What effect does defendant excuse type and defendant age have on mock jurors' decision-making?

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ABSTRACT

This study, inspired by Higgins, Heath and Grannemann (2007), uses quantitative and qualitative components to investigate what effect does defendant excuse type (highly self-inflicted vs. less self-inflicted) and defendant age (older vs. younger) have on mock jurors' decision-making. There were four conditions; these were, a defendant age 65 with Post-Traumatic Stress Disorder (PTSD), a defendant age 22 with PTSD, a 65-year-old defendant with a Cocaine Dependency Disorder (CDD), and a 22-year-old defendant with a CDD. One-hundred-and-twenty participants read a hypothetical scenario involving the attack of a man and then answered ten questions as a mock juror. Defendant age did not have an effect on mock jurors' decision-making; however, defendant excuse type significantly affected mock jurors' decision-making. Themes, which emerged amongst participants' qualitative answers, are depicted. Superordinate themes comprise of sympathy for victim versus sympathy for defendant, controllability of condition versus responsibility of situation, help in the past versus help in the future. The study concludes that participants attributed more blame to the defendant with the highly self-inflicted excuse; and the defendant using the less self-inflicted excuse was treated more sympathetically. The theoretical implications of the study are discussed with reference to attribution theory and emotion.

KEY WORDS:	EXCUSE	DEFENDANT AGE	DECISION MAKING	BLAME ATTRIBUTION	EMOTION

Introduction

Jury decision-making and sentencing

Surveys of public opinion indicate that people have high expectations for juries. When it comes to serious crimes, most people want errors of convicting the innocent (false positives) or acquitting the guilty (false negatives) to fall well below 10%. (Arkes & Mellers, 2002). Jurors face a difficult task. Their job is to simultaneously punish individuals who commit crimes and acquit those who are innocent. The job is not easy because the evidence is often ambiguous. Innocent persons do not always appear innocent, and guilty persons do not always appear guilty. Despite the difficulty of the task, our legal system rests on the assumption that juries are generally accurate. (Arkes & Mellers, 2002).

Attribution and emotion in jury decision-making

Theoretical framework

Feigenson and Park (2006) reviewed research on the role of emotion in a specific type of legal judgment, namely, attributions of responsibility and blame. Their model effectively integrates and organises prior research on emotion and attribution in the jury context. Importantly, they also considered legal decision makers' ability to correct for affective influences in their reasoning that might or might not be desirable from a normative perspective. Drawing on the extensive research on affect and social judgment Feigenson and Park discussed the various ways in which emotions and moods can influence fact finders' attributions of responsibility, and they proposed a model that distinguishes among different types of affective influences. An awareness of potential bias is often viewed as a first step toward its elimination, but it is often not sufficient. (Bergeron & McKelvie, 2004). Bornstein (1998) found that sympathy mediates the effect of outcome severity on mock jurors' responsibility judgements. Alicke (2000, as cited in Bergeron & McKelvie, 2004) offers a culpable control model in which "relatively unconscious, spontaneous evaluations… [which] are affective to the harmful event and the people involved" drive judgements of blame.

Alicke, Buckingham & Davis (2008) conducted three studies which in turn clarified the conditions under which an outcome's mutability is likely to influence blame and attribution. Study 1 showed that mutability influenced blame and compensation judgments when a physician was negligent but not when the physician took reasonable precautions to prevent harm. Study 2 showed that this finding was attenuated when the victim contributed to his own demise. In Study 3, an actor's blameworthiness was influenced by the reasons he used for either just missing arriving in time to see his dying mother, or having no chance to see her. When the actor's reason for being late provided a basis for negative evaluations his blameworthiness increased; but if there was a positive reason for the delay there was no difference. Much research assesses how people ascribe blame to harmful actions. The knowledge that a harmful outcome could easily have been avoided does not predict blame. The three studies conducted by Alicke et al.

show that an outcome's mutability influences blame and related judgments when it is coupled with a basis for negative evaluations.

Empirical findings and defendant age

It appears that victims' reactions to crime, especially their emotional responses, can influence a variety of legally relevant judgments. Furthermore, victims' emotional reactions, both at the time of the crime and while testifying, can affect their credibility at trial. Rose, Nadler, and Clark (2006) explored these issues within the context of victim impact evidence during the sentencing phase of a criminal trial, by crossing a crime victim's emotional reaction (severe vs. mild) with the seriousness of the crime (e.g., armed robbery vs. pick pocketing). They found that there is not a simple effect of emotion in this context, but rather that people expect victims to match the intensity of their emotional response to the seriousness of the event (i.e., they adhere to a proportionality rule in evaluating victims' credibility). Interestingly, they reported that although a victim's emotional response affects various measures of how mock jurors perceive the victim, it does not affect their recommended punishment for the defendant (Bornstein & Wiener, 2006). The current research focuses on two aspects related to attribution and emotion – defendant's excuse and defendant's age. Four conditions will be used: a suspect age 22 suffering from Post-Traumatic Stress Disorder, a suspect age 65 suffering from Post-Traumatic Stress Disorder, a suspect age 22 suffering from a Cocaine Dependency Disorder and a suspect age 65 suffering form a Cocaine Dependency Disorder.

Research shows that age can play an influential role in jury decision making. Champion (1987) examined the conviction records of many crimes for elderly offenders who were 60 years old and over and found that the sentences given and the sentences actually served were both a very small proportion of the maximum possible sentence (only .14 and .09 respectively). This suggests that the elderly are treated leniently, but Champion did not have comparative data from other age groups. Wilbanks (1988) examined secondary records of elderly (over 60 years old) and nonelderly (25-59 years old) offenders at various decision points in the justice system. Relative to their number in the general population, the nonelderly were more likely to be arrested and punished than the elderly, but the ratio of nonelderly to elderly was higher for incarceration and sentencing (39:1) than for arrest and conviction (26:1). This indicates more lenient treatment of the elderly at the final decision points than at the front end of the system. Similarly, once arrested, the elderly were slightly more likely to be convicted than the nonelderly, but they were slightly less likely to be sentenced to prison terms (Bergeron & McKelvie, 2004).

