risk factors, they may score equally on an actuarial risk measure.

Because of the concerns that exist with actuarial instruments, structured risk assessment instruments have been developed that include both elements of actuarial instruments as well as some degree of clinical judgment. Such instruments are known as Guided Professional Judgment (GPJ) instruments. One example, the Sexual Violence Recidivism-Revised scale (SVR-20-R); Boer et al., 1997) uses well-established actuarial risk factors, but leaves the weighting of such factors up to the discretion of the clinician to make the final judgment. Although GPJ instruments circumvent the problems that exist with actuarial instruments (e.g., not being flexible to take into consideration protective factors), GPJ instruments face criticism for being excessively flexible (Quinsey et al., 1998). Current research suggests that both actuarial methods and GPJ predictions are more accurate than pure clinical judgment; however, there remains debate in the field as to which method of assessment is the best for SVP proceedings (Hart, 1998; Monahan, 2003).

Juror Decision-Making

Jurors have needed to assess for future dangerousness in cases such as death penalty trials, and there has been much research related to how jurors come to decisions in such trials (e.g., Blume, Garvey, & Johnson, 2001; Costanzo & Costanzo, 1994; Krauss & Sales, 2001) as well as in sexual offender trials (Golding, Bradshaw, Dunlap, & Hodell, 2007). However, there are far fewer studies related specifically to decision-

making in SVP proceedings. Despite the decision made in the *Barefoot v. Estelle* (1983) case, there has been much research related to juror decision-making that would suggest that jurors have difficulty accurately weighing evidence from expert witnesses. For instance, jurors are frequently swayed by anecdotes and clinical opinion rather than by more reliable and valid actuarial measures (Krauss, McCabe, & McFadden, 2009).

In one of the first studies to empirically examine the impact of actuarial and clinical expert testimony on jurors' decision-making, Krauss and Sales (2001) considered this effect in the context of a simulated capital sentencing trial. The researchers manipulated the type of expert witness testimony (clinical or actuarial) and type of adversarial cross-examination (ineffective cross-examination, effective cross-examination, competing expert of the same type as the first expert, and competing expert of a different type than the first expert). Participants first made decisions regarding the defendant's dangerousness after reading the case materials and were then re-assessed following the first expert's testimony. The expert's level of scientific knowledge, credibility, and persuasiveness was also assessed. The experts' level of training and experience were held constant. Following the cross examinations, participants were assessed again with the same initial questions regarding their beliefs and confidence in the defendant's dangerousness. Results indicated that jurors were significantly more likely to be influenced by the clinical opinion expert testimony than by actuarial expert testimony. Following the presentation of cross-examination, such a preference for clinical opinion testimony over actuarial testimonies persisted. The clinical opinion expert was not only more influential in the participants' decisions of dangerousness but, in addition, the participants rated the clinical opinion expert as having a greater influence on their

decision making process than the actuarial prediction expert witness. Although not statistically significant, the participants tended towards rating the clinical judgment expert as more persuasive than the actuarial prediction expert.

Death penalty research has found fairly consistent results with mock jurors being more influenced by clinical opinion rather than actuarial predictions; however, such findings have not been as consistent when in the context of SVP proceedings. Guy and Edens (2003) were the first researchers to examine the impact of expert testimony based on actuarial assessment, clinical opinion, and ratings of psychopathy in SVP trials using mock jurors. In a sample of 172 undergraduate mock jurors, Guy and Edens presented participants with a case summary outlining a fictional SVP case in which the defendant was being tried in an SVP hearing. When the defendant was rated as a “high risk psychopath,” he was judged more harshly compared to when he was rated “high risk” under the clinical or actuarial conditions. However, unlike Krauss and Sales’ (2001) finding that jurors tend to be more swayed by clinical compared to actuarial expert testimony, Guy and Edens (2003) found no significant differences between the two approaches. It should be emphasized however, that although Guy and Edens did not find support for the idea that jurors are more influenced by clinical opinion than actuarial predictions, they were also not more influenced by the more accurate actuarial opinion. Rather, the mock jurors were equally influenced by the less scientifically valid methods used. Additionally, the mock jurors had a strong tendency to civilly commit the defendant regardless of type of testimony given.

Although Krauss and Sales (2001) manipulated the type of testimony of the adversarial condition (i.e., clinical-clinical or clinical-actuarial), Guy and Edens (2003)

held the type of testimony constant for both the prosecution and defense expert witness testimonies. It is also unclear as to what degree the legal context (death penalty versus SVP trial) accounts for decision making and weighing experts' opinions. For example, jurors may be more likely to civilly commit a defendant in an SVP trial regardless of type of testimony given, whereas decision making in a capital sentencing trial involves a number of variables that are not at issue in an SVP hearing.

More recently, Krauss, McCabe, and Lieberman (2009) examined jurors' decision-making in SVP trials in terms of expert testimony based on clinical opinion or actuarial prediction testimony. Using actual jurors who had been released from jury duty, the researchers showed an hour long video simulation of an SVP trial, based on an actual trial in which the conclusion drawn by the expert witness was that the defendant was a pedophile and that he was likely to recidivate. Conditions were manipulated as to whether the expert came to his opinion based on his experience as a clinician or through use of actuarial instruments. Unlike the Krauss and Sales (2001) study, the authors did not include a rebuttal by a second expert witness, rather, the expert witness only testified for the petitioner. There was however, cross-examination by the defendant's attorney. In both cases, limitations of the method used were highlighted by the attorney in the cross-examination. For instance, in the clinical opinion condition, the attorney pointed out that the expert's decision was based solely on a brief interview with the defendant. In the actuarial condition, the attorney mentioned that actuarial instruments can provide only rough estimates of recidivism, and that there is disagreement within the field as to which instruments are the most appropriate to use in such proceedings. This study was the first to examine the effectiveness of the cross-examination, and manipulated the cross-

examination to be either a strong or weak cross-examination based on how valid and compelling the defense attorney was.

Although the Supreme Court decision in the *Barefoot v. Estelle* (1983) case stated that jurors are able to effectively weigh both the evidence and testimonies given by expert witnesses, the evidence may suggest otherwise if they are being more easily swayed by less scientific clinical judgment over actuarial predictions. Researchers (e.g., Cooper, Bennett, & Sukel, 1996), have expressed concern that jurors cannot effectively process and weigh scientific testimony. Smith, Penrod, Otto, and Park (1996) note that mock jurors tend to underuse probabilistic evidence, adding to the body of knowledge that scientific evidence does not have an exaggerated impact in decision making.

Extralegal Factors Involved in Juror Decision-Making

The factors involved in reaching conclusions at trials related to risk of future violence are complex and certainly involve variables other than the testimony type. Extralegal factors such as types of instructions given to jurors (e.g., subjective or objective instruction forms) have been shown to impact decision making in the courtroom (Krauss, Lieberman, & Olson, 2004; Spackman, Belcher, Calapp, & Taylor, 2002).

Much research in jury decision-making however focuses on other factors related to the jurors themselves in its effect on juror decision-making. For instance, the gender of the juror has a strong influence on belief that the defendant should be civilly committed (Golding et al., 2007; Guy & Edens, 2006). There is strong support for the finding that female jurors are more likely to advocate for commitment of sexual offenders and to be more likely to find the defendant guilty when compared to males. Other studies have

focused on examining the extent that jurors' personality factors, such as extraversion, affect their confidence in and perception of credibility of expert witnesses (Cramer, Brodsky & DeCoster, 2009). Evaluation of jurors' pre-existing attitudes towards sexual offenders has been surprisingly absent from much of the research related to commitment decisions made in SVP trials. Although research examining the impact that type of testimony has on juror decision-making is certainly needed, examining other factors related to the juror may be equally important, if jurors' pre-existing beliefs about sexual offenders for instance, are influencing their decisions regardless of what type of testimony they are presented with. There has been some research that has focused on how people perceive rape offenses. Field and Bienen (1980) surveyed 1,056 participants which included community members ($n = 1,056$), police officers ($n = 254$), convicted rapists ($n = 20$), and rape crisis center counselors ($n = 118$). They found that sex, race, marital status, and attitudes towards women had the largest impact on attitudes towards rape. Although the authors noted that attitude towards rape would potentially affect jury members' decision making in rape trials, Field and Bienen did not directly test this in their study. Some potential jurors who have particularly strong negative opinions regarding sexual offenders may be screened out from jury duty by attorneys during voir dire; however, it would be unrealistic to expect that the remaining jury members' attitudes and beliefs about sexual offenders are irrelevant to their decision making in such proceedings.

Given the seriousness of the implications of SVP trials (i.e., potential life detention), expert witness testimony and its impact on jurors is an area which has a clear

need for further research. This issue is particularly salient given that often, the expert witness testimony is the only evidence presented to jurors in such trials.

