

Catherine Phillips<sup>1,2</sup>, David Peebles<sup>2</sup>, Dominic Willmott<sup>3,4</sup> <sup>1</sup> West Yorkshire Police, UK<sup>2</sup> University of Huddersfield, UK<sup>3</sup> Loughborough University, UK<sup>4</sup> SWPS University, Wrocław, Poland

Corresponding author: Dominic Willmott, d.willmott@lboro.ac.uk

## Emotional versus Neutral Trial Language on Mock Jury Recall, Moral Disengagement and Verdict Harshness Ratings within an Acquaintance Rape Trial

**Abstract:** The purpose of the present study was to explore the cognitive factors that may influence the decision-making processes of mock jurors in an acquaintance rape trial, through manipulation of the language (emotional or neutral) used at trial. A genuine acquaintance rape trial was utilised with trial transcripts adapted to include emotionally valenced language or neutral language. A videotaped re-enactment included actors playing the role of a judge and a lawyer, with cross-examination shown to participants during the mock trial. Participant's ( $N = 217$ ) memory recall, moral disengagement, and verdict harshness (defendant credibility and sentence length) were examined along with their individual dichotomous verdict decision. Results displayed that the type of language mock jurors were exposed to, influenced their dichotomous verdict decision; neutral language evoked more guilty verdicts and higher verdict harshness ratings whereas emotional language (positively and negatively valenced words) elicited greater moral disengagement ratings post-trial. The type of language used was also found to impact mock jurors' memory recall; on the whole, neutral language was better remembered, in contrast with previous research findings. These findings offer weight to substantiate the *story model* theory of trial decision-making, pertaining to jurors endorsing rape myths and morally disengaging with the complainant to help construct a story that matched available verdict options.

**Keywords:** jury trial, RASSO, sexual violence, decision making, moral disengagement, Language, memory, verdict harshness

### INTRODUCTION

Rape convictions in England and Wales are currently at a record low; in three years, rape convictions have more than halved whilst allegations have continued to increase (Topping & Barr, 2020). In the year 2016 to 2017, there were 35901 rapes reported to the police and 5190 rape prosecutions, in comparison to the year 2020 to 2021 where 55130 rapes were reported to police and only 1557 rape prosecutions (CPS, 2021). Former Victims Commissioner for England and Wales, Dame Vera Baird, went as far as to conclude that the police and Crown

Prosecution Service (CPS) conduct in these cases amounts to the 'decriminalisation of rape' (Annual Victims Commissioner Report, 2021/2022). Research in this area is therefore gaining momentum, with researchers and the mainstream media trying to distinguish a cause and a potential solution to bring justice for survivors of rape and SSA (Allen et al., 2024; Barbin et al., 2024; Gekoski, 2024). Lay jurors in comparison with legal personnel and expert witnesses, are often found to perceive statements made in the courtroom to be wholly reliable, if the information spoken appeals to the jurors pre-existing knowledge and world view and is compelling enough; they



are without reason to question what is spoken by professionals (Curley & Neuhaus, 2024; Simon, 2012). This is a possible and plausible explanation for the number of completed prosecutions in "rape-flagged" cases being the lowest since tracking began in 2009 (Shaw, 2020). Essentially, the barrister is an advocate for their client's cause and that is their fundamental role in court. Language used by barristers in court has the potential to influence juror decision-making greatly; if the information dispersed reflects personal or cultural biases or promotes assumption-led cognition, juror deliberations can be misguided (Chordas, 2017). Furthermore, manipulation tactics can be used by barristers by seeking out confusion, ambiguity and misunderstanding to the advantage of the client they are representing (Devine & Mojtahedi, 2021; Wagner & Cheng, 2016; 2011).

The core Anglo values of language utilised in the legal process should embody meta discourse such as 'accuracy', 'truth' and 'fairness', with legal decision-making involving the process of trying to distinguish what one knows from what one thinks (Wierzbicka, 2006). As a juror, one must take on the role of a 'mundane reasoner' and there are three ways in which they formulate their decision (Parsons & Mojtahedi, 2022). Firstly, the level of the object, both parties experienced a different event, at the level of experience, the parties' cognitive processes were impaired either psychologically or visually. At the level of account, parties relate the experience in a non-literal way such as lying, joking or speaking metaphorically (Pollner, 1987). Language has a great impact on this type of reasoning; it can be easily manipulated and if information is missing, rape myths (Snow & Longpre, 2024) can be relied upon to make decisions (Pennington & Hastie, 1992; Willmott, 2018).

If information is missing, jurors may rely on prejudicial thinking to 'fill the gaps', with rape myths being deployed by barristers to manipulate jurors into falling back on these ideologies to formulate their decisions (Temkin, Gray & Barrett, 2018). Smith and Skinner (2017) found that despite judicial directions or prosecution comments to dispel them, rape myths are still routinely used in legal discourse, kept 'relevant to trial' through the focus on inconsistencies and preconceptions of the way a victim should react (Herriott, 2024). Vulnerable victims are likely to be disproportionately affected by common legal tactics (Smith et al., 2022), as well as finding their overall court experience gruelling, humiliating, and unrewarding (Ellison, 2000). This is reflected within the current severe drop in rape convictions. Ellison and Munro (2010) found that mock-jurors use story-construction models to filter evidence presented to them through pre-conceived schemas and an expected narrative is formed; rape-myth acceptance. Thus, if rape-myths are used in legal discourse by barristers, which the previous two studies appear to suggest, juror decision-making reliability is compromised through the manipulation of narrative schemas. This is consistent with Pennington and Hastie's (1992) story model. Victim-blaming is a symptom of rape-myth acceptance (Gurnham, 2016). Ultimately, the

language used by barristers within rape trials has the potential to create biased verdict decision-making; if rape-myth acceptance is promoted, jurors may be susceptible to this ideology through their pre-conceived ideas about rape and victim-blaming tendencies are enhanced, leading to more defendant acquittals.