Champion's (1987) findings supported an archival study of shoplifting by Cutshall and Adams (1983) which examined the relationship between age (17-25 years, 26-49 years, over 50 years) and the decision to prosecute. Overall, older people were significantly less likely to be prosecuted than middle-aged people, but not

younger people (29%, 45%, 39%, respectively), indicating an inverted U-shaped function between age and treatment. Moreover, in a study of white-collar crimes (Wheeler, Weisburd, & Bode, 1982), there was also an inverted U-shaped function for decisions to incarcerate convicted offenders: 50% of people aged around 40 years, but 42% and 32% for those around 20 years and 60 years, respectively. In contrast, there was no relationship between age and length of sentence. However, in other studies that examined the full range of adult ages over a variety of crimes, the curvilinear function was found for both incarceration and length of sentence: treatment was more lenient for people under 21-years-old and 40-49 years old than for people 21-29-years-old, and most lenient of all for people over 50-years-old (Steffensmeier, Ulmer & Kramer, 1998). From interviews with American judges, Steffensmeier et al. offer a utilitarian account of these findings: perceptions were that the youngest people were more likely to be harmed by prison, the oldest were less blameworthy and dangerous, and the 21-29-year-olds were more of a threat and less reformable.

Juror's judgments should be based solely on evidential, including offence severity and criminal responsibility, not extralegal factors (Mazzella & Feingold, 1994). Defendant age is an extralegal factor, in the UK. Previous results may be based on stereotypes about young, middle-aged, and old people; if this is the case then bias is demonstrated - but, the judicial system should be free of bias that would influence judge's or jury's decisions concerning verdicts and recommendations for punishment. On the contrary, previous results may reflect the phenomenon of people of different ages differing in their risk of a re-offence and if this is the case then a justifiable mitigating factor is being demonstrated. Researchers could differentiate between stereotyping and re-offending risk by asking jurors what are their reasons for their judgements, verdict delivered, and recommendations of punishment.

It is only just that punishment should be greater for a more serious offence than for a less serious offence and for an intended crime. Sentencing follows a tariff system according to which the primary goal is retribution (Kapardis & Farrington, 1981). A "just desert" or "retributionist" perspective allocates punishment because the perpetrator deserves to be punished for the past harm he or she committed. The punishment is a valuable end in itself and needs no further justification (Darley, Carlsmith, & Robinson, 2000). Under this just-desert rationale, a more culpable defendant receives a more severe punishment (Gebotys & Roberts, 1987; Steffensmeier et al., 1998).

Courts in Canada and the US have cited the extralegal characteristic of defendant age as a mitigating factor (Gebotys & Roberts, 1987; Kapardis & Farrington, 1981). From the just-desert perspective, the law does not list age as a mitigating factor (Silverman, Smith, Nelson, & Dembo, 1984), so any effect of it on punishment would be inequitable. However, from the utilitarian perspective, the system may see a younger person as more likely to be rehabilitated than an older person, thereby justifying treatment that is more lenient. If age actually

predicts recidivism, this may be justifiable; if not, it may only reflect a stereotyped perception and bias against the older person (Steffensmeier et al., 1998). The current study will ask participants to explain their judgment of the defendant and it will be interesting to see if age consciously steers them towards a decision. Based on previous research findings, it is likely that the older defendant will be treated more leniently than the younger defendant.

In the UK judges follow guidelines on the factors to consider when sentencing someone. The Sentencing Advisory Panel provide a series of guidelines, with the intention of helping sentencers to strike an appropriate balance between the level of culpability (deserving blame) of the offender and the magnitude of the harm resulting from the offence. Age would be a mitigating factor if the offender was a youth but the current research concentrates on a 22-year-old offender and a 65-year-old offender. This is where culture differences develop importance. Much research within this area is conducted in the US where defendant age is a mitigating factor, as discussed earlier. This study will address age as an extralegal factor, as the youngest defendant is not a youth. Its conclusions will contribute to and extend US research as its findings are from another culture. In relation to the vignettes used in this research the factors which would be taken into account in the UK would be the Sentencing Guidelines Council's guidelines for Dangerous Offenders. The most relevant guidelines, for the hypothetical offenders used in this research, are in the following two tables:

"6.3.4 The offender's emotional state"
"6.3.4.1 An offender's inadequacy, suggestibility or vulnerability may mitigate his or her culpability. However, such features may also produce or reinforce a conclusion that he or she is a dangerous offender."

(www.sentencing-guidelines.gov.uk)

"6.3 Relevant factors: significant risk of further specified offences"
"6.3.1 There are three groups of factors that are relevant in the assessment of whether there is a significant risk of the offender committing further specified offences: • the nature and circumstances of the current offence and the offender's 'offending' history, including whether the offending demonstrates any pattern, • the offender's social and economic circumstances including accommodation, employability, education, associations, relationships and drug or alcohol abuse, and • the offender's thinking, emotional state and attitude towards offending and supervision"
"6.3.2 Usually the pre-sentence report will contain information regarding these factors, as well as an assessment of the risk of the offender committing further offences."

(www.sentencing-guidelines.gov.uk)

Defence Excuses

A defence based on an excuse amounts to the defendant admitting he or she committed the offence but was out of control. Common excuses include insanity, mental incompetence, duress, age, mistake, involuntary intoxication, unconsciousness and diminished capacity. Many defendants admit committing crimes but argue they are not legally responsible because they have an excuse. This was true of Reginald Herd who went on trial for the murder of three-year-old Melvyn McKiver. His lawyer argued that the jurors should not see him as criminally responsible for his crime because he was suffering from a cocaine-induced psychosis (cited in Higgins, Heath & Grannemann, 2007). Herd had beaten his girlfriend's son with an electrical cord. When the child's dead body was examined it had over one-hundred wounds on it. Herd was convicted of manslaughter. Similarly, John Hinckley successfully used the defence after shooting President Ronald Regan that it was to impress the actress Jodie Foster. There was public uproar over the Not Guilty by Reason of Insanity verdict in the trial of John Hinckley. Since this, legal changes have been made to the insanity defence. A study by Hans and Slater (1983) systematically documented the dimensions of negative public opinion concerning the Hinckley verdict. A survey of Delaware residents shortly after the trial's conclusion indicated that the verdict was perceived as unfair, Hinckley was viewed as not insane, the psychiatrists' testimony at the trial was not trusted, and the vast majority thought that the insanity defence was a loophole. Interestingly, survey respondents were unable to define the legal test for insanity and thought Hinckley would be confined only a short period, contrary to the estimates of experts. These findings, in conjunction with other research show the public is not well informed about the insanity defence. (Hans & Slater, 1983).