The Current Study

The current study was designed to expand on the current (and limited) body of literature related to SVP trials. Juror decision-making in SVP trials in regards to the effects of the differential impact of clinical versus actuarial methods of evaluation and risk assessment in SVP trials were examined. The impacts of expert testimony rebuttal were included in this examination. In addition, the study examined the extent that pre-existing beliefs about sex offenders has on jury decision-making in SVP trials.

Additionally the study examined the differential impact of different methods of risk evaluation and its intersection with jurors' pre-existing beliefs about sexual offenders. The results of this study should contribute to the body of knowledge on how risk communication methods, juror gender, and juror attitudes towards sex offenders affect decision making in SVP trials. The hypotheses for this study included the following:

1. Based on previous research regarding the relative weight jurors place on expert testimony that is actuarial or clinical, it is hypothesized that jurors will place more emphasis on clinical testimony compared to actuarial. Likewise, when the initial expert actuarial testimony is rebutted by another expert using clinical methods of evaluation, mock jurors will have a greater likelihood of modifying their level of confidence in the second expert in a repeated measures design. This effect is hypothesized to be weaker when an actuarial expert testimony rebuttal is used following an initial clinical expert testimony.

2. Also in line with previous research, it is expected that female mock jurors will overall be more in favor of commitment in the SVP trial compared to male jurors.
3. Finally, regardless of juror gender or type of testimony heard, it is expected that mock jurors who have more negative pre-existing beliefs about sex offenders will be more in favor of commitment and more confident that the offender will re-offend in the future.

CHAPTER II

METHOD

Participants

Participants were recruited from the undergraduate psychology subject pool (SONA) at Central Michigan University. In order to be eligible to participate in the study, the participants had to be jury qualified in that they had to be at least 18 years old, and had to be citizens of the United States.

Table 1 displays the descriptive data for the 204 participants. The original sample contained 212 participants. One participant was excluded from the analyses for being ineligible to vote. Four participants were excluded for having missing information (e.g., did not complete ratings for all time periods). Three participants were excluded for failing to correctly identify items on the Post-Test Questionnaire, which was a manipulation check to determine if the participants were attending to the material presented. In total, following the exclusions, there were 51 participants in each of the four groups.

Table 1. Descriptive Statistics

Variable	<i>n</i> =204
Age <i>M</i> (SD)	19.8 (1.59)
Gender	
Male	94 (46.1%)
Female	110 (53.9)
Ethnicity	
	175
Caucasian	(85.8%)
African-American	11 (5.4%)
Asian	4 (2%)
Latino	3 (1.5%)
Native-American	1 (0.5%)
Bi-racial	7 (3.4%)
Multiethnic	2 (1%)
Year in School	
Freshman	85 (41.7%)
Sophomore	55 (27%)
Junior	35 (17.2%)
Senior	28 (13.7)
Religion	
Christian/Catholic	104 (51%)
Christian/Protestant	39 (19.1%)
Non-religious	41 (20.1%)
Muslim	2 (1%)
Other	16 (17.8%)
Political Affiliation	
Democrat	75 (36.8%)
Republican	62 (30.4%)
Independent	25 (12.3%)
Other	39 (19.1%)

Materials

Demographics

Demographic information of the participants was collected including age, gender, ethnicity, year in school, marital status, whether they have children, and if so how many, religious orientation, and political affiliation. Appendix B contains the Demographic Information questionnaire.

Kansas SVP Statute

Participants were given a handout containing the Kansas SVP statute in legal terms and described in layperson terms. The Kansas SVP statute was chosen for use in this study since Kansas's statute is considered the model for other states to follow (*Kansas v. Hendricks*, 1997). The statute explained the three necessary components for civil commitment: a.) the defendant must be at risk of committing a future sexual offense, b.) the defendant has volitional impairment, and c.) that the defendant suffers from a mental abnormality or personality disorder which makes him/her likely to engage in the predatory acts of sexual violence. Appendix C contains the Kansas SVP statute used in the study.

Community Attitudes Toward Sex Offenders (CATSO; Church et al., 2008)

The CATSO is an 18-item measure of individual attitudes toward sex offenders (e.g., "Trying to rehabilitate a sex offender is a waste of time.") Responses are measured on a 6-point Likert scale, ranging from 1=strongly disagree to 6=strongly agree. The CATSO generates a total score and has four factors – social isolation, capacity to change,

severity/dangerousness, and deviancy, and has a high level of internal consistency within factors and as a total scale (Church et al., 2008). For the purposes of this study, seven items were chosen from the CATSO that were reflective of having a positive or negative attitude toward sex offenders. Reliability analysis of these seven items revealed a Cronbach's Alpha of .72. Appendix C contains the CATSO scale items used in the study.

Case Summary

The Case Summary involves a 33-year-old Caucasian male who is nearing completion of a 10 year sentence after sexually assaulting a woman in a park. The Case Summary vignette was summarized into a one-page description which described the main points of the case as well as facts about the disposition of the case and institutional adjustment of the defendant. The vignette used was not based on an actual case; however, such a case would qualify for possible SVP commitment in the state of Kansas.

Appendix D contains the Case Summary.

Expert Witness Testimony

Participants were presented with a one-page single-spaced description of the expert witness testimony of both the prosecution and the defense (amended from Guy & Edens, 2003). The prosecution expert witness summary noted that the defendant's risk of committing a future violent sexual offense was *high* based on either an actuarial instrument (the Sex Offender Risk Assessment Guide) or through using clinical opinion, which consisted of an interview with the defendant. Prosecution and defense witnesses were matched on expertise, background and training in the two conditions. Appendices F

and G contain the Prosecution Expert Witness Testimonies (actuarial and clinical conditions, respectively).

The defense expert witness comes to the conclusion that the defendant's risk of future violent sexual offense is *low* based on either actuarial instrument (the Static-99) or through clinical opinion. Depending on the condition, the defense expert testimony is based on either the same type of testimony (e.g., actuarial-actuarial, or clinical-clinical) or on different type of testimony (e.g., actuarial prosecution; clinical defense, or clinical prosecution and actuarial defense). In the conditions where the defense expert testimony is based on actuarial assessment, the Static-99 was used by the defense witness to avoid the confounding information of one examiner reaching a verdict of *high* risk with another examiner concluding *low* risk using the same actuarial measure. The SORAG and the Static-99 have similar psychometric properties, and this was explained to participants to avoid participants giving more weight to one measure over the other. Appendices I and J contain the Defense Expert Witness testimonies (actuarial and clinical, respectively).

Case Evaluation Form

To assess participants' reactions to the case, a case evaluation form was developed and used as a dependent measure of the participant's opinions of the case. Participants were asked (yes/no) whether they believe the defendant should be committed under the Kansas SVP act. Participants were also asked the likelihood they believe the defendant would commit a future sex crime if not committed, on a scale of 0-100% as well as the likelihood of committing a future non-sex related crime on a scale of 0-100% if not civilly committed. In addition, participants were asked the likelihood (0-100%) that

the defendant would benefit from treatment if committed. Participants also evaluated the expert witnesses for both the prosecution and defense on a 5-point Likert scale, as to “How credible do you think the expert was?”; “How persuasive do you think the expert was?” and “How influential do you think the expert was?” The participant answered these questions following the conclusion of the prosecution testimony and then again following the defense testimony. Appendices E, H, and K contain the three Case Evaluation Forms for each of the three time periods.

Post-Test Questionnaire

Participants were given a four-item questionnaire regarding facts of the case to decrease the chance of including participants who did not comprehend or attend to the protocol and case material. Participants were asked what type of crime the defendant committed, the conclusions of the expert witness testimonies for both the defense and prosecution, and what information was relied upon to come to those conclusions. The purpose of the post-test questionnaire was to ensure that participants were attentive to the case summary information. Appendix L contains the Post-Test questionnaire.

Procedure

Participants signed up for the study using the online SONA system and data was collected from participants between one and ten participants at a time, depending on the time slot chosen. Participants were randomly assigned to one of four conditions (Clinical-Clinical, Clinical-Actuarial, Actuarial-Actuarial, or Actuarial-Clinical). Following informed consent, participants were given a packet containing the stimulus materials and measures needed for the study. Participants then completed the demographic form and

then the CATSO. The Kansas SVP statute was reviewed next. It was presented in hardcopy from the packet and was also presented orally by the study investigator.

Participants were told that for the purposes of the study, the SVP statute from the state of Kansas would be used and that they were to answer the questions based as if they were in the state of Kansas.