### **Emotive Language**

An integral type of language that can impact mundane reasoning, modify judgement, and ultimately influence decision-making is emotive language (Macagno, 2014). The mechanism of persuasion is made up of values, decisions and emotions and thus emotive language can lure an individual to a value judgement on the target intended. Pertaining to a rape trial, a barrister can potentially use emotive words to manipulate a juror into assigning value to certain information to the disadvantage of the opposition. This can be achieved by triggering value judgement through attribution of a negative habit, mentioning previous actions and by using metaphors and comparisons. These 'techniques' can be seen by barristers in rape trials when the complainant's previous sexual history is spoken of for example, planting the value judgement to a negative connotation of the victim (Herriott, 2024). If a juror can relate to a similar story or information previously linked to the negative connotation, the same judgement will be decided upon as previously made. Decision-making can then become distant from systematic logic and rely on a picture of reality that seems more likely to have happened than something supported by evidence and logical reasoning (Conroy et al., 2024; Grzyb et al., 2024; Lewandowicz-Machnikowska et al., 2023).

Legal professionals often use story construction strategies if physical evidence is lacking, which is prevalent in a rape case due to proving consent or a lack of. This aids the understanding of the juror's inevitability to fill gaps in the narrative to complete the decision-making process, whether that be credible evidence or not (Pennington & Hastie, 1992). This is associated with the 'Story Model' whereby jurors actively process information systematically to meet their requirement in court, with the most efficient way of doing so to form a narrative by applying world knowledge and personal stories to the evidence presented to form a coherent explanation of events (Willmott et al., 2018). This can cause multiple interpretations of the same event dependent on the perspective of the individual juror (Willmott, 2018). Invalid, psychological science can be misinterpreted as falsifiable facts without the awareness of the individual (McAuliff & Duckworth, 2010).

### **Emotion and Memory**

Intended information is valued through a juror's cognition due to the emotion and affect manipulated into the language used. These factors ensure that information is remembered during cognitive decision-making because they greatly influence judgement (Clore and Huntsinger, 2007). Exploring the choice of language further, emotional language can be separated into negative connotations and

positive connotations. Words with negative connotations are more likely to be remembered than positive or neutral words (Kensinger and Corkin, 2003). Kanske and Kotz (2007) theorised that concrete, negative words are processed through the right hemisphere, modulating event-related potential. Based on the theory that negative words are more likely to be remembered over factual language, court professionals could be targeting this area of the brain to appeal to imagination and creativity, pertaining to the aforementioned Story Model theory. Thus, logic and reasoning (associated with the left hemisphere), qualities that are needed in decision-making, are surpassed in place of negative assumptions or bias. Emotional words are more likely to be labelled as studied than neutral words, meaning that they are more categorical. Memory bias can exist when emotional items have increased memory strength; emotional stimuli can feel more familiar because it shares the same features as studied items from the same category its related to (White et al, 2013; 2014). Words from the same category are more successfully remembered, with emotion having immediate recognition memory bias through category membership. This could begin to explain how rape myths are recognised and relied upon in juror decision-making (Lilley et al., 2023).

### **Moral Disengagement**

Moral agency has dual aspects pertaining to the power to refrain from behaving inhumanely and the positive power to behave humanely (Bandura, 1990; 2002). An individual's moral compass is typically a stable entity that does not shift but under certain circumstances, individuals can participate in sanctionable behaviour without distress or self-condemnation; they become morally disengaged. Moral functioning is governed by self-sanctions rather than abstract reasoning and when such mechanisms are activated through triggers, these sanctions are selectively disengaged from inhumane conduct and the ability to self-regulate is diminished. An individual who is morally disengaged could engage in behaviour that would otherwise feel 'wrong'. This trait theory bestows a useful framework for investigating legal judgments that can result in harming an individual for the good of society (Neal & Cramer, 2017). Bandura (1999) affirmed the idea that moral disengagement is a result of cognitive reconstrue of reprehensible behaviour that distorts the effects of harmful actions and reduces identification with victims or lends hand to victim blaming. When applying to the context of juror decision-making on rape trials, this could explain why a large majority of defendants are not convicted (see Willmott, 2018); if jurors become morally disengaged, they could resort to victim-blaming (Stevens et al., 2024), coinciding with theory emerging from rape myth acceptance (Ostermann & Watson, 2024).

Models of unethical decision-making can assume that individual's think rationally and systematically when forming decisions and can self-regulate their own moral standing. However, individuals can behave unethically without being aware (unethical blindness) which derives from complex cognitive processes between sensemaking and contextual factors. In relation to a rape trial, the

assumption that a juror is making an 'unethical' decision by deciding upon their verdict 'guilty' or 'not guilty' is not being made here, but an understanding of how interpreting suggestive information can cause a juror to morally disengage with the victim of the crime and resort to victim-blaming is sought. Dispositional guilt can attenuate the negative relationship between moral disengagement and ethical decision-making (Johnson & Connelly, 2016; Munro et al., 2024). Trait guilt is associated with increased empathy and personal responsibility and individuals are more likely to identify the cause and effect between unethical decisions and the outcomes they facilitate, allowing self-regulation that can become inhibited by moral disengagement. When applying this to a rape trial scenario, it could be inferred that a juror may endure feelings of guilt towards the defendant in the case as often depicted in the media, they will 'ruin their career and future aspirations' if a guilty verdict is returned. This can lead to positive engagement with the defendant and in turn cause moral disengagement towards the claimant in the case.