Legislation differs between countries, therefore, legislation from the US and UK is presented within this literature. The current research is based on previous US research and the excuses used in the current research are American as they are adopted from a US study. Most research in this area is from the US but UK legislation will be referred to as the majority of participants for the current research will be British. The study is conducted in the UK and there are some differences which could influence the perceptions of participants; for instance, age is cited a mitigating factor in the US and Canada whereas in the UK age is only a mitigating factor if the defendant is a youth, as discussed previously. This study will extend US research as it includes both quantitative and qualitative components. Previous research exclusively contains and focuses on quantitative data. The addition of qualitative data should enrich participant's answers and in turn the research. The study will provide insight to mock jurors' reasons for judgement and attribution directly relating to decision-making.

The current research focuses upon two different excuse types in particular:

- The insanity defence, and
- Under the influence defence

These two types of excuses were chosen because they were likely to produce differences in attributions and hence judgements about sentencing and character. Further information about each type of defence is given below.

The insanity defence – UK

The insanity defence can be raised to any charge. In the English jurisdiction, it is based on the M'Naughten test. The M'Naughten test of insanity (1843) states, *"The jury ought to be told in all cases that every man is to be presumed to be sane, and to posses a sufficient degree of reason to be responsible for his crimes, until the contrary be proved to their satisfaction; and to establish a defence on the grounds of insanity, it must be clearly proved, that at the time of committing the act, the part accused was labouring under such a defect of reason, from disease of the mind, as to not know the nature and quality of the act he was doing, or if he did know it, that he did not know what he was doing was wrong."* (McMurran, Khalifa & Gibbon, 2009, p.66). The qualitative component of this study will give the participants an opportunity to give explanation for their judgement of someone who uses the insanity defence and this can hopefully add to previous findings of attribution.

Automatism, a type of insanity defence, is more suited to the defendant used in this research. This defence is raised when the accused lacks *mens rea* (guilty mind) for the offence because the act was involuntary and beyond control of the individuals mind. Two types of automatism are recognised, sane and insane. Insane automatism is due to 'defect of reason' and is subject to M'Naughten rules. (McMurran et al., 2009). Interestingly it may also be raised in cases of illicit drugs.

In England and Wales the percentage of restricted patients, admitted to or detained in hospital under the Mental Health Act, increased by 8% from the 2006 figure to the 2007 figure. There were 3,906 restricted patients detained in hospitals on 31st December 2007. This was the highest figure of the previous decade. The increase between 2006-2007 was larger than usual; it was up by 8%. This might be because the advancements in legislation during the 21st century meant that those with mental health problems were given more rights and had to be treated fairly; including detention in hospitals for those who needed appropriate treatment for their illnesses, not a prison stretch. (www.justice.gov.uk).

The insanity defence – US

In the US various definitions of insanity are in use because neither the legal system nor psychiatrists can agree on a single meaning of insanity in the criminal law context. The most popular definition is the McNaghten rule, which defines insanity as "the inability to distinguish right from wrong." Another common test is known as "irresistible impulse": a person may know that an act is wrong, but because of mental illness be unable control his or her actions (the defendant is

described as acting out of an "irresistible impulse"). It is important to understand the differences between the cultures because much of the research in this area is American and therefore built upon US legislation. The qualitative findings from this British study will hopefully extend the US research.

Defendants found *not guilty by reason of insanity* are not automatically set free. They are usually confined to a mental institution until their sanity is established. These defendants can spend more time in a mental institution than they would have spent in prison had they been convicted.

Post-Traumatic Stress Disorder as an insanity defence

The Diagnostic and Statistical Manual of Mental Disorders (4th Edition – APA, 2000) has PTSD under psychiatric disorders and more specifically anxiety disorders. By definition, the DSM IV explains that "PTSD always follows a traumatic event which causes intense fear and/or helplessness in an individual. Typically the symptoms develop shortly after the event, but may take years. The duration for symptoms is at least one month for this diagnosis." Interestingly, the manual states that symptoms include re-experiencing the trauma through nightmares, obsessive thoughts, and flashbacks. There is an avoidance component as well – "the individual avoids situations, people, and/or objects which remind him or her about the traumatic event". Finally, there is increased anxiety in general, possibly with a heightened startle response.

The same symptoms are reported for each of the defendant on the vignettes given to participants, namely a heightened sense of irritability and paranoia (this is common in both PTSD, as mentioned above, and CDD). PTSD can be treated; psychological treatment is considered the most effective means to recovery (*DSM IV-TR*, 2000). Participants in the current study may not be aware of what PTSD is and how it can be treated so it will be interesting to see how they perceive and judge the defendant.

Under the influence defence – comparisons between UK and US

The under the influence defence is used by defendants who commit crimes under the influence of drugs or alcohol and argue that their mental functioning was so impaired that they cannot be held accountable for their actions. Generally, however, voluntary intoxication does not excuse criminal conduct. Defendants know (or should know) that alcohol and drugs affect mental functioning, and thus they should be held legally responsible if they commit crimes as a result of their voluntary use. Some states allow an exception to this general rule. If the defendant is accused of committing a crime that requires "specific intent" (intending the precise consequences, as well as intending to do the physical act that leads up to the consequences), the defendant can argue that he or she was too drunk or high to have formed that intent. This is only a partial defence however, because it does not entirely excuse the defendant's actions. In this situation, the defendant will usually be convicted of another crime that does not

require proof of a specific intent. For example, a defendant may be prosecuted for the crime of assault with specific intent to kill but only convicted of assault with a deadly weapon, which does not require specific intent.

In both the ICD-10 and DSM-IV there are three broad categories of substance abuse disorder - intoxication, abuse, and dependence. In England and Wales, 42% of the sentenced prison population report moderate or severe drug dependence the year prior to imprisonment. This proportion of problematic substance users are far in excess of those observed in the general population. (McMurran et al., 2009).