The case summary was then presented on overhead projector in addition to having individual copies for each participant to aid in comprehension of the materials. The case summary was reviewed orally and participants were able to follow along using the hard copies. Following the case summary review, but prior to hearing either of the expert witness testimonies, participants completed a case evaluation form (Time 1) so that the influence of hearing either testimony could be examined. Participants then reviewed the prosecution's expert witness testimony in written form, and then completed a case evaluation form for the second time. Next, the defense phase expert testimony was reviewed orally and participants were able to follow along using the hard copy. Participants then completed the case evaluation form for the third and final time. Finally, participants completed post-test questionnaires as a measure of participants' understanding and comprehension of the case just reviewed. If participants failed to answer all post-test questions accurately, the participant's data was deleted from the study as a means to avoid confounding the data by a participant's lack of understanding of the study. Following the completion of the post-test questionnaire, participants were debriefed about the study and any questions were answered regarding the study. Participants received course credit through the SONA system for completing the study. All data analysis was completed with SPSS (v.15.0).

CHAPTER III

RESULTS

Attitudes Toward Sex Offenders

Pearson Product Moment correlations were used to examine whether participants' attitudes toward sex offenders affected their belief that the defendant would commit another sex-crime if not committed or their belief that he would benefit from treatment. Attitudes towards sex offenders were measured by summing seven items of the Community Attitudes Towards Sex Offenders (CATSO) scale. Overall, scores on the CATSO ranged from 10 to 42, $M = 25.5$; $SD = 4.8$. The higher the score on the CATSO reflected a more negative attitude towards sex offenders. Univariate analyses examined whether negative attitudes toward sex offenders affected their civil commitment decision using a point biserial correlation. Table 2 (below) indicates the correlations of Attitude Score from the CATSO with participants' decision to civilly commit, participants' perception of likelihood of sexual re-offense, and participants' belief that the defendant would benefit from treatment. A point biserial correlation demonstrated that participants with higher scores on the CATSO were more likely to indicate that they believed the defendant should be civilly committed under the Kansas SVP act. Participants' attitude score on the CATSO was correlated with their belief that the defendant would commit another sexual offense should he not be civilly committed. Participants' attitude score on the CATSO was also significantly negatively correlated with their belief that the defendant would benefit from treatment.

A one-way ANOVA was used to determine if attitudes towards sex offenders varied by group. The results demonstrated that attitude was not significantly different across the four groups, $F(3,200) = 1.36, p = .26$.

Table 2. Correlations of Attitudes Towards Sex Offenders and Commitment, Belief of Sexual Re-Offense and Perceived Benefit from Treatment

	Decision to Civilly Commit	Likelihood of Sexual Re-Offense	Benefit from Treatment
Attitude Score	.30**	.37**	-.22**

** Statistically significant at .01 level

Note. Attitude Score = Score generated from CATSO items.

Clinically-Based Versus Actuarially-Based Testimony

In regards to civil commitment decisions for the defendant, there was a high proportion in favor of commitment throughout all four groups, at all time periods (see Table 3).

Table 3. Proportion of Participants in Favor of Civil Commitment Across Each Time Period

Testimony Condition	T1 (%)	T2 (%)	T3 (%)
Actuarial-Actuarial	80.4	90.2	82.4
Actuarial-Clinical	80.4	82.4	80.4
Clinical-Actuarial	84.3	96.1	78.4
Clinical-Clinical	68.6	90.2	80.4

Note. Percentage endorsing civil commitment. T1 = time 1 rating (after reading Case Summary, prior to expert witness testimonies). T2 = time 2 rating (after reading Prosecution expert witness testimony). T3 = time 3 rating (after reading Defense expert witness testimony).

A chi-square analysis was used to examine whether group membership (actuarial prosecution/clinical defense, actuarial prosecution/actuarial defense, clinical prosecution/clinical defense, clinical prosecution/actuarial defense) predicted civil commitment decision. The chi-square for group membership and civil commitment decision was not significant ($\chi^2 = .25$, $df = 3$, $p = .97$) in that group membership did not significantly impact whether or not the participant would choose to civilly commit the defendant. Participants who heard clinically based expert witness testimony were not any more likely to choose to civil commitment compared to those who received an actuarially based expert witness testimony.

A multiple linear regression was also conducted using the participants' grouping variable (clinical versus actuarial testimony) and their belief that the defendant would re-offend sexually if not committed as the outcome variable, controlling for attitude. Among the participants, hearing a clinically-based expert witness testimony rather than actuarially-based testimony did not significantly affect the participant's belief that the defendant would re-offend sexually if not civilly committed, with attitude being the only significant predictor.

Differential Impact of Clinical Versus Actuarial Testimony

To assess the hypothesis that participants will have a greater likelihood of modifying their level of confidence in the second expert when initial actuarial testimony (prosecution) is followed by a clinically based testimony (defense), an 'Expert Impact' score was calculated from the three 5-point Likert scale questions related to expert testimony – how credible, persuasive and influential did the participant believe the expert

witness to be. The group of participants who were in the actuarial prosecution and clinical defense condition were compared to the other group of participants combined. Change in impact score was then calculated from the prosecution (Time 2) to the defense (Time 3) phase. An independent samples t-test revealed that the actuarial-clinical group did not significantly differ from the other groups in terms of how credible, persuasive, or influential they thought the expert was at the defense stage compared to the prosecution stage, $t(202) = .066, p = .95$.

Credibility, Persuasiveness and Influence of Expert Testimony

Table 4 shows the means and standard deviations of Total Impact score of the prosecution and defense testimonies as well as the means and standard deviations of testimony credibility, influence and persuasiveness within each of the four groups.

Table 4. Means and Standard Deviations of Prosecution and Defense Impact Scores by Group

Testimony Condition	Impact Prosecution	Impact Defense	Credibility Prosecution	Credibility Defense	Persuasiveness Prosecution	Persuasiveness Defense	Influence Prosecution	Influence Defense
Actuarial- Actuarial	4.15(.67)	3.49(.77)	4.37(.66)	4.10(.78)	4.04(.89)	3.12(1.01)	4.04(.89)	3.25(1.07)
Actuarial- Clinical	3.99(.71)	3.28(.79)	4.06(.79)	3.69(.91)	3.92(.80)	3.20(.94)	3.98(.86)	2.96(1.06)
Clinical- Actuarial	4.15(.50)	3.54(.79)	4.45(.58)	4.00(.85)	3.90(.70)	3.25(.96)	4.10(.67)	3.37(1.04)
Clinical- Clinical	4.13(.60)	3.25(.72)	4.39(.64)	3.92(.87)	3.92(.87)	2.92(.91)	4.08(.74)	2.90(.83)

Note. Mean (*SD*). Total impact = average of Credibility, Persuasiveness and Influence rating combined.

An exploratory analysis was conducted to determine if participants' beliefs of the prosecution expert witness testimony differed from the defense expert witness testimony in terms of their belief that he was credible, persuasive and influential. Paired samples t-tests assessed whether participants rated one expert as significantly more credible than the other. A paired-samples t-test was conducted comparing the overall impact scores of the prosecution compared to defense. There was a significant difference between the impact of the prosecution expert witness testimony ($M = 4.1$; $SD = 0.62$) and the impact of the defense expert witness testimony ($M = 3.39$; $SD = .77$; $t(203) = 11.13$, $p < .001$), indicating that the prosecution expert witness testimony had a greater impact on participants than did the defense expert witness testimony.

A linear regression analysis was used to determine if attitude had an effect on the discrepancy between prosecution and defense total impact scores. The regression analysis was statistically significant, $F(1,20) = 15.97$, $p < .001$. The R^2 value indicated that 7.3% of the variance in difference scores is accounted for by participants' attitude towards sex offenders.

The below graph (see Figure 1) indicates the positive relationship that exists between attitude scores and difference scores of prosecution and defense total impact. As participants have higher negative attitudes towards sex offenders, the extent to which they favor the prosecution expert testimony over the defense expert testimony increases. However, there still exists much variance around the regression line, as indicated by the R^2 value of .073.