### **Rationale**

The present study seeks to investigate the possibility of a link between the effects of memory recall, moral disengagement, and verdict harshness. It is hypothesised that negative language towards the complainant during cross-examination will be remembered most, coinciding with jurors' preconceived, false beliefs about rape, causing them to morally disengage with the complainant and therefore provide a 'not guilty' verdict or a 'guilty' verdict with less stringent imprisonment lengths. Conversely, if negative language towards the defendant is remembered the most (dispelling widespread knowledge about rape myths), jurors should effectively morally disengage with the defendant and therefore deliver a 'guilty' verdict and indicate harsher imprisonment lengths. The neutral condition will act as a baseline condition against which the emotional condition will be compared.

## **METHODOLOGY**

### **Participants**

A sample of participants ( $n = 217$ ) were recruited through the University of Huddersfield's online participation system (SONA) for undergraduate psychology students. These students were awarded credits via the system for completing the study that contribute to their overall module grade. After dispersing an advert for the present study online, 107 participants were made up of non-student members of the British public; all of whom took part on a voluntary basis without incentive. All participants ( $n = 324$ ) took part voluntarily by following a link to the study on Qualtrics software. Eligible participants were randomly allocated to one of two conditions: emotive language (e.g. a cross-examination transcript containing positively or negatively valenced words) or neutral language (e.g. a cross-examination transcript containing neutral valenced words). As a result of missing data, the number of participants in each

condition was approximately equal; 153 in the emotional condition and 171 in the neutral condition.

Abiding by E&W jury eligibility legislation highlighted above (The Juries Act, 1974), participants ranged in age from 18-69 years old ( $M = 25$ ,  $SD = 9.91$ ). All participants were native English speakers and had no previous self-reported serious mental health issues or criminal convictions. The sample consisted of 268 females (82.7%), 54 males (16.7%) and two participants who reported their gender as 'other' (.6%). Furthermore, 226 participants recorded their ethnicity as Caucasian (69.8%), 62 recorded Asian British (19.1%), 14 recorded Black British (4.3%), 8 recorded Dual Heritage (2.5%) and 14 recorded 'other' (4.3%). No other demographic details were obtained.

## Design

### Memory Recall

A parametric independent samples t-test was used to compare participants' mean recall scores, for both experimental conditions, across four timepoints. Additionally, a repeated measures ANOVA (analysis of variance) was conducted to identify any significance in recall scores between the four times tested.

**Independent Variable (IV)** = Experimental condition (language). Participants were either exposed to neutral language or emotional language during the trial narrative.

**Dependant Variable (DV)** = Mean recall scores, measured in number of key words remembered.

### Moral Disengagement

A 2 X 2 mixed ANOVA (within and between-subject factors) was conducted to analyse moral disengagement scores between the emotional and neutral condition, at two different timepoints (prior and post-trial exposure).

**Independent Variables** =

[1] Experimental condition (language).

[2] Timepoint (MD1 = First moral disengagement questionnaire pre-trial and MD2 = repeated questionnaire post-trial).

**Dependant Variable** = Moral disengagement scores.

### Verdict harshness

Verdict harshness was made up of dichotomous verdict decisions, a total verdict harshness score, and sentence length ratings. A non-parametric Chi-Square ( $\chi^2$ ) test was conducted to see if there was an association between dichotomous verdict decisions (guilty or not guilty) and the experimental (emotional or neutral) condition. Additionally, a 2 X 4 mixed ANOVA (within and between-subject factors) was conducted to examine total harshness scores between the emotional and neutral condition, across four timepoints (after each cross-examination video). Furthermore, a further 2 X 4 mixed ANOVA was conducted to examine sentence length ratings between the emotional and neutral condition, across the four timepoints.

**Independent Variables** =

[1] Experimental condition (language).

[2] Timepoint (cross-examination videos 1-4).

**Dependant Variables** =

[1] Dichotomous verdict decisions (guilty or not guilty) measured in percentage.

[2] Total harshness scores.

[3] Sentence length ratings measured in months.

## Materials

### Trial Transcript

Preparations for the experiment began with generating the criminal case that the trial would be based upon; an acquaintance rape was chosen after careful consideration. This type of rape is the most prevalent in the UK and conjures uncertainty due to it typically taking place in a private setting, meaning a lack of witnesses or CCTV evidence (CPS, 2021). Furthermore, most reported rapes are committed by a single man against a female victim, most of whom are acquainted with their rapist in some way (ONS, 2021). A database search was conducted through the British and Irish Legal Information Institute to find an existing case transcript of a genuine case that had previously gone through the court system that fitted this description. For the basis of the experimental objectives, one condition of the trial speeches included seven emotional words and the other condition consisted of purely neutral words containing only genuine facts about the case. Emotional words were taken from The Affective Norms for English Words (ANEW), (Bradley & Lang, 1999). Once the case was developed into trial speeches, two aspiring lawyers were filmed in a mock-court room setting reciting the transcripts provided to them: one playing the role of prosecuting lawyer and the other, the defence lawyer. Both actors played the same role for both versions of the speeches (emotional versus neutral). The lawyers were actors who were sourced from the University of Huddersfield, both trainee law students in their penultimate year of study, recruited through an advisement for the role to their department.

### Memory Recall

After watching the trial video, participants completed a one-minute-long distractor task that was unrelated to the study. Immediately after, participants were asked to write down what they heard in the trial video, in a free-recall task. After the distractor task, it was expected that participants would not remember the script word-for-word but could at least pick out any keywords that were memorable. Only the seven key words that were placed into the scripts in both the emotional, and neutral conditions were measured and coded by number of words remembered. The number of words correctly remembered, were later converted into percentages for ease.