Substance abuse is a major risk factor for offending. Substance use may bring mentally disordered offenders into social contexts where crime is more likely, some substances may exacerbate underlying aggressive tendencies, and drug and alcohol use may further impair thoughts and perceptions to increase the likelihood of antisocial behaviour. (McMurran et al., 2009.) Qualitative answers will hopefully encourage participants to divulge their feelings towards the drug addicted defendant. This would add to the wider literature such as attribution, judgement, and decision-making.

Cocaine Dependency Disorder and Post-Traumatic Stress Disorder

The public's consensus is case qualitative, it differs among many dimensions of offending. A soldier who goes to war does not think of the long-term consequences e.g. PTSD and thus he may be pitied. However, attributions of blame are heightened with a defendant who is under the influence or substance abusive as the consequences of such abuse is always destructive and consequences are expected to be thought through by the individual partaking in the misuse. Substance misuse is looked upon unsympathetically as it is considered avoidable. Participant's qualitative answers will hopefully illustrate their attributions of blame and differences between how defendants are judged should emerge.

The stereotypical view would be that the defendant suffering from PTSD did not expect to acquire PTSD when he decided to join the Army; but the Cocaine Dependent Defendant must have been aware of the problematic nature of drug taking. Whereas the PSTD was involuntarily put on one defendant, CDD was self-induced to a certain extent.

It is predicted that participants of the study will be influenced by the defendants' conditions/excuses and view them differently even though the attack on the victim is exactly the same in the vignettes. It is also expected that the defendant with PTSD will be treated more compassionately than the defendant with CDD.

Interactions between age and excuse

Higgins et al. (2007), investigated the effects of mock juror age (younger vs. older), defendant age (younger vs. older), and type of excuse defense used by

defendants (a highly self-inflicted condition, vs. a less self-inflicted condition) on mock jurors' decisions. Ninety-six younger and ninety-six older adults participated. Participants read a scenario and answered a questionnaire. The authors found that the defendant using the highly self-inflicted excuse was more likely to receive a guilty verdict and a longer sentence than the other defendant. Older jurors were more certain of their verdicts and saw the defendant as more responsible for his condition than the younger jurors. Defendant age did not affect the mock jurors' decisions. The researchers found that excuse type and juror age affected the jurors' perceptions of the victim's responsibility for the attack. They suggested that the age of the participant potentially influenced their perceptions of defendant responsibility. The authors did not give any reasons to answer *why* the mock jurors answered in the way that they did.

The current study aims to extend the previous research conducted by Higgins et al. (2007) by adding a qualitative component. Participants will be asked to provide reasons for their answers. Answers will be scrutinised to find if emotional responses to the scenario and the personal mood of the participant has influenced their decision-making. Defendant age and excuse could evoke sympathy in participants. As stated earlier, Bornstein (1998) found that sympathy mediates the effect of outcome severity on mock jurors' responsibility judgements; therefore participants in this study will be asked if and why they sympathise with both defendant and victim, results will then be studied and potential links to attribution explored. Much of the research in this area is grounded in American literature. It will be interesting to see if similar results are obtained in the UK.

Hypotheses

- Mock jurors are more likely to give guilty judgements to the defendant with CDD than the one with PTSD.
- Mock jurors will give longer sentences for the defendant with CDD than for the defendant with PTSD.
- Mock jurors will feel most sorry for 22-year-old defendant with the less self-inflicted excuse defence, PTSD.
- Mock jurors will feel least sorry for the 65-year-old defendant with the highly self-inflicted excuse defence, CDD.

Research question

- What reasons do mock jurors give for judgements of responsibility and how do they perceive their giving of sympathy?

Method

Design and Materials

This study has a between participants design with qualitative and quantitative components. Specifically, a questionnaire was designed with quantitative questions using a Likert scale format (from 1-10) and some open-ended qualitative questions, probing reasons for the mock jurors' decisions. Quantitative questions covered a range of different categories including: certainty, prison sentencing, credibility, responsibility, controllability, acceptability, and sympathy; examples of quantitative questions were… How certain are you of your verdict? / How credible is the defence? (See questionnaire - Appendix 1).

Four different scenarios were used; a defendant with Post-Traumatic Stress Disorder (PTSD) at age 65, a defendant with PTSD at age 22, a defendant with Cocaine Dependency Disorder (CDD) at age 65, and a defendant with CDD at age 22. Participants were given a scenario and asked to respond.

Additionally, this study used hypothetical evidence from a barrister, court-appointed psychologist, and the defendant himself; these followed the 44-word hypothetical attack scenario. Vignettes can be found in Appendix 2. The barrister's, court-appointed psychologist's, and defendant's statements were taken from a study by Higgins et al. (2007), who researched mock jurors' decisions. The evidence, in the current study, remained the same for each condition. Only the excuse and age differed.

Participants

A small pilot study was conducted to establish the clarity of vignettes and questions. This involved five participants; two male, three female and were two friends, two family members, and my supervisor.

A total of 120 participants, 30 participants per condition, contributed in the main study; this included; 73 females and 47 males with an age range of 18-68 years. Some were undergraduates, studying a range of degree programmes; psychology students received 20 minutes participation time to contribute to their research folders, other students and participants did not receive an incentive. The remaining participants included colleagues, friends, family, and neighbours.

Procedure

The ethics of the study were in accordance with the British Psychological Society's ethical guidelines and ethical approval from the University of Glamorgan was obtained (Appendix 3). Participants were told that they were being asked to complete a questionnaire based on a hypothetical situation as if they were part of a jury; they were reassured that they would not be judged on their answers and participation was completely confidential. They were informed that the vignette included an attack on a man and they did not have to participate if they did not want to. Participants had a checklist of three items on the consent

form (Appendix 4) which indicated whether they were eligible for jury service (participants had to be jury eligible to participate). Once they had been briefed and had given consent to participate, they read the hypothetical evidence and answered the questionnaire. Participants were given unlimited time to complete the study, most took around fifteen minutes. After the study was finished, participants had an opportunity to review and withdraw their data. They were each provided a debrief sheet (Appendix 5) explaining the study in more detail (highly self-inflicted condition vs. less-inflicted condition and age 65 vs. age 22). The debrief sheet also offered further reading along with the contact details of myself and supervisor; these were given for participants to have the opportunity to ask questions, request a copy of the findings of the study and/or withdraw their data.