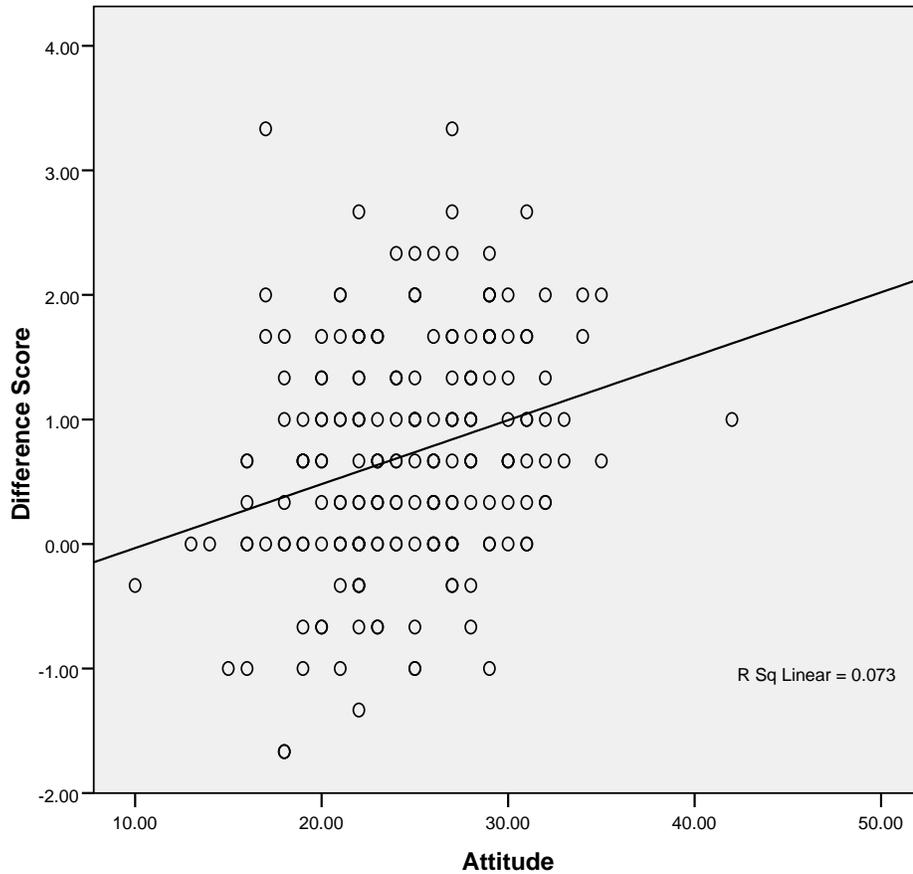


Figure 1. Participant Attitude and Effect on Expert Witness Differential Impact

The overall impact of the expert witness testimonies was then broken down into its three component parts. The paired-samples t-tests revealed that significant differences existed in scores of how credible, influential and persuasive participants thought the expert witness was, with participants favoring the prosecution expert witness over the defense in all three variables, with the largest effects occurring with the Total Impact Score and with Influence, which both had large effects (see Table 5 below).

Table 5. Paired Samples t-test of Expert Witness Impact

	Prosecution	Defense		Cohen's D
Total Impact Score	4.10 (.62)	3.39 (.77)	1.02	$t(203) = 11.13, p < .001^{***}$
Credibility	4.32 (.68)	3.93 (.85)	0.51	$t(203) = 6.68, p < .001^{***}$
			0.92	
Persuasiveness	3.95 (.81)	3.12 (.96)		$t(203) = 9.75, p < .001^{***}$
Influence	4.05 (.79)	3.12 (1.02)	1.02	$t(203) = 11.19, p < .001^{***}$

*** Statistically significant at .001 level

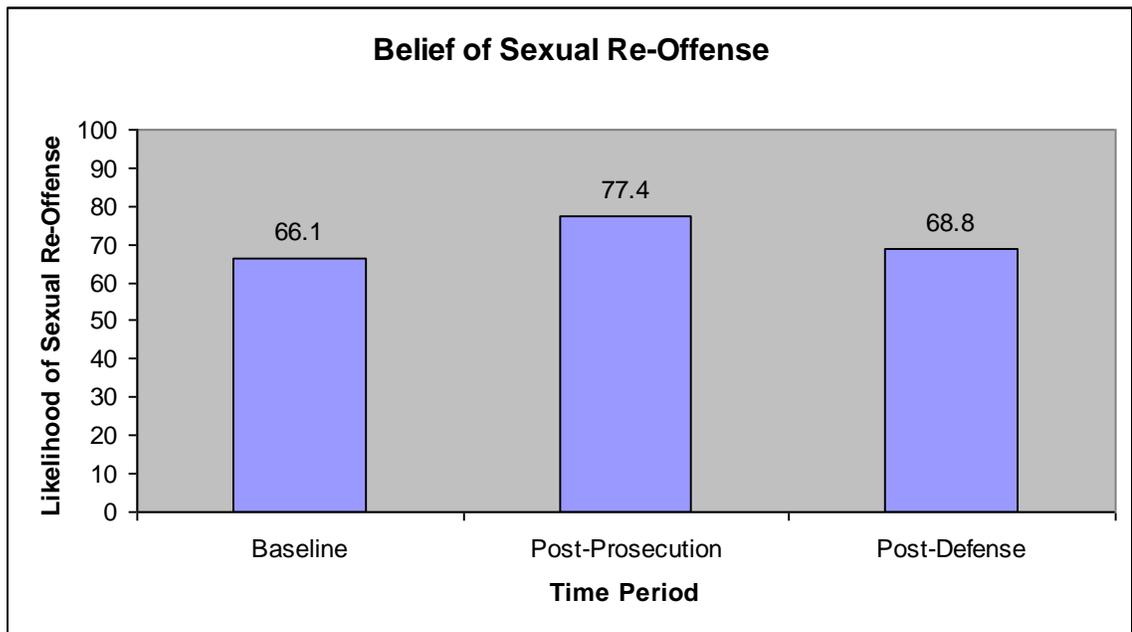
Civil Commitment and Re-Offense Likelihood

Because the condition the participant was in did not affect commitment decisions, the analyses pertaining to change scores were conducted overall rather than in four separate groups. Descriptive statistics were generated to determine how many participants favored commitment initially, and following both the prosecution and the defense phases. Before reading either of the expert testimonies, the majority of participants were in favor of civil commitment for the defendant (78.4%). After reading the prosecution expert witness testimony, 89.7% believed he should be civilly committed. Finally, after reading the defense expert witness testimony, 80.4% of the participants believed he should be civilly committed.

Descriptive statistics were also generated for the perceived likelihood of future offenses following both expert witness phases. In regards to participants' belief that the defendant would re-offend sexually should he not be civilly committed, there was a mean likelihood of 65.8% ($SD = 23.4$) that he would sexually re-offend when asked initially. After reading the prosecution expert witness testimony, belief of sexual re-offense had a mean of 77.4% ($SD = 18.2$), and at final rating after the defense expert witness testimony,

a mean of 68.6% ($SD = 22.2$) for sexual re-offense. A repeated measures ANOVA was conducted. Mauchly's test indicated that the assumption of sphericity had not been violated, $\chi^2(2) = 3.43, p = .18$. The results show that there was significant effect of the time period on perceived likelihood of sexual re-offense, $F(2,404) = 80.5, p < .001$. Pairwise comparisons revealed significant differences between all three time periods.

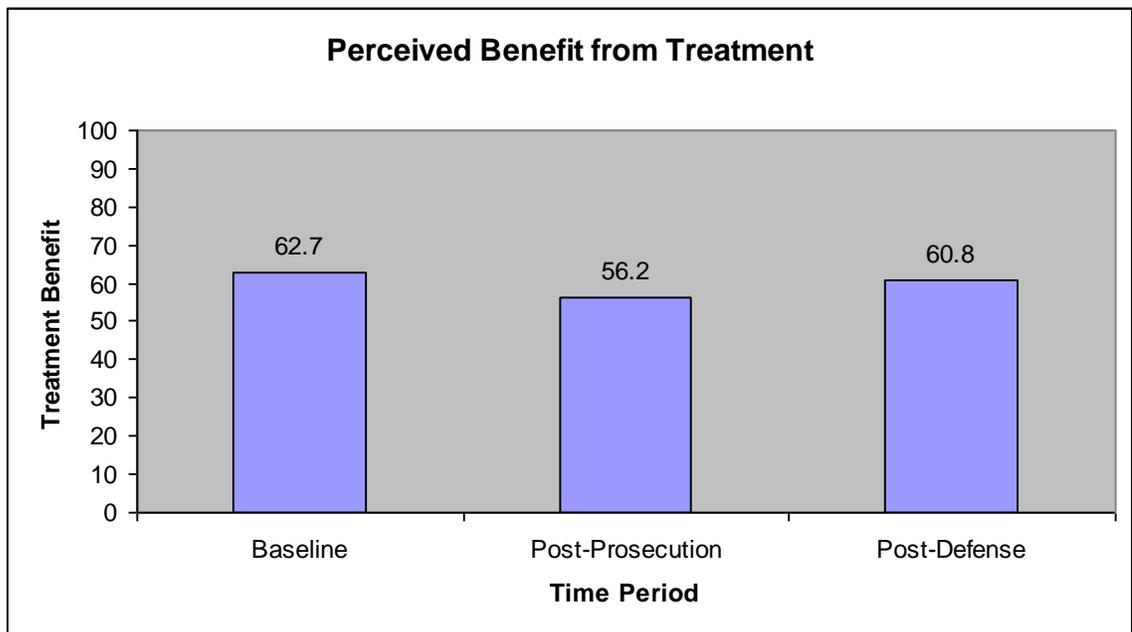
Table 6. Participant Percentages of Belief of Sexual Re-Offense



Overall, participants indicated a 62.7% likelihood ($SD = 26.4$) that the defendant would benefit from treatment when initially asked. Following the prosecution expert witness, there was a mean of 56.2% ($SD = 30.1$) that the defendant would benefit from treatment. After the defense expert testimony, there was a mean of 60.8% ($SD = 26.7$) that the defendant would benefit from treatment. A repeated measures ANOVA was conducted. Mauchly's test indicated that the assumption of sphericity had been violated, $\chi^2(2) = 21.9, p < .05$, therefore degrees of freedom were corrected using Greenhouse-

Geisser estimates of sphericity ($\epsilon=.91$). The results show that there was significant effect of the time period and belief that the defendant would benefit from treatment, $F(1.8, 368.1) = 17.90, p < .001$. Though significant, the strength of this effect was weak. Pair-wise comparisons revealed that participants' belief that the defendant would benefit from treatment was not significant from Time 1 to Time 3, but was significant across the remaining time periods.