### Moral disengagement

Moral disengagement was measured using an adaptation of Bandura's 32-item scale self-report questionnaire (Bandura et al, 1996) utilised in multiple research literature. The adapted version used in the present study was developed by Detert, Trevino, Klebe and Sweitzer (2008) who changed the language for use with an adult

population as the original measure was developed for use with children. Items were assessed on a 5-point Likert scale ranging from 1 (strongly disagree) to 5 (strongly agree), designed to tap into four sub-components that make up moral disengagement. Eight items of the scale were dropped by the authors due to factor analysis, namely, low factor loadings, forming a 24 item-scale. The four components focused on in the present study were Advantageous Comparison (AC), Displacement of Responsibility (DISR), Attribution of Blame (AB) and Dehumanisation (DEH), all measured independently. Furthermore, an overall moral disengagement score was measured as a single high order concept by averaging the responses of all 24 items.

The moral disengagement questionnaire was completed by participants pre-trial and post-trial for the purpose of comparison after exposure to the trial videos.

### **Verdict Harshness**

To measure verdict harshness, a questionnaire whereby participants evaluated the defendant in question (Ahola, Hellström & Christianson, 2010) was utilised. The defendant was evaluated on ten variables: credibility, reliability, guilt, culpability, aggressiveness, insensitivity, disagreeableness, ruthlessness, and degree of mental disorder along with the seriousness of the crime (measured separately in sentence length). The ten items were assessed on a 6-point Likert scale (1- not at all, 6- very much) and the scales 'credible' and 'reliable' were reversed scored.

The first ten items were totalled to form an overall 'harshness' score and the final variable (sentence length) was measured separately in months, chosen freely by the participant on a sliding scale.

### **Procedure**

Ethical approval was obtained by The University of Huddersfield, the nature of the study was made clear before participation and participants had the right to withdraw at any point. After consenting, all participants were asked to create a unique, four-character code that they would need to remember if they wished to contact the researcher about their data for any reason. Furthermore, the code was utilised to incite honest opinions throughout the study; by remaining anonymous, participants were more likely to answer truthfully, avoiding social desirability bias. Participants were advised to be as honest as possible and reminded of the gravity of the decision-making task at hand, it was explained to them that the findings will have important consequences upon understanding real juror decision-making, in real rape cases. Participants completed the moral disengagement questionnaire, then read a short passage detailing the facts of a rape that took place, in chronological order and the plea of the defendant in question. They then listened to the first trial video; here, the prosecution lawyer conveyed the allegation from the complainant's perspective. If allocated to the emotive language condition, this contained positive affirmations about the complainant, such as "energetic, excited, compassionate". In the neutral condition, this included the facts of the case only, from the complainant's

perspective. Immediately after watching the video, participants were timed for one minute to carry out a brainteaser (unrelated to the trial, to fill time). This engaging task was included in order to distract the participants from the trial video they had seen, in order to truly examine what they had remembered. Next, they wrote down what they remembered from the first trial video. After, they were asked to complete the verdict harshness questionnaire regarding the defendant that ended with a question asking for the sentence length in years and months that the participant would recommend (participants were told to put 0 if believed the defendant to be not guilty).

This process was repeated for the remaining three trial videos. The second video contained the defence lawyer conveying the allegation from the defendant's perspective; in the emotional condition this derived negative affirmations about the complainant (i.e., inhibited, vindictive), in the neutral condition only the facts were detailed (i.e., Miss Walshaw sustained no injuries). The third video involved the defence lawyer assigning positive affirmations to the defendant in the emotive condition and only true facts about the defendant in the neutral condition. Finally, the fourth video depicted the prosecution lawyer ascribing negative affirmations to the defendant in the emotional condition and only the facts detailing the effect of the crime on the complainant in the neutral condition. Once the final questionnaire from the fourth video was complete, the same moral disengagement questionnaire given pre-trial was re-issued. Finally, the participants were shown a debrief that contained information on how to withdraw and also support contacts relevant to the nature of the task such as the local Rape Crisis branch and phone number.

## **RESULTS**

### **Verdict Harshness**

In Table 1, crosstabulation figures for verdict decisions (guilty/not guilty ratings) are presented for both the neutral and emotional condition. Given in percentage (%) within each condition.

Participants who were exposed to neutral, factual language returned more guilty verdicts in comparison to participants who were exposed to emotionally valenced language. To observe the verdict decision at the end of both mock trials, between the two types of material the jurors were exposed to, a Chi-Square test of independence was performed. For participants exposed to the neutral language condition, 11 returned a guilty verdict and 160

**Table 1.** Participants' Verdict Decisions when exposed to neutral or emotional language.

Condition	Not Guilty	Guilty
Neutral	6.4%	93.6%
Emotional	32%	68%

*Note.* % within conditions looked at as unequal number of participants in each condition.

returned a not guilty verdict (Expected frequencies: guilty = 31.7, not guilty = 139.3). For participants exposed to the emotional language condition, 49 returned a guilty verdict and 104 returned a not guilty verdict (Expected Frequencies: guilty = 28.3, not guilty = 124.7). A significant difference was found, with a medium effect size,  $\chi^2(1, N = 324) = 35.05$ ,  $p < .001$ ,  $V = .33$ . Contrary to the hypothesis, the neutral condition produced significantly more guilty verdicts than the emotional condition; emotional language was expected (based on the previously discussed literature) to generate more guilty verdicts.