Analysis

Both qualitative and quantitative analyses were conducted. Quantitative data was analysed using a multivariate analysis of variance and two chi-square tests, while qualitative data was analysed using thematic analysis. These will now be discussed separately.

Qualitative Results and Discussion

Written answers were analysed using thematic analysis. Thematic analysis is as described by Strauss and Corbin (1990)…

"The basic idea is to read (and re-read) a textual database and label categories, concepts, and properties and their interrelationships, in order to arrive at a theoretical formulating of the reality under investigation"…

The approach seeks themes in analysing data and presents these in a diagram and in writing. After obtaining the sample, I read each answer individually within its condition. Line-by-line I analysed the data using inductive coding. A number coded each line if a voluntary theme emerged (Appendix 6). I then put the number on a separate piece of paper and wrote the name of the unit of meaning after it (Appendix 7). I then sorted themes into clusters which generally fitted together and made superordinate themes; I then produced four tree diagrams, one for each condition (Appendix 8).

For the purpose of the dissertation, I will focus on the emerging themes directly relating to mock jurors' reasons for judgements of responsibility and mock jurors' perceptions of sympathy. I will particularly emphasis the predominant themes shared by participants across conditions. Specifically, sympathy for victim versus sympathy for defendant; controllability of condition versus responsibility of situation; and help in the past versus help in the future.

Sympathy for victim versus sympathy for defendant

The mock jurors, participating in this study, made attributions of blame based on the different causes of the defendant's disorders. As part of a jury, the general process of making attributions based on a person's problems could have dire consequences for the person in question. The findings discussed below in relation to sympathy show that jurors' sympathy conspicuously depended on the defendant's excuse. Sympathy fell with the defendant, if the defendant had PTSD; but it fell with the victim, if the defendant used CDD as an excuse. It must be restated here that the scenario, symptoms of the disorder, and details of the attack were the same across conditions. The actor-observer effect founded by Jones and Nisbett (1972, as cited in Hogg and Vaughan, 2005) can be applied. The jurors, as observer, seem to attribute the behaviour of the defendants internally; e.g. the CDD defendant is thought to be weak for using drugs and his disposition to take drugs has led to the attack. Jurors haven't taken into account the external factors, such as the stressful situation of the crowded street which could have triggered the attack, because the drug-taking behaviour is more salient. The defendant, as actor, describes in the vignette that the victim was yelling at him after walking into him, however, the mock jurors' and defendants' perceptual focuses differ. When assigning a cause to someone else's behaviour it is common to underestimate situational factors and overestimate the role of personality and personal characteristics and this seems to be the case with the participant's of this study.

In the first condition[1], participants sympathised with the defendant for the condition he was suffering from and especially with his past; participant 1, "*he has had a difficult time*"; participant 7, "*It must be hard to cope with a disorder*"; participant 19, "*his condition was brought on by serving his country*." In the second condition[2] however, participants sympathised differently; they sympathised with the defendant because his future will always be tainted by his past. Participant 3, "*he had to experience those things in the past and he cannot forget those things and they will always be with him.*" It is clear to see that in the PTSD conditions, participants sympathise with the defendant because of his troubles when he was in combat. It is interesting to compare these answers to the participants given the CDD conditions.

In both CDD conditions, the defendant is blamed for his condition as he chooses to take cocaine. Very few sympathise with the defendant. In the third condition[3], some participants commented on the difficulties those with addictions face; but most, and all in the fourth condition[4], focused their sympathy on the callous attack Tom had fell victim to.

[1] PTSD, 65
[2] PTSD, 22
[3] CDD, 65
[4] CDD, 22

In the third condition, some participants saw the victim as completely blame-free, participant 17, "[victim] *didn't do anything*"; participant 19, "*he was innocent*"; participant 21, "*he is an innocent victim,*" but others saw the shouting as irresponsible and provocative – participant 15, "*was initial provocateur*"; participant 26, "*he started shouting which then caused the defendant to attack him*." Most participants' sympathy lay with the victim; participant 2, "*he was stupid but didn't deserve to be attacked*"; participant 7, "*he was put in hospital*"; participant 12, "*he didn't deserve to be beaten*"; participant 23, "*he felt the wrath of the defendant's drug abuse*." The PTSD conditions contrast this. This is because of the differences in excuse type, highly self-inflicted vs. less self - inflicted. Participants see the defendant with a highly-self inflicted excuse as a target of punishment, for the attack and, possibly, his drug-taking behaviour. They view the defendant with PTSD differently; his disorder is a result of a bad experience whilst serving his country, and the emotion mock jurors' feel towards the defendant and his condition, in this case sympathy, affects their judgement. As Bornstein (1998) found, sympathy mediates the effect of outcome severity on mock jurors' responsibility judgements. The participants lay the blame with the victim because they sympathise with the defendant, and, in turn, the defendant's responsibility for the attack in the PTSD conditions is inferior.

Participants in condition one, only felt a fraction of sympathy for the victim – participant 28, "*he didn't deserve what Doug did to him.*" Some saw Tom as a victim of chance - participant 6, "*wrong place, wrong time*." Yet, many scorned the victim for yelling and provoking the defendant. Participant 22, "*He should never have provoked Doug*"; participant 25, "*He should not have started to yell in the first place*"; participant 28, "*he shouldn't have behaved the way he did*." Some felt that as a response to the verbal attack 65-year-old Doug received, the physical attack was just. Victim blaming is often seen in attribution theory in order to avoid threat to the self and this plays a role in the way that victims can be treated by jurors and the criminal justice system, as demonstrated by Chapleau, Oswald and Russell's (2008) study.