Table 7. Participant Percentages of Belief of Defendant Benefit from Treatment



Gender, Attitudes and Commitment Decisions

Gender differences in terms of civil commitment decision were examined using chi-square tests, while analyses pertaining to gender differences in regards to belief that the defendant would commit another sex crime if not civilly committed and belief that he would benefit from treatment used t-tests. The chi-square for gender and civil commitment decision was not significant ($X^2 = .04, df = 1, p=.84$) in that gender did not

significantly impact whether or not the participant would choose to civilly commit the defendant. There was a significant effect for gender on attitudes towards sex offenders as measured by the CATSO, $t(202) = -2.42, p < .01$, with females endorsing more negative attitudes towards sex offenders than males. An obtained Cohen's d of 0.34 indicated that the effect was small. A significant effect existed of gender on the participants' belief that the defendant would commit another sex crime in the future, $t(202) = -1.95, p < .05$, with females having a higher belief than males. There was not a significant effect of gender on the participants' belief that the defendant would benefit from treatment, $t(202) = -1.70, p = .09$.

CHAPTER IV

DISCUSSION

Summary and Integration of Findings

The purpose of this study was to investigate juror decision-making related to risk communication methods of expert witnesses in Sexually Violent Predator (SVP) trials and the differential impact of an actuarially-based testimony that is followed by a testimony that uses clinical judgment alone. Also of interest were the impact of gender and pre-existing attitudes towards sex offenders in jury decision-making in these trials.

Participants were given information regarding the purpose of an SVP trial, the Kansas SVP statute, case summary information, and two expert witness testimonies (the prosecution and defense). Participants responded at three time periods in the study; after reading the SVP statute and case summary, after reading the prosecution expert witness testimony, and after reading the defense expert witness testimony.

The findings suggest that type of expert witness testimony given (actuarially- or clinically-based) does not impact jury decision-making in terms of whether or not mock jury members believe the defendant should be civilly committed or in terms of whether he will re-offend if not civilly committed. Likewise, when an actuarially-based expert witness testimony was given and then followed by the defense using a clinically-based expert witness testimony, positive impact ratings of the second expert did not increase. That is, participants were not more easily swayed by a clinically-based testimony compared to an actuarially-based testimony and did not view the clinical testimony as more credible than the actuarial testimony.

It should be noted that regardless of which condition participants were in, the majority of participants indicated that they believed the defendant should be civilly committed, both when measured at Time 1 and at the final Time 3. Participants were asked to rate on a scale from 0 to 100% the likelihood of sexual re-offense should the defendant not be civilly committed. Results indicated that participants endorsed a high likelihood of sexual re-offense (68.6%) at the final time period.

Perceived treatment amenability was another variable of interest in this study. At all three time periods, the participants endorsed a moderately high belief that the defendant would benefit from treatment.

As hypothesized, attitude towards sex offenders significantly affected participants' responses regarding civil commitment, likelihood of re-offense, and treatment amenability of the defendant. Participants' pre-existing attitudes towards sex offenders as measured by components of the Community Attitudes Towards Sex Offenders scale were significantly correlated with belief that the defendant should be civilly committed with participants holding more negative views correlating more highly with the belief that the defendant should be civilly committed. Likewise, having more negative attitudes towards sex offenders was also significantly correlated with an increased belief that the defendant would sexually re-offend if not civilly committed. Attitudes towards sex offenders were significantly negatively correlated with participants' belief that the defendant would benefit from treatment. That is, the higher the negative attitudes participants held about sex offenders, the less likely they were to indicate that the defendant would benefit from treatment.

In line with previous research, gender was a significant factor in terms of attitudes towards sex offenders, with females endorsing more negative attitudes towards sex offenders compared to males. Females were also significantly more likely to believe that the defendant would re-offend sexually if not civilly committed compared to males. Despite this, gender was not a significant factor in civil commitment decision, with females no more likely to choose to civilly commit the defendant than males. It is possible that gender was not significant because the majority of the participants were in favor of civil commitment of the defendant. Gender did also not significantly impact participants' view that the defendant would benefit from treatment.

When assessing the overall impact of the expert witness on participants' decision making, impact was measured in terms of the expert's perceived credibility, persuasiveness and influence on participant decisions. An overall impact score which averaged participants' scores on each of these three categories indicated that overall, participants rated the prosecution expert witness as having a higher impact than the defense expert witness, regardless of type of testimony (clinical or actuarial) used. When broken down into their three component parts, the paired-samples t-tests revealed that perceived credibility, persuasiveness, and influence were all significantly higher for the prosecution expert witness testimony compared to the defense expert witness.

Such a finding that participants viewed the prosecution expert witness as more credible than the defense was not the case in a prior study of SVP trials by Guy and Edens (2006) who found that mock jury participants believed the prosecution and defense experts to be equally credible when the witnesses' had identical credentials and experience. In the present study, the expert witnesses' credentials throughout the four

conditions remained constant (e.g., both had received their clinical psychology degrees from a nationally accredited institution and both had been conducting sexually violent predator assessments for the past 10 years). It is possible that participants' viewed the expert whose testimony was in line with their original viewpoint as being more credible than an expert whose opinion contradicted their initial decision.

Limitations and Future Directions

Several important limitations to this study exist. The study examined juror decision-making in a mock SVP trial and results generated from undergraduate participants may not generalize to actual jury situations. Krauss, McCabe, and Lieberman (2009) cite that one limitation of juror decision-making studies is that they tend to often utilize college students as participant mock jurors, which could limit generalizability. However, Bornstein (1999) has indicated that undergraduate mock jurors and more representative community samples of jurors do not tend to differ in the decisions they come to in these studies.

Another potential limitation to the study was that in an actual trial, jury members are faced with instructions by a judge and testimonies by at least two people, whereas in this study, participants simply read the case summary information and had the testimonies read out loud to them. However, Bornstein (1999) again demonstrated that the format of presenting stimulus materials (e.g., presenting a case summary or expert witness testimony on paper versus on a more realistic format such as video simulation) does not have a strong effect on the conclusions of mock jurors.

Testimonies in actual SVP trials would be longer than the testimonies provided to the participants in this study and the brevity of the testimonies used in this study may have led to participants making their decisions on the case using less information than they may receive in an actual trial. Furthermore, it is likely that in an actual SVP trial, more time would be spent either prior to expert witness testimony or during the testimony regarding more detailed explanation of the actuarial assessment tools used in guiding the expert's decision-making. In the current study, only a cursory explanation was given as to what the actuarial tools were (when testimony was based on the SORAG or Static-99) and thus may have confused some participants as to what these instruments are based on or how they work. Future studies may seek to lengthen the expert witness testimonies so that they are similar in length to the testimonies given at actual SVP trials. Alternatively, future researchers could endeavor to use actual transcripts from such testimonies to enhance the external validity of the study.

Although the overwhelming majority of participants completed the post-test questionnaire accurately, indicating that they were paying attention to the main facts of the case, it is likely that the decisions made during the study were not made as seriously or with as much thought as individuals would use in an actual SVP trial. In an actual trial jurors would likely be well aware of the potentially life-altering ramifications of their decisions and may have come to different decisions in a real SVP trial.

Support for the defendant's civil commitment was high throughout each time period for all conditions. It is possible that the Case Summary used was too graphic or violent for the participants. For example, during the offense, the perpetrator (defendant) is described as physically assaulting the victim's male friend before sexually assaulting

her by forcing her to perform oral sex on him; thus the sexual offense was also compounded by a physical assault in this case. However, it is likely that in an actual SVP trial that a potentially even more graphic description of the offense would be presented by the prosecution. Furthermore, Witt and Conroy (2009) describe the most commonly distinguished groupings of SVP trial defendants as Rapists and Child Molesters, with these two categories at times overlapping. Interestingly, the Case Summary chosen for this study garnered strong favor for civil commitment despite the perpetrator having an adult victim and not committing a rape. It is likely that had the defendant engaged in either a rape offense or an offense against a child that favor for civil commitment would have been even higher in the study.