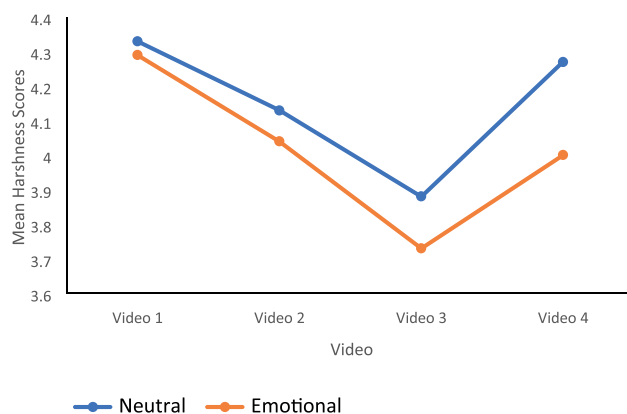
A mixed ANOVA was conducted to establish the verdict harshness within this decision-making. In Table 2, mean harshness over the four times tested in each condition is displayed.

**Table 2.** Participants' Total Verdict Harshness Scores in Years Across the Four Visuals

Video	<i>M</i>		<i>SD</i>	
	Neutral	Emotional	Neutral	Emotional
Video 1	4.33	4.29	.90	1.03
Video 2	4.13	4.04	.92	1.10
Video 3	3.88	3.73	1.10	1.13
Video 4	4.27	4.00	.99	1.10

A significant interaction between the videos (Video1, Video2, Video3, Video4) and the condition (Neutral, Emotional) was not found, Wilks' Lambda = .98,  $F(3, 320) = 2.229$ ,  $p = .085$ , partial eta squared = .02. There was a significant main effect for the video timepoint, Wilks' Lambda = .77,  $F(3, 320) = 31.223$ ,  $P < .001$ , partial eta squared = .23. The main effect comparing the two conditions was not significant,  $F(1, 322) = 1.935$ ,  $P = .165$ , partial eta squared = .006. A graph of means is displayed below in Figure 1.

Vid 1: There was no significant effect for students recruited through the university system and members of the public,  $t(322) = 1.22$ ,  $p = .369$ , despite university students ( $M = 4.36$ ,  $SD = .95$ ) attaining slightly higher scores than the general public ( $M = 4.22$ ,  $SD = .99$ ).



**Figure 1.** Mean Verdict Harshness Scores Across the Four Visuals

Vid 2: There was no significant effect for students recruited through the university system and members of the public,  $t(322) = .97$ ,  $p = .587$ , despite university students ( $M = 4.12$ ,  $SD = 1.01$ ) attaining slightly higher scores than the general public ( $M = 4.01$ ,  $SD = 1.02$ ).

Vid 3: There was no significant effect for students recruited through the university system and members of the public,  $t(322) = -.001$ ,  $p = .631$ , university students ( $M = 3.81$ ,  $SD = 1.09$ ) attained on average, the same scores as the general public ( $M = 3.81$ ,  $SD = 1.15$ ).

Vid 4: There was no significant effect for students recruited through the university system and members of the public,  $t(322) = .343$ ,  $p = .479$ , despite university students ( $M = 4.16$ ,  $SD = 1.06$ ) attaining slightly higher scores than the general public ( $M = 4.11$ ,  $SD = 1.03$ ).

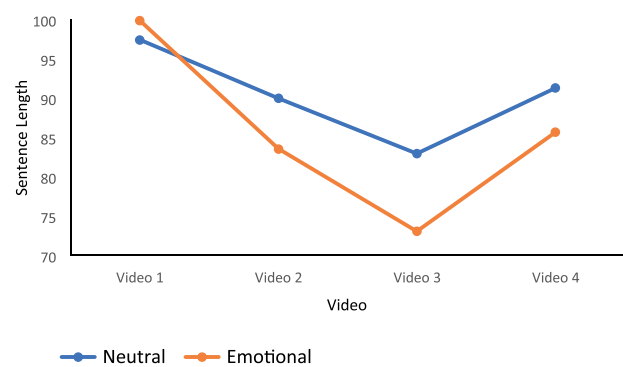
A separate mixed ANOVA was conducted to examine the harshness in sentence length decided upon by participants. Table 3 displays the mean sentence length across the four times tested for both conditions.

**Table 3.** Participants' Sentence Length Ratings in Months Across the Four Visuals

Video	<i>M</i>		<i>SD</i>	
	Neutral	Emotional	Neutral	Emotional
Video 1	97.32	99.76	74.81	91.11
Video 2	89.89	83.44	78.40	84.22
Video 3	82.84	72.95	77.42	119.26
Video 4	91.19	85.57	77.60	128.15

*Note.* Participants freely selected length in years and months; converted to months for analysis.

A significant interaction between the video timepoint (Video1, Video2, Video3, Video4) and the condition (Neutral, Emotional) was not found for sentence length ratings, Wilks' Lambda = .99,  $F(3, 320) = .989$ ,  $p = .398$ , partial eta squared = .009. There was a significant main effect for the video timepoint, Wilks' Lambda = .92,  $F(3, 320) = 8.768$ ,  $p < .001$ , partial eta squared = .08. The main effect comparing the two conditions was not significant,  $F(1, 322) = .295$ ,  $p = .588$ , partial eta squared = .001. See below for a graph of means in Figure 2 displaying an interaction but not a significant one.



**Figure 2.** Mean Sentence Length Ratings Across the Four Visuals

Vid 1: There was a significant difference between students recruited through the university system and members of the public,  $t(322) = 2.30$ ,  $p = <.001$ , whereby university students ( $M = 108.03$ ,  $SD = 89.97$ ) provided significantly higher sentence lengths than the general public ( $M = 79.09$ ,  $SD = 61.84$ ).

Vid 2: There was a significant difference between students recruited through the university system and members of the public,  $t(322) = 2.55$ ,  $p = <.05$ , whereby university students ( $M = 94.85$ ,  $SD = 86.80$ ) provided significantly higher sentence lengths than the general public ( $M = 70.62$ ,  $SD = 65.65$ ).