While some participants in the second condition sympathised with the victim – participant 4, "*he was attacked for doing next to nothing*"; participant 11, "*nobody deserves to be treated in that way*"; the majority shared a different opinion. There were strong opinions about the victim being out of order for yelling, echoing the findings of the other PTSD condition. Participant 10, "*should not provoke someone*"; participant 13, "*he did get beaten, but he brought it on himself by yelling at the guy*"; participant 17, "*he provoked for no apparent reason*"; participant 25, "*there was no reason to start screaming and shouting at the defendant.*" It is likely that there were differences in mock jurors' perceptions for a variety of, potential, reasons; such as, mock jurors' age, mock jurors' knowledge of the disorders, mock jurors' emotion (as an independent or mediating variable), mock jurors' attribution and stereotypical biases. There was a strong consensus amongst the majority about the victim being out of order in the PTSD conditions. I think this is due to mock jurors' attribution of blame. They

attributed blame with the victim because of the defendant's excuse; they sympathised with the defendant and his past and therefore blamed the victim. How juries perceive victims could be an area of future research. This study highlights how perceptions and judgements of the same person can be diverse depending on contributing factors, such as the defendant's excuse.

Even though the descriptions of the two disorders' symptoms were exactly the same, participants obviously saw differences within excuses. Participants sympathised with the defendant suffering from PTSD more than the victim, but more with the victim if the defendant had CDD.

Controllability of condition versus responsibility of situation

It was clear to see after analysing participants' answers, that the majority of participants in condition one believed the defendant to be in control of his actions and responsible for the attack. This reflects people's limited understanding of, not only PTSD, but general mental illnesses. It is important to understand the nature and scope of this problem. Surveys which examine the public's attitudes and beliefs of individuals with mental illness show that people commonly: "Hold negative and exaggerated views regarding predictability and dangerousness; Have negative views of decision making ability; Lack understanding of the conditions and their causes." (Scheffer, 2003). Participants did not accept the defendant's disorder, PTSD, as the reason for his behaviour. Some examples include: Participant 1, "*he knew what he was doing*"; participant 13, "*he is not psychotic and fully in control of his actions*". On the contrary, a minority of participants accepted PTSD as an excuse for the defendant's actions and believed the condition to be in control of the defendant. The findings were similar in condition two; a minority accepted the excuse, but almost all felt the defendant was in control and therefore responsible for the situation.

A dominant theme in condition two was - 'No need of attack/unwarranted'. Many participants' quotes support the theme - participant 10, "[on defendant] *shouldn't take matters into his own hands*"; participant 18, "*he should not leave him unconscious*"; participant 19, "*responding with violence is an exaggerated response*"; participant 26, "*he should not have committed violence like this on a person whatever the situation was*"; participant 27, "*this doesn't give you the right to attack someone.*" Surrounding reasons of the unnecessary attack were mixed views. Although many thought the attack was excessive, they believed Doug's PTSD triggered his actions; participants may have believed the defence excuse as they perceived Doug and his disorder as honest, his situation is a result of what was generated during a bad experience whilst respectfully serving his country in combat, and the mock jurors' may well appreciate his efforts. Participant 18, "*because of his past experience he could not keep his temper under control*"; participant 19, "*he is clearly not in control of his own actions*." In contrast to this, participant 27 wrote, "*no matter what happened in his past, this is not an excuse*." The conflicting views emphasis the hardship jurors' face when

trying to reach a verdict. People form very strong opinions, and often their opinions are very different to the person sitting next to them even though they have both examined the same information. There was no literature directly relating to how believing, trusting and accepting a defendant's excuse may affect mock jurors' decision making that I could find but this could be an area worth considering for future research.

Participants in the CDD conditions were, near enough, in full agreement and believed it was the defendants fault entirely - CDD was no excuse. Blame for the attack and condition was on the defendant; participants viewed drug taking as a choice – to take or not to take. They deemed the defendant as in control of his condition. Many times, in his writing, Heider restated this simple observation "x attributed to o; oUx a unit, something positive attributed to something positive. (Heider, 1988, p. 84). Good is connected only with good; bad only with bad. (Heider, 1988, p. 85)" (cited in Crandall, Silvia, N'Gbala, Tang, & Dawson, 2007). So, if mock jurors deem drug-taking as *bad* and the defendant has made a free choice to engage in something *bad* it is no wonder they attribute *badness*, in this case blame attribution, to the person with the *bad* habit. This could also explain mock jurors' perceptions of the PTSD defendant, he did something *good* by serving his country and thus is judged a *good* person, the victim in the PTSD conditions did something *bad* when he chose to yell; therefore, the blame is attributed to the *bad* victim.

Mock jurors did not always directly blame the CDD defendant for the attack, but instead attributed blame and responsibility to him for choosing to take drugs. Supporting examples from condition three follow; participant 1, "*if he had not become addicted to drugs…*"; participant 11, "*he chose to take the drugs*"; participant 14 "*he took the cocaine*"; participants 19, 20, and 21 all sated "*he chose to take drugs*." A theme linked to this is the 'awareness of consequences' theme. Many participants felt that the defendant should be aware of the consequences of drug taking behaviour and the consequences of his actions whilst on drugs.

The majority of participants in this condition deemed the defendant responsible for his actions. Participant 13, "*he was the one who made the attack*"; Participant 24, "[defendant] *should be held responsible*." Participants could not accept drugs as an excuse for the behaviour; Participant 6, "*use of cocaine is no excuse for attacking someone*." Even though some participants thought the drugs had overruled the defendant's actions, they still laid the blame with the defendant for taking drugs, which in turn, led to the actions; Participant 9, "*drug dependency may have an effect on actions … he initially took the decision to use drugs therefore his responsibility for attack.*" This quote accentuates and supports the vast majority of mock jurors' judgement; they attributed full blame of responsibility with the CDD defendant for taking drugs and attacking Tom Barton. It is apparent here that the general process of attribution can have an incredible influence on decision-making.

A few participants in condition four saw the victim as partly to blame due to his shouting; this was not a theme in the previous condition; possibly because in condition three, the cocaine dependent 65-year-old was so salient that they did not consider the victim's contributions in the lead up to the attack. Examples from condition four include: participant 7, "*he provoked the defendant*"; participant 11 "h*e started the argument and caused this reaction from the defendant*"; participant 23, *"he provoked him";* participant 29*,* "*although he didn't deserve to be attacked he shouldn't have provoked the defendant by yelling at him.*"

Nonetheless, the majority of participants considered the defendant entirely responsible for his actions, and were in accordance with the participants in the other CDD condition. Participant 5, "*he has admitted doing it but has no excuse*"; participant 10, "*it's his own fault*"; participant 14, "*the drug cannot control him physically – he was in control of his own actions*"; participant 3, "*drugs are not an excuse and the defendant should be held responsible for his actions.*" Conversely, some accepted drugs as an excuse – participant 7, "*the drugs would have caused the reaction*"; participant 11, "*influence of drugs caused aggressive behaviour.*" While participants believed the drugs affected the defendant's behaviour they still blamed the defendant for taking drugs and consequently attacking the victim e.g. participant 9, "*The reason he has this CDD in the first place is down to him taking drugs initially*." It is fair to conclude that within the CDD conditions shouting was accepted far more widely than drug taking.