Future researchers may benefit from piloting several Case Summary scenarios to potential participants before beginning the study to determine if a case could be created in which the defendant would still be eligible for SVP status, but that would also lead to more variability in participants' responses. For example, a scenario that did not include physical violence, or a scenario that did not depict a stranger assault (e.g., a "date rape" scenario) could potentially lead to more variability in responding.

Summary and Conclusions

The purpose of this study was to examine jury decision-making in an SVP trial, comparing the effects of a clinical opinion expert testimony to the effects of a testimony using an actuarial measure. Type of testimony given did not impact participants' decision making, nor did an actuarially based testimony followed by a clinically-based testimony. Gender influenced participants' decision making with females tending to have more

negative attitudes towards sex offenders and also being more likely to believe that the defendant would re-offend sexually if not civilly committed. However, gender did not affect civil commitment decision, which ultimately in this study was the variable of interest and arguably the most important decision.

Overall, participants' civil commitment decisions were similar when comparing their decision at Time 1 after reading the Case Summary and before reading either of the expert witness testimony (78.4%) to Time 3 (after reading the final expert witness testimony; 80.4%). Expert witness testimonies had little impact on final civil commitment decisions. In one regard, the finding that participants were not swayed more by a clinically-based compared to actuarially-based testimony could be viewed as a positive, since prior research (e.g., Krauss & Sales, 2001) has suggested that jurors are more easily swayed by less accurate clinical judgment testimonies. This was not the case in the present study.

An important question remains as to how informed the decisions are that are being made in these cases. The fact that the prosecution and defense testimonies were in contrast with each other in terms of the witnesses' decision of risk for re-offense may ultimately lead to participants basing their outcomes on their initial decisions. Decision making processes in SVP trials should continue to be examined as an increasing number of states continue to enact such laws.

APPENDICES

APPENDIX A

CONSENT FORM



Adult Consent Form

Study Title: Jury Decision-Making in Sexually Violent Predator Trials

Catherine Currell, M.A. (989-774-3147) and George Ronan, Ph.D. (989-774-6476),
Department of Psychology

Introductory Statement

This study examines jury decision-making in Sexually Violent Predator (SVP) trials. The study involves participating as a mock juror making commitment decisions regarding a defendant on trial for commitment under the SVP statute. Any questions regarding this study can be forwarded to Catherine Currell, the principal investigator at 774-3147.

What is the purpose of this study?

The purpose of this study is to research the factors involved in jury decision-making for sexually violent predator (SVP) trials.

What will I do in this study?

This study involves reading material from a mock SVP trial in which you would be a jury member. You will be presented with testimony from the defense and prosecutor and make a decision based on the information you are provided with. A questionnaire of attitudes toward sex offenders will also be completed.

How long will it take me to do this?

The study will take approximately one hour to complete.

Are there any risks of participating in the study? While no risks are anticipated by participating in this study, participants will be reading scenarios about a sexual offender, and will be answering questions regarding their views of sexual offenders. If this causes distress, participants are encouraged to contact the National Sexual Assault Hotline at 1-800-656-4673.

What are the benefits of participating in the study? The benefit of participating in this study is the contribution to expanding the knowledge base of jury decision-making in

SVP trials. This has the potential for leading to the improvement of public policy in this area.

Will anyone know what I do or say in this study (Confidentiality)? Names will not be linked to the questionnaires completed in this study. Each participant will fill out their questionnaires with participant ID numbers that will not be linked to the participant's name.

Will I receive any compensation for participation?
SONA credit will be awarded for participation in this study.

Is there a different way for me to receive this compensation or the benefits of this study?
All participants are free to discontinue their participation in the data collection at any point and for any reason without penalty.

Who can I contact for information about this study?
Questions about this research, research subjects' rights, or in the case of a research-related injury to the subject can be sent to Catherine Currell – 989-774-3147.

You are free to refuse to participate in this research project or to withdraw your consent and discontinue participation in the project at any time without penalty or loss of benefits to which you are otherwise entitled. Your participation will not affect your relationship with the institution(s) involved in this research project.

If you are not satisfied with the manner in which this study is being conducted, you may report (anonymously if you so choose) any complaints to the Institutional Review Board by calling 989-774-6777, or addressing a letter to the Institutional Review Board, 251 Foust Hall Central Michigan University, Mt. Pleasant, MI 48859.

My signature below indicates that all my questions have been answered. I agree to participate in the project as described above.

Signature of Subject

Date Signed

A copy of this form has been given to me. _____ Subject's Initials

For the Research Investigator—I have discussed with this subject the procedure(s) described above and the risks involved; I believe he/she understands the contents of the consent document and is competent to give legally effective and informed consent.

Signature of Responsible Investigator

Date Signed

APPENDIX B
DEMOGRAPHICS

Demographic Questionnaire

1. Age: _____
2. Gender: _____
3. Ethnicity: _____
4. Year in School (e.g., Freshman, Sophomore, etc): _____
5. Marital Status (circle one):
Single Co-habiting Married Divorced
6. Do you have children? (circle one): Yes No
7. Religious Affiliation (circle one):
Christian/Catholic Christian/Protestant Jewish Muslim
Non-religious Other (specify)
8. Political Affiliation (circle one):
Democrat Republican Independent Other

APPENDIX C

KANSAS SEXUALLY VIOLENT PREDATOR STATUTE

K.S.A. § 59-29a01 (2008)

CHAPTER 59. PROBATE CODE

ARTICLE 29A. COMMITMENT OF SEXUALLY VIOLENT PREDATORS

The legislature finds that there exists an extremely dangerous group of sexually violent predators who have a mental abnormality or personality disorder and who are likely to engage in repeat acts of sexual violence if not treated for their mental abnormality or personality disorder. A separate involuntary civil commitment process for the potentially long-term control, care and treatment of sexually violent predators is necessary.

.....

In other words, SVP laws allow a state to keep a sexual offender in confinement potentially indefinitely following the completion of their sentence in prison. Typically, these trials are decided by a jury. In the state of Kansas, individuals who are committed for detainment under the SVP law are sent to secure facilities in which they are given rehabilitation services. Individuals can petition for a review for their release once per year. In order to be committed under the SVP statute, the individual **must**:

- a) Be at risk of committing a future sex offense
- b) Have some form of volitional impairment (e.g., is unable to control his/her sexual offending impulses)

AND

- c) Has "...a mental abnormality or personality disorder which makes the person likely to engage in the predatory acts of sexual violence" (*Kansas Stat. Ann. S 59-29a02*, 2003).

APPENDIX C

COMMUNITY ATTITUDES TOWARDS SEX OFFENDER SCALE ITEMS

- 1- Strongly disagree 2- Disagree 3- Probably Disagree
4-Probably Agree 5-Agree 6- Strongly Agree

1. With support and therapy, someone who committed a sexual offense can learn to change their behavior. **(Reverse code)**
2. People who commit sex offenses should lose their civil rights (e.g. voting and privacy).
3. The prison sentences sex offenders receive are much too long when compared to the sentence lengths for other crimes. **(Reverse code)**
4. Trying to rehabilitate a sex offender is a waste of time.
5. Sex offenders should wear tracking devices so their location can be pinpointed at any time.
6. Only a few sex offenders are dangerous. **(Reverse code)**
7. Convicted sex offenders should never be released from prison.

APPENDIX D

CASE SUMMARY

- Mr. Z is a 33-year old Caucasian male who is nearing completion of a 10-year incarceration following a count of sexual assault against an adult woman.
 - In the incident, which occurred 11 years ago, Mr. Z approached a man and woman in their 30s late at night in a city park. Mr. Z got into a fight with the man, and then sexually assaulted the female, making her perform oral sex on him.
- Mr. Z turned down plea bargains for the charge.
- While incarcerated, Mr. Z completed a sex-offender treatment program successfully.
- He had no disciplinary problems during his incarceration.
- Before his incarceration, Mr. Z had been on probation for a 3-year period after he flashed a group of women on the subway.
- Mr. Z had a juvenile history that consisted of breaking and entering into a store and stealing \$500 worth of electronics when he was 13-years-old.
- Prior to his incarceration, Mr. Z was employed at a movie theatre where his job was to run the projection screen
- As a child, Mr. Z's home life was chaotic; he was raised by a single mother who was an alcoholic, and had five siblings who also lived in the household that he helped to raise. His mother had multiple boyfriends throughout his childhood years, some of whom physically abused Mr. Z.
- Mr. Z has been diagnosed with antisocial personality disorder, which is characterized by:
 - Repeatedly performing acts that are grounds for arrest
 - Impulsivity or failure to plan ahead
 - Irritability and aggressiveness, as indicated by physical fights or assaults

APPENDIX E

CASE EVALUATION FORM – T1

1.) Do you believe this defendant should be civilly committed under the Kansas SVP act?

Yes No

2.) On a scale of 0-100%, if this defendant is not civilly committed, what do you believe is the likelihood that he will commit another sex crime in the future?