Vid 3: There was no significant effect for students recruited through the university system and members of the public,  $t(322) = 1.69$ ,  $p = .086$ , despite university students ( $M = 84.70$ ,  $SD = 110.08$ ) attaining higher scores than the general public ( $M = 64.93$ ,  $SD = 71.59$ ).

Vid 4: There was a significant difference between students recruited through the university system and members of the public,  $t(322) = 2.43$ ,  $p = <.05$ , whereby university students ( $M = 98.35$ ,  $SD = 117.27$ ) provided significantly higher sentence lengths than the general public ( $M = 68.64$ ,  $SD = 67.87$ ).

### Memory Recall

An independent samples T-test was conducted to analyse recall scores. Mean recall across the four times tested for both conditions are presented in Table 4 below.

**Table 4.** Participants' Recall Scores Across the Four Visuals

Video	<i>M</i>		<i>SD</i>	
	Neutral	Emotional	Neutral	Emotional
Video 1	2.33	.93	1.61	.94
Video 2	2.79	1.99	1.54	1.15
Video 3	2.75	2.84	1.53	1.68
Video 4	2.29	.94	1.50	.99

Note. Scores out of seven valanced words remembered.

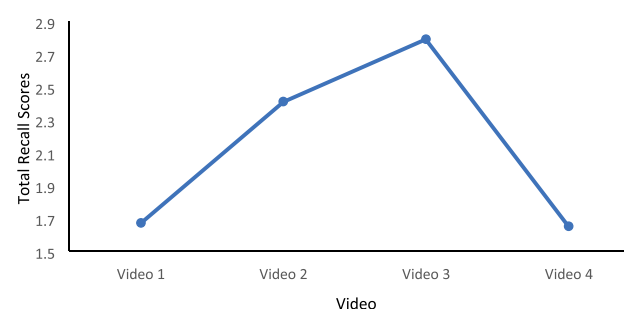
A significant difference in recall scores between the two conditions was observed after Video 1,  $t = 9.682$ ,  $df = 279.314$ ,  $p < .001$ , after Video 2,  $t = 5.306$ ,  $df = 312.300$ ,  $p < .001$  and after Video 4,  $t = 9.628$ ,  $df = 297.602$ ,  $p < .001$ . No significant difference was found after Video 3,  $t = -.497$ ,  $df = 322$ ,  $p = .620$ . Neutral language was remembered significantly more after Video 1 (prosecution for the complainant), Video 2 (defence for the defendant) and Video 4 (prosecution against the defendant). Emotional language was remembered more after Video 3 (defence against the prosecution) but not significantly from the neutral condition.

Further analysis was conducted to identify the mean recall scores between each four stages tested in the form of a repeated measures ANOVA. See below for a table and graph displaying mean recall between the four videos.

A repeated Measures ANOVA determined that memory recall scores varied significantly across all four

**Table 5.** Participants' Total Recall Scores Across the Four Visuals

Video	<i>M</i>	<i>SD</i>
Video 1	1.67	1.50
Video 2	2.41	1.43
Video 3	2.79	1.60
Video 4	1.65	1.45



**Figure 3.** Mean Total Recall Scores Across the Four Visuals

videos,  $F(2.798, 903.64) = 81.08$ ,  $p < .001$ , partial eta squared = .20. The means identify the trend of the significance, Vid3 was remembered the most ( $M = 2.79$ ,  $SD = 1.60$ ), then Vid2 ( $M = 2.41$ ,  $SD = 1.43$ ), Vid1 ( $M = 1.67$ ,  $SD = 1.50$ ) and Vid4 ( $M = 1.65$ ,  $SD = 1.45$ ) was the least remembered.

Vid 1: There was no significant effect for students recruited through the university system and members of the public,  $t(322) = -.47$ ,  $p = .867$ , despite university students ( $M = 1.64$ ,  $SD = 1.52$ ) attaining slightly lower scores than the general public ( $M = 1.72$ ,  $SD = 1.48$ ).

Vid 2: There was no significant effect for students recruited through the university system and members of the public,  $t(322) = -1.25$ ,  $p = .426$ , despite university students ( $M = 2.34$ ,  $SD = 1.40$ ) attaining lower scores than the general public ( $M = 2.55$ ,  $SD = 1.47$ ).

Vid 3: There was no significant effect for students recruited through the university system and members of the public,  $t(322) = -1.76$ ,  $p = .051$ , despite university students ( $M = 2.69$ ,  $SD = 1.64$ ) attaining lower scores than the general public ( $M = 3.02$ ,  $SD = 1.50$ ).

Vid 4: There was no significant effect for students recruited through the university system and members of the public,  $t(322) = -2.67$ ,  $p = .949$ , despite university students ( $M = 1.50$ ,  $SD = 1.41$ ) attaining lower scores than the general public ( $M = 1.95$ ,  $SD = 1.48$ ).

### Moral Disengagement

A mixed ANOVA was executed to analyse moral disengagement scores between the two conditions and differences from the first time tested to the second time tested. Means are displayed below in Table 6.