Help in the past versus help in the future

A theme that emerged across the four conditions was the defendant needing help for his disorder. Participants who felt the ex-soldier needed to get help pitied him and sympathised with his past. Then, quite the opposite, it transpired that across the CDD conditions participants blamed the defendant for not seeking help for his disorder prior to the event. They therefore perceived the CDD defendant as allowing such a terrible situation to arise by not resolving the issue in the past.

Participants conveyed genuine concerns about the defendant in condition one; participant 3, "*he needs medical help*"; participant 7, "*there is help out there*." Participants presented with condition 2 two similarly suggested help and in some cases blamed others for not providing help - participant 2, "[on defendant] *should have been given appropriate help from the army and support to treat his condition*"; participant 25, "*he obviously needs a lot of help*"; participant 29, "*treatment is needed to rehabilitate this man's psyche*." Participants sympathised with the defendant's need to seek help and suggested it as a possible step in the future.

The PTSD conditions are unlike the CDD conditions where participants condemn the cocaine dependant defendant for not accessing help in the past. This could be due to a combination of factors, such as; participants assuming that the PTSD

defendant was unaware of his condition, whereas the CDD defendant knows he depends on drugs as he physically takes them, and therefore he should have addressed the problem (see condition three and condition four verbatim examples below). Participants may have taken into account the stigma attached to admitting having and needing help for a mental health illness; sympathised with the PTSD defendant along with his situation, and, in addition, accepted that he had not sought counsel. Condition three, participant 12, "*he could have got help…ages ago*"; participant 19, "*he could have got help*." The defendant is clearly being blamed for not taking action already and seeking a form of help to control his drug taking behaviour. The consensus in condition four is much the same - the defendant knows he has a CDD and so should have sought help long ago... participant 4, "*he is aware of his condition and should be seeking help to ensure the public's safety it's his responsibility*"; participant 11, "*Although he was under the influence of cocaine he could have tried to get help before this incident because he knew he had an addiction*"; participant 16, "*if he knew he had a problem he should have got better help especially for control earlier.*" No one suggested future help for the defendant with CDD, but on the contrary, many did within the PTSD conditions.

Whether participants blamed drugs, the defendant, or both, for the attack, many believed it was the defendant's responsibility to have sought help before the occurrence, if the defendant used CDD as a defence excuse.

Age

Age was barely mentioned in participants written responses. Six participants spoke about the defendant's age in their answers in the first condition and only two participants mentioned the defendant's age in the third condition. In both the 22-year-old defendant conditions, age was not mentioned. It is interesting that participants wrote about age when the defendant was an older man but not when he was a younger man. This could potentially be due to the mock jurors' ages and how they themselves related to the defendant, alternatively, it could be due to existing stereotypes and stereotypical expectations. It would, almost certainly, be considered more common for a 22-year-old to have a fight than a 65-year-old man; a 65-year-old attacking someone is salient because he is behaving against prior expectations and out of role for a member of his particular social category.

Condition three's answers relating to age included - participant 10, "*the defendant should have sought help for his addiction. He is 65*"; also participant 15, "*maturity should override any drug related issues.*" Both quotes suggest that due to the defendant's age he should not be involved with drugs. Two quotes extracted from condition one are of the same nature; participant 23, "*at this age you would think that he would have counselling*"; participant 28, "*at 65 he should know better*."

The remaining four quotes from the first condition are somewhat sympathetic; participant 5 felt sorry that "*someone of this age could injure someone to this*

extent"; participant 16, "*he is old and distressed about the past*"; participant 17, "*he is an old man who seems confused*"; participant 29, "*at the age of 65 he must have left the army 20 to 30 years ago and should be on medication.*" It is interesting that these quotes work in favour of the defendant, sympathising with his actions, his past, and his assumed confusion. However, the previous examples relate to his age (65) and its apparent connection with wisdom, forming opinions against the defendant for not seeking help, knowing better, or getting medication. This shows that jurors' perceptions of defendants are influenced by their already formed opinions, biases and stereotypes; even though holding the view that all old people are wise is absurd.

The age of a person is simply a record of the time that they have lived but attached to that label, by society, are stereotypes. McCann, Dailey, Giles and Ota (2005) conducted a study examining adult reports of age stereotypes, norms of respect and beliefs about communication. A multivariate analyses showed that as the age of the target increased so did trait attributions of benevolence, norms of politeness and deference, and communicative respect and satisfaction; however, attributions of personal vitality decreased linearly. From this study we can see that participants stereotypically associated kindness and weariness with the elderly. However there are many young people who have the same level of kindness and energy levels as an elderly person and not all elderly people are kind and/or lethargic. Despite the questionability of stereotypes many people hold them; and some of the mock jurors in this study were no exception.

Only eight of a possible one-hundred and twenty participants wrote something relating to age but this is not to say that age did not subconsciously affect participant's decision-making. Although, it is fair to assume that the defendant's excuse was more influential, as all mentioned the defendant's excuse in their written answers.

Conclusion

Participants felt sorrier for the defendant, and attributed more blame to the victim, if the defendant was suffering from PTSD. Conversely, more sympathy was given to the victim than the defendant if the defendant had a CDD; this could be due to the knowledge that the defendants in the CDD conditions were suffering from a highly self-inflicted condition and therefore they blame him.

The qualitative findings of the current study support the quantitative findings of Higgins et al., (2007) and Heath, Grannemann, Peacock, and Dulyx, (2001), who found that a defendant who used a highly self-inflicted excuse was seen less favourably than a defendant who used a less self-inflicted excuse.

It is interesting that the same behaviour by the victim, in all cases, evokes different responses by participants depending on how they judge the people involved, good for serving a country or bad for taking drugs. The examples used

and results found from the qualitative section of the study show how diverse people are and the difficulty real jurors' face when they are set the task to come to one conclusion.