_____ % likelihood.

3.) On a scale of 0-100%, if this defendant is not civilly committed, what do you believe is the likelihood that he will commit another crime that is *not* a sex crime in the future?

_____ % likelihood.

4.) On a scale of 0-100%, how likely is it that this defendant would benefit from treatment?

_____ % likelihood.

APPENDIX F

PROSECUTION EXPERT WITNESS TESTIMONY (ACTUARIAL)

A psychologist, Dr. X, was hired by the prosecution to examine whether Mr. Z is suitable for civil commitment in Kansas once his prison sentence is completed. Dr. X received a doctoral degree in clinical psychology from a nationally accredited institution and has been completing sex offender evaluations for the courts for the past 10 years.

The Kansas Department of Criminal Justice provided Dr. X with all of Mr. Z's criminal history records (e.g., arrest reports, victim statements, pre-sentence investigation reports) as well as all available file information regarding his behavior while in prison (e.g. a parole evaluation conducted by prison staff one year ago; Mr. Z's history of treatment participation, etc). Dr. X reviewed all these documents and interviewed Mr. Z for three hours.

Following the record review and interview, Dr. X rated Mr. Z on an instrument called the Sex Offender Risk Appraisal Guide (SORAG), which is a scale that is designed to predict recidivism in sex offenders. Research has shown that people with high scores on the SORAG are more likely to be rearrested for sex offenses in the future than are those with low scores.

Based on the results of the evaluation, Dr. X concludes in his report and testifies during the trial that:

“Based on record review, interview, and score on the SORAG, it can be concluded that Mr. Z is at a high risk to engage in repeated predatory acts of sexual violence in the future. He is sexually preoccupied and has poor impulse control.”

APPENDIX G

PROSECUTION EXPERT WITNESS TESTIMONY (CLINICAL)

A psychologist, Dr. X, was hired by the prosecution to examine whether Mr. Z is suitable for civil commitment in Kansas once his prison sentence is completed. Dr. X received a doctoral degree in clinical psychology from a nationally accredited institution and has been completing sex offender evaluations for the courts for the past 10 years.

The Kansas Department of Criminal Justice provided Dr. X with all of Mr. Z's criminal history records (e.g., arrest reports, victim statements, pre-sentence investigation reports) as well as all available file information regarding his behavior while in prison (e.g. a parole evaluation conducted by prison staff one year ago; Mr. Z's history of treatment participation, etc). Dr. X reviewed all these documents carefully and then interviewed Mr. Z for three hours.

Following a record review and three hour interview, Dr. X rated Mr. Z's risk for re-offense using this information. Based on the results of the evaluation, the prosecution psychologist, Dr. X, concludes in his report and testifies during the trial that:

“Based on my experience as a clinician, Mr. Z is at a high risk to engage in repeated predatory acts of sexual violence in the future. He is sexually preoccupied and has poor impulse control.”

APPENDIX H

CASE EVALUATION FORM – T2

1.) Do you believe this defendant should be civilly committed under the Kansas SVP act?

Yes No

2.) On a scale of 0-100%, if this defendant is not civilly committed, what do you believe is the likelihood that he will commit another sex crime in the future?

_____ % likelihood.

3.) On a scale of 0-100%, if this defendant is not civilly committed, what do you believe is the likelihood that he will commit another crime that is *not* a sex crime in the future?

_____ % likelihood.

4.) On a scale of 0-100%, how likely is it that this defendant would benefit from treatment?

_____ % likelihood.

5.) How credible do you think the expert was? (Circle one)

Not at all credible

Very Credible

1

2

3

4

5

6.) How persuasive do you think the expert was? (Circle one)

Not at all persuasive

Very Persuasive

1

2

3

4

5

7.) How influential do you think the expert was? (Circle one)

Not at all influential

Very Influential

1

2

3

4

5

APPENDIX I

DEFENSE EXPERT WITNESS TESTIMONY (ACTUARIAL)

Another psychologist, Dr. Y, was hired by the defense to examine whether Mr. Z may be spared from civil commitment in Kansas. Dr. Y received a doctoral degree in clinical psychology from a nationally accredited institution and has been completing sex offender evaluations for the courts for the past 10 years.

Like the previous psychologist, the Kansas Department of Criminal Justice provided Dr. Y with all of the same information about Mr. Z's criminal history records (e.g., arrest reports, victim statements, pre-sentence investigation reports), as well as all available file information regarding his behavior while in prison (e.g. a parole evaluation conducted by prison staff one year ago; Mr. Z's history of treatment participation, etc). Dr. Y reviewed all these documents carefully and then interviewed Mr. Z for three hours.

Following the record review and interview, Dr. Y rated Mr. Z on an instrument called the Static-99, which is designed to predict recidivism in sex offenders. Research has shown that people with high scores on the Static-99 are more likely to be rearrested for sex offenses in the future than are those with low scores.

Based on the results of the evaluation, Dr. Y concludes in his report and testifies during the trial that:

“Based on a review of the information, interview, and his low score on the Static-99, it can be concluded that Mr. Z is not at a high risk to engage in repeated predatory acts of sexual violence in the future because he does not fit the typical pattern of a repeat sexual offender.”

APPENDIX J

DEFENSE EXPERT WITNESS TESTIMONY (CLINICAL)

Another psychologist, Dr. Y, was hired by the defense to examine whether Mr. Z may be spared from civil commitment in Kansas. Dr. Y received a doctoral degree in clinical psychology from a nationally accredited institution and has been completing sex offender evaluations for the courts for the past 10 years.

Like the previous psychologist, the Kansas Department of Criminal Justice provided Dr. Y with all of the same information about Mr. Z's criminal history records (e.g., arrest reports, victim statements, pre-sentence investigation reports) as well as all available file information regarding his behavior while in prison (e.g. a parole evaluation conducted by prison staff one year ago; Mr. Z's history of treatment participation). Dr. Y reviewed all these documents carefully and then interviewed Mr. Z for three hours.

Following a record review and three hour interview, Dr. Y rated Mr. Z's risk for re-offense using this information.

Based on the results of the evaluation, Dr. Y concludes in his report and testifies during the trial that:

“Based on the record review, interview, along with my experience as a clinician, Mr. Z is not at a high risk to engage in repeated predatory acts of sexual violence in the future because he does not fit the typical pattern of a repeat sexual offender.”

APPENDIX L

POST-TEST QUESTIONNAIRE

1.) What type of offense did the defendant commit? (Circle one)

Murder Drunk Driving Drug Dealing Sex Offense

2.) What conclusion did the expert witness come to on the prosecuting side?

3.) What conclusion did the expert witness come to on the defense side?

4.) What methods were used to come to these conclusions?

REFERENCES

- Barefoot v. Estelle*, 463 U.S. 880 (1983).
- Bechara, A., Damasio, H., & Damasio, A.R. (2000). Emotion, decision-making and the orbitofrontal cortex. *Cerebral Cortex*, *10*, 295-307.
- Blair, R.J.R., & Ciplotti, L. (2000). Impaired social response reversal: A case of acquired sociopathy. *Brain*, *123*, 1122-1141.
- Blume, J.H., Garvey, S.H., & Johnson, S.L. (2001). Future dangerousness in capital cases: Always “at issue.” *Cornell Law Review*, *86*, 397-410.
- Boer, D., Hart, S., Kropp, R., & Webster, C. (1997). *Manual for the Sexual Violence Risk-20*. The British Columbia Institute Against Family Violence, Simon Fraser University.
- Bornstein, B.H. (1999). The ecological validity of jury simulations: Is the jury still out? *Law and Human Behavior*, *23*, 75-91.
- Burns, J.M. & Swerdlow, R.H. (2003). Right orbitofrontal tumor with pedophilia symptom and constructional apaxia sign. *Archives of Neurology*, *60*, 437-440.
- California Department of Mental Health (2004). *Clinical evaluator handbook and standardized assessment protocol*. Sacramento, CA: Author.
- Church, W.T., Wakeman, E.E., Miller, S.L., Clements, C.B., & Sun, F. (2008). The Community Attitudes Toward Sex Offenders Scale: The development of a psychometric assessment instrument. *Research on Social Work Practice*, *18*, 251-259.
- Cohen, M., & Jeglic, E.L. (2007). Sex offender legislation in the United States: What do we know? *International Journal of Offender Therapy and Comparative Criminology*, *51*, 369-383.
- Cooper, J., Bennett, E.A., & Sukel, H.L. (1996). Complex scientific testimony: How do jurors make decision? *Law and Human Behavior*, *20*, 379-394.
- Costanzo, S., & Costanzo, M. (1994). Life or death decisions: An analysis of capital jury decisions under the special issues sentencing framework. *Law and Human Behavior*, *18*, 151-170.
- Cramer, R.J., Brodsky, S.L., & DeCoster, J. (2009). Expert witness confidence and juror personality: Their impact on credibility and persuasion in the courtroom. *Journal of the American Academy of Psychiatry and Law*, *37*, 63-74.