There was a significant interaction found with a moderate effect, between the moral disengagement timepoint (MD1, MD2) and the condition (Emotional,

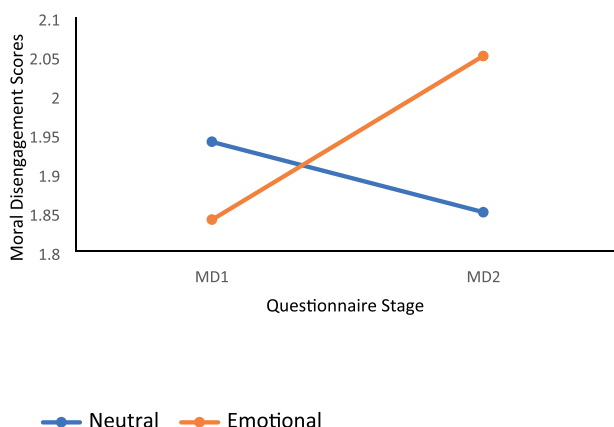


**Table 6.** Participants' Moral Disengagement Scores Prior and Post Trial Exposure

MD Timepoint	<i>M</i>		<i>SD</i>	
	Neutral	Emotional	Neutral	Emotional
MD 1 (Prior)	1.94	1.84	.46	.52
MD 2 (Post)	1.85	2.05	.50	.73

Note. MD = Moral Disengagement

Neutral) in total moral disengagement scores, Wilks' Lambda = .92,  $F(1, 322) = 29.952$ ,  $p < .001$ , partial eta squared = .09. There was also a significant main effect for the moral disengagement timepoint, Wilks' Lambda = .98,  $F(1, 322) = 5.165$ ,  $p < .05$ , partial eta squared = .02. The main effect comparing the two conditions was not significant,  $F(1, 322) = .912$ ,  $p = .34$ , partial eta squared = .003. A graph of means presenting this interaction is displayed below in Figure 4.

**Figure 4.** Mean Moral Disengagement Scores Pre and Post Trial Exposure

#### Moral Disengagement 1:

There was no significant effect for students recruited through the university system and members of the public,  $t(322) = 3.15$ ,  $p = .728$ , despite university students ( $M = 1.95$ ,  $SD = .49$ ) attaining slightly higher scores than the general public ( $M = 1.77$ ,  $SD = .46$ ).

#### Moral Disengagement 2:

There was no significant effect for students recruited through the university system and members of the public,  $t(322) = 1.36$ ,  $p = .28$ , despite university students ( $M = 1.98$ ,  $SD = .65$ ) attaining slightly higher scores than the general public ( $M = 1.88$ ,  $SD = .58$ ).

#### Verdict Harshness Discussion

As a collective, when looking at the decision-making of jurors in relation to verdicts and verdict harshness in the context of the cognition of language (emotive/neutral), neutral language evoked harsher judgments towards the defendant and resulted in more guilty verdicts, although this was not significant. Harshness scores significantly differed across all four times tested for most participants, highlighting the idea that harshness is dependent on the

situational context and not a fixed ideology of moral agency. Although no significance was found, it was interesting to notice the trend of Video 3 (defence against the prosecution) evoking the least harsh scores out of all scores, in the emotional condition. Video three consisted of the defence negatively addressing the prosecution; it would be hypothesised based on the literature that Video 2 would be rated the least in harshness ratings as it consisted of the defence positively addressing the defendant. This trend could demonstrate how rape myth ideology can come into thought processing through victim blaming; negative attributes aimed at the claimant correlate with more subdued defendant judgment.

#### Memory Recall Discussion

The results of the present research pertaining to recall somewhat differ to what is hypothesised in the literature; emotional words are remembered to a greater extent than neutral words. However, recall scores were significantly higher for Videos 1, 2 and 4 in the neutral condition. The most interesting data from this result is that recall was higher in Video three for the emotional condition where the defence negatively addressed the claimant, tying in with the verdict harshness trend for least harsh scores for Video 3 and perhaps related to the high moral disengagement scores at the second time assessed for participants in the emotional condition (despite no significance found). Despite the result differing to existing literature, in the context of a rape trial, this result is not unexpected and a lack of research in this area can explain why there is nothing comparable. This could be due to the weight of valance behind the words used in the context of a rape trial; when emotional words were used to negatively address the defendant, less weight would have been placed on the valance of the words by jurors because it may not have aligned with their already somewhat biased thought processes. Furthermore, emotional words that were used to positively address both the complainant and the defendant may not have had much weight placed on them because of the notion that good character evidence does not have as much bearing on guilt and conviction judgements as bad character evidence does (Hunt & Budesheim, 2004). Hunt and Budesheim conducted two experiments that found that impressions of the defendant are consistently predicted by impressions of the complainant. Additionally, they found that positive character evidence does not reduce guilt and conviction judgements, whereas negative character evidence in the form of cross-examination, makes judgements more negative. This would seek to explain why in the context of a rape trial, words that negatively address the complainant would be remembered the most, and other emotional language was not significantly remembered more than neutral language.

#### Moral Disengagement Discussion

Moral disengagement scores were perhaps the most notable findings in relation to connecting the three cognitive mechanisms that make up decision-making. MD scores were significantly different from the first time



assessed pre-trial exposure to the second time assessed, post-trial exposure. Participant MD scores in the neutral condition decreased significantly, whereas scores in the emotional condition significantly increased. The notion that trial exposure containing emotional language enabled participants to morally disengage is observed here and it can be assumed that the moral disengagement occurred towards the complainant as high moral disengagement correlated with more 'not guilty' verdicts and lower verdict harshness in comparison to the neutral condition.

## DISCUSSION

The conviction rate of rape is at an all-time low and it is crucial that research is carried out extensively to explore factors that influence juror decision-making in order to seek a potential solution for justice. The present study sought to examine the language used in court atypical of cross-examination trial speeches and its influence on mock-juror decision-making. According to Chordas (2017), language used in the courtroom is frequently emotional with the intention of engaging the jury (Richardson, 2024) and activating juror schemas. As such, the present study compared emotive language with neutral language. To understand how language influences decision-making in this context, the present study examined moral disengagement, memory recall and verdict harshness as well as the mock juror's dichotomous verdict.