Participants tended to view the defendants with CDD as in control of their disorder whereas they accepted that the soldiers' pasts were controlling theirs. Participants were more blameworthy of the victim when the defendant had PTSD and more blameworthy of the defendant when he had CDD. Participants felt that the defendants with CDD were liable for not seeking help in the past and suggested that the defendant's with PTSD seek help as a way to move forward in the future.

Unfortunately, in the third condition, two participants did not understand the vignettes. They failed to understand who the defendant was and who the victim was. This was disappointing as the study was piloted, but thankfully, this was the only condition that had participants who had not fully understood the vignette and is unlikely to have affected the results.

The qualitative results suggest that participants were more influenced by the defendant's excuse than his age. This is supportive of the quantitative results which are discussed next.

Quantitative Results and Discussion

Two types of analysis were conducted. The first was a 2x2 MANOVA with age and defendant excuse as independent variables and the nine Likert scale questions as dependent variables. Univariate ANOVAs and descriptive statistics were computed as part of this. The second analysis comprised two 2x2 chi-square analyses to examine the association between age and verdict delivered and between defendant excuse and verdict delivered.

Verdict

For the verdict measure, guilty or not guilty, a chi square was employed. This association was looked at to see if mock jurors were more likely to give guilty judgements to the defendant with CDD than the one with PTSD and if there was a significant difference between the 22-year-old defendant's and 65-year-old defendant's guilt.

Excuse type was the most significant finding. Mock jurors presented with the defendant with a CDD defendant, were significantly more likely to give guilty judgements. 99% of participants in the CDD conditions delivered a guilty verdict. Of the mock jurors presented with the defendant with the less self-inflicted excuse, PTSD, 71% found the defendant guilty. A Pearson Chi-Square showed:

χ^2 = 17.43, (df = 1), p<0.001 These findings support the hypothesis that mock jurors are more likely to give guilty judgments to the defendant with CDD than the one with PTSD.

Age of defendant was non-significant. A Pearson Chi-Square showed: χ^2 = .262, (df = 1), p = 0.609 the findings show that the age of defendant, 22 or 65, did not significantly affect the mock jurors' verdict. Similar results were reported by Higgins et al. (2007), who found defendant excuse type significantly affected verdict but defendant age did not.

Variables

The independent variables in the study were - defendant age (either 22 or 65) and defendant excuse (either Post Traumatic Stress Disorder (PTSD) or Cocaine Dependency Disorder (CDD)). There were nine dependant variables, all on a Likert scale of 1-10 and these were: Certainty of guilt, Prison sentence for the defendant (in years), Credibility of defence, Responsibility of defendant for the attack, Defendant's control over his actions, Likelihood of accepting defendant's condition as an excuse, Likelihood of jury accepting defendant's excuse, How sorry mock juror felt for defendant, How sorry mock juror felt for victim. Results are reported below.

Rating Scales

A MANOVA was employed for the dependent variables excluding verdict. The overall multivariate effect showed that excuse type was significant. A main effect was found for excuse type, value = 0.709, F (9, 106) = 4.83, p<0.001. However no main effect was found for defendant age, value = .889, F (9, 106) = 1.47, n.s. and there was no interaction effect, value = 0.912, F(9, 106) = 1.14, n.s. The age of defendant, and interaction between age of defendant and excuse were not significant results in the research. This supports Higgins et al. (2007), but contrasts Bergeron and Mckelvie's (2004) findings who reported a significant difference was found between defendant's ages.

Univariate ANOVAs were conducted for each rating scale variable. ANOVA results for the main effect of defendant excuse can be found in Table 1. Descriptive statistics for each variable are included in Tables 2-4. Table 2 shows the descriptive statistics relating to the defendant age, Table 3 shows the descriptive statistics for the main effect of defendant excuse, and Table 4 shows the statistically significant variable's descriptive statistics. Significant variables within results, from tests of between-subjects effects, are discussed below.

Table 1:
ANOVA results

Variable	Main Effect of Defendant Excuse (all Fs have 1, 114 df)
Certainty of verdict	F = 0.16, p = 0.901, n.s
Appropriate prison sentence	F = 22.570, p<0.001
Credibility of defence	F = 4.646, p = 0.033
Responsibility for attack	F = 7.799, p = 0.006
Control over actions	F = 0.33, p = 0.856, n.s
Likelihood of accepting excuse for actions	F = 13.587, p<0.001
Likelihood of jury accepting excuse	F = 5.060, p = 0.026
How sorry do you feel for the defendant	F = 22.174, p<0.001
How sorry do you feel for the victim	F = 3.663, p = 0.058

All, but two (certainty of verdict and control over actions), Univariate ANOVAs showed a main effect of defendant excuse. This demonstrated that the defendant with CDD was seen as more responsible, should have a harsher sentence, and had a less credible defence which would not be accepted by participants of the study or a real jury. In contrast, the defendant with PTSD was seen as less responsible, with a more credible defence which was likely to be accepted by participants and a real jury, jurors also had more sympathy for the PTSD defendant.

There was only one variable within defendant age that was near significant and that was *How sorry do you feel for the victim?* The ANOVA result showed, $F(1,114) = 3.663$, $p = 0.058$. The descriptive statistics for this variable are shown at the end of Table 4.

Champion (1987) found that age did affect sentencing. Those aged 60 and over were treated leniently; however, this is not supported by the current study's results. Cutshall and Adams (1983) found that older people were significantly less likely to be prosecuted than middle-aged but not younger people. This study's findings support that older and younger people are treated similarly, no significant difference between the age groups was found.

Higgins et al. (2007) found that participants in their study gave the defendant with CDD a longer sentence than they gave the defendant with PTSD. The findings of the current study support Higgins et al.'s conclusions that mock juror's give longer sentences to a defendant using a highly self-inflicted excuse than a defendant using a less-self inflicted excuse; they find PTSD a more credible defence excuse and participants are more accepting of the excuse themselves and expect real jurors to share their perception that the excuse is acceptable.

Table 2:
Defendant Age - Descriptive Statistics

Variable	22 year old defendant		65 year old defendant	
	M	*SD*	*M*	*SD*
Certainty