Davey, M., & Goodnough, A. (2007). Doubts rise as states hold sex offenders after prison. *New York Times*, Retrieved October 5, 2009, from [www.nytimes.com/2007/10/05/us/04civil.html??_r=1&oref=slogin&pagewanted=print](http://www.nytimes.com/2007/10/05/us/04civil.html?_r=1&oref=slogin&pagewanted=print)

Edens, J.F., Desforjes, D.M., Fernandez, K., & Palac, C.A. (2004). Effects of psychopathy and violence risk testimony on mock juror perceptions of dangerousness in a capital murder trial. *Psychology, Crime & Law*, *10*, 393-412.

Epperson, D.L., Hesselton, D., & Kaul, J.D. (1999). *Minnesota Sex Offender Screening Tool-Revised (MnSOST-R): Development, performance, and recommended risk level cut scores*. Minneapolis: Minnesota Department of Corrections.

Field, H.S., & Bienen, L.B. (1980). *Jurors and rape: A study in psychology and law*. Lexington, MA: Lexington Books.

Gookin, K. (2007). Comparison of state laws authorizing involuntary commitment of sexually violent predators: 2006 updated, revised. Washington State Institute for Public Policy, document number 07-09-1101, retrieved on-line September 26th 2009 from www.wsipp.wa.gov.

Golding, J.M., Bradshaw, G.S., Dunlap, E.E., & Hodell, E.C. (2007). The impact of mock jury gender composition on deliberations and conviction rates in a child sexual assault trial. *Child Maltreatment*, *12*, 182-190.

Grove, W.M., & Meehl, P.E. (1996). Comparative efficiency of informal (subjective impressionistic) and formal (mechanical, algorithmic) prediction procedures: The clinical-statistical controversy. *Psychology, Public Policy, and Law*, *2*, 293-323.

Guy, L.S., & Edens, J.F. (2003). Juror decision-making in a mock sexually violent predator trial: Gender differences in the impact of divergent types of expert testimony. *Behavioral Sciences and the Law*, *21*, 215-237.

Guy, L.S., & Edens, J.F. (2006). Gender differences in attitudes toward psychopathic sexual offenders. *Behavioral Sciences and the Law*, *24*, 65-85.

Hanson, R.K., & Thornton, D. (1999). *Static-00: Improving actuarial risk assessments for sex offenders*. (User Report 99-02). Ottawa, Ontario: Department of the Solicitor General of Canada.

Hanson, R.K., & Harris, A.J.R. (2000). Where should we intervene? Dynamic predictors of sex offense recidivism. *Criminal Justice and Behavior*, *27*, 6-35.

Hanson, R.K., & Morton-Bourgon, K. (2005). The characteristics of persistent sexual offenders: A meta-analysis of recidivism studies. *Journal of Consulting and Clinical Psychology*, *73*, 1154-1163.

- Hart, S. (1998). The role of psychopathy in assessing risk of violence: Conceptual and methodological issues. *Legal and Criminological Psychology*, 2, 228-341.
- Heilbrun, K., Dvoskin, J., Hart, S., & McNeil, D. (1999). Violence risk communication: Implications for research, policy, and practice. *Health, Risk, and Society*, 1, 91-106.
- In re Detention of Thorell*, 72 P. 3d 708 (Wash. S. Ct. 2003).
- In re the Matter of Leon G.*, 59 P. 3d 779 (Ariz. S. Ct. 2002).
- In re the Matter of Alexander Mark Martinelli*, 649 N.W. 2d 886 (Minn. App. 2002).
- Kansas Stat. Ann. § 59-29a01-02 (2003 & Supp. 2004).
- Kansas v. Crane*, 534 U.S. 407 (2002).
- Kansas v. Hendricks*, 521 U.S. 346 (1997).
- Krauss, D.A., Lieberman, J.D., & Olson, J. (2004). The effects of rational and experiential information processing of expert testimony in death penalty cases. *Behavioral Sciences and the Law*, 6, 801-822.
- Krauss, D.A., McCabe, J.G., & Lieberman, J.D. (Working Paper Series, July 13, 2009). Dangerously confused? Jurors' reactions to expert testimony on dangerousness in a sexually violent predator trial. Available at SSRN: <http://ssrn.com/abstract=1433522>
- Krauss, D.A., McCabe, J.G., & McFadden, S. (2009). Limited expertise and experts: Problems with the continued use of future dangerousness in capital sentencing. In R. Schopp, R. Wiener, B. Bornstein, & S. Wilborn (Eds.), *Mental Disorder and Criminal Law: Responsibility, Punishment, and Competency* (pp. 135-158). New York: Springer.
- Krauss, D.A., & Sales, B.D. (2001). The effects of clinical and scientific expert testimony on juror decision making in capital sentencing. *Psychology, Public Policy, and Law*, 7, 267-310.
- LaFond, J.Q. (2000). The future of involuntary civil commitment in the U.S.A. after *Kansas v. Hendricks*. *Behavioral Sciences and the Law*, 18, 153-167.
- Lieb, R., & Gookin, K. (2005). Involuntary commitment of sexually violent predators: Comparing state laws. Olympia: Washington State Institute for Public Policy.
- Lieberman, J., Krauss, D., Kyger, M., & Lehoux, M. (2007). Determining dangerousness in Sexually Violent Predator evaluations: Cognitive-experiential self-theory and juror judgments of expert testimony. *Behavioral Sciences and the Law*, 25, 507-526.

McCabe, J.G., Krauss, D.A., & Lieberman, J.D. (2010). Reality check: A comparison of college students and a community sample of mock jurors in a simulated sexual violent predator civil commitment. *Behavioral Sciences and the Law*, 28, 730-750.

Meehl, P.E. (1996). *Clinical versus statistical prediction: A theoretical analysis and a review of the evidence*. Northvale, NJ: Jason Aronson. (Original work published 1954)

Monahan, J. (2003). Violence risk assessment. In I.B. Weiner, & A. Goldstein (Eds.), *The Handbook of Psychology: Forensic Psychology* (Vol. 22 pp. 527-542). Hoboken, NJ: Wiley.

Meeks, M., Boccaccini, M.T., & Turner, D.T. (2009). Juror perceptions of expert influence and credibility in SVP hearings. A paper presented at the American Psychology-Law Society Annual Conference, San Antonio, TX, March 4-6, 2009.

Melton, G.B., Petrila, J., Poythress, N.G., & Slobogin, C. (2007). *Psychological evaluations for the courts: A handbook for mental health professionals and lawyers* (3rd ed.). New York: Guilford Press.

Mercado, C.C., Schopp, R.F., & Bornstein, B.H. (2005). Evaluating sex offenders under sexually violent predator laws: How might mental health professionals conceptualize the notion of volitional impairment? *Aggression and Violent Behavior*, 10, 289-309.

Miller, H., Amenta, A., & Conroy, A. (2005). Sexually violent predator evaluations: Empirical evidence. *Law and Human Behavior*, 29, 29-55.

Minnesota ex rel. Pearson v. Probate Court, 309 U.S. 270 (1940).

National Center for Prosecution of Child Abuse. (2007). *Civil commitment of sexually violent predators*. Retrieved October 5, 2009, from <http://www.ndaaapri.org/apri/programs/ncpca/statutes.html>

Otto, R.K., & Petrila, J. (2006). Admissibility of expert testimony regarding recidivism risk in sexually violent predator proceedings. In A. Schlank (ed.). *The sexual predator: Law and public policy: Volume 3: Clinical practice* (pp. 2-1 – 2-8). Civic Research Institute Press.

Quinsey, V.L., Harris, G.T., Rice, M.E., & Cormier, C.A. (1998). *Violent offenders: Appraising and managing risk*. Washington, DC: American Psychological Association.

Quinsey, V.L., Harris, G.T., Rice, M.E., & Cormier, C.A. (2006). *Violent offenders: Appraising and managing risk* (2nd ed.). Washington, DC: American Psychological Association.

Smith, B.C., Penrod, S.D., Otto, A.L., & Park, R.C. (1996). Jurors' use of probabilistic evidence. *Law and Human Behavior, 20*, 49-82.

Spackman, M.P., Belcher, J.C., Calapp, J.W., & Taylor, A. (2002). An analysis of the effects of subjective and objective instruction forms on mock-juries' murder/manslaughter distinctions. *Law and Human Behavior, 26*, 605-623.

Kahneman, D., & Tversky, A. (1982). The simulation heuristic. In D. Kahneman, P. Slovic, & A. Tversky (Eds.), *Judgment under uncertainty: Heuristics and biases* (pp. 201-208). New York: Cambridge University Press.

Washington Laws § 71.09.020 (1990).

Witt, P.H., & Conroy, M.A. (2009). *Evaluation of sexually violent predators*. New York: Oxford University Press.