### Language and Decision-Making

The type of language used in the trial speeches did influence jurors' judgements; the disparity in percentages of the dichotomous verdicts is a clear indication of this. The question is, how? Interestingly, moral disengagement ratings pre-trial were similar when comparing the two conditions but post-trial a significant difference was found whereby participants exposed to emotional language rated higher moral disengagement. This result would not be as noteworthy if the emotional condition conjured the most guilty verdicts in comparison to the neutral condition because previous research has suggested that participants who are more morally disengaged are likely to 'dehumanise' the defendant and produce a guilty verdict (Detert, Trevino & Sweitzer, 2008). However, this finding suggests that a great proportion of participants exposed to emotive language in-trial morally disengaged with the victim and therefore returned a 'not guilty' verdict. Low scores of moral disengagement in relation to the defendant in the emotional condition could be explained by juror's trusting beliefs. Iwai et al (2018) found that when the defence try to reframe unethical acts to appear less harmful or displace responsibility, higher trusting intentions are elicited. Therefore, the emotional language used could have exploited jurors' emotional cognition into trusting the defendant and causing their moral disengagement to lay with the claimant.

Concurrently, when examining the memory recall scores, participants in the emotional condition had the highest recall scores of all videos in both conditions for

Video 3. Pertaining to the trial speeches, the experimental condition in Video 3 consisted of the defence using negative words against the prosecution (claimant). Furthermore, when looking at verdict harshness scores (rating the defendant) and sentence length, Video 3 invoked the lowest harshness rating for the emotional condition in comparison with the neutral condition and the other experimental trial speeches. It can be inferred by uniting these findings that once one cognitive component is targeted by emotive language, this influences other cognitive components that follow the same schema. This corresponds with the widely adopted Pennington and Hastie's (1992) story model theory (see Willmott et al., 2018). Conversely, as there was no significant difference found for video three across the groups, it could be suggested that emotion did not affect the recall and the video itself was more memorable in general for the participants. Additionally, the present findings do not distinguish why negative language used against the complainant was remembered the most, but negative language used against the defendant was not. Does the intended narrative constructed by the defence correspond and resonate with a pre-existing schema?

### Rape Myth Acceptance

Rape myths are prejudicial beliefs about rape, held by jurors, that can affect their evaluation of evidence and decision-making in rape cases (Leverick, 2020; Willmott & Hudspith, 2024). Even those who score relatively low on a rape-myth attitudes scale can still express stereotypical beliefs when making their decisions; often jurors suppress their prejudicial thoughts when filling in questionnaires for social desirability or inability to realise their own beliefs, but deliberation can often bring them to the fore. Jurors often have false beliefs regarding how a rape should 'look' and how a genuine rape victim would act and often "step down" through a hierarchy of schemas when decision-making (McKimmie, Masser & Bongiorno, 2014). Concerning the present study, participants in the emotional condition could have morally disengaged with the claimant when hearing negative words directed towards her because this coincided with the prejudicial schema already held by the juror, making it easy to follow the same thought process to make their decision. On the contrary, Stuart, McKimmie & Masser (2019) proposed that a series of specific, individual stereotypes do not impact attributions of blame but an underlying schema surrounding consent influences juror decision-making on sexual assault cases. Including a rape myth attitudes scale prior and post-trial could have determined this notion and would be beneficial to future research in this area alongside research around consent and pre-existing schemas.

### Strengths and Limitations

Legal barriers as stipulated in The Juries Act 1974, have prohibited researchers from questioning 'real' jurors about their decision-making and deliberation in England and Wales (Horan & Israel, 2016). Limitations

will always exist when undertaking mock-jury research; to stand a chance of having real-world impact, more ecologically valid research is necessary (Vidmar, 2008). Often key components of the trial are omitted, an unrepresentative sample is adopted and there is often criticism for a lack of ecological validity (see Curley et al., 2020; Willmott et al., 2021). However, there is a preference for work driven by theory and no strong desire for supplemental materials to be included, if important elements such as jury instruction remain (Lieberman et al, 2016). Furthermore, research that compared student mock jurors to nonstudent samples observed no variation of sample when examining guilty verdicts, culpability ratings and damage awards.

Despite the present study not withholding high ecological validity in terms of methodological components, the sample obtained, consisted of a community sample made up of the British public and not a student only sample. Furthermore, the cognitive components explored in this research have not been linked before contextually in the form of juror-decision-making and the results could potentially be beneficial to the implementation of juror education in an effort to reduce bias-led verdicts. In addition, despite the policies that exist to ensure lawyers use appropriate and relevant questioning, the present study has proposed that emotionally charged language can manipulate juror decision-making and perhaps promote the reliance of prejudicial false beliefs. Accordingly, the current study has filled a gap in the literature and with the added value of further supporting research, building upon this research, advocates should be instructed to use more neutral language in their argument and avoid negatively charged language towards the complainant in rape/sexual assault cases.

## CONCLUSION

The present findings suggest that language used in-trial greatly impacts juror decision-making and verdict outcomes, despite not all results being statistically significant. Emotionally valenced language elicited significantly less guilty verdicts than neutral, factual language. These results can be applied to Pennington and Hastie's (1992) story model, which suggested that jurors apply their personal thoughts/knowledge to a case where narrative gaps exist, to form a coherent 'story' in order to form a decision. In the current study, it can be suggested that participants in the emotional condition recalled the negative language against the claimant the most, potentially morally disengaged with the claimant and rated the defendant more leniently and ultimately produced more 'not guilty' verdicts than the neutral condition because their own personal views on rape coincided with the narrative produced by the defence. This could also lend hand to rape myth acceptance whereby long held pre-existing stereotypes lend hand to victim-blaming and the use of negative language here could have brought subconscious prejudices to the fore (Sleath & Bull, 2010). However, as some of these results in the current study

were not statistically significant, further research is required to establish if this theory is grounded here. Further research is also needed to ensure that not only inflammatory but emotive language is carefully elicited in rape trial cross-examination for the prevention of unfair decision-making; neutral, factual language should be curated for unbiased decision-making.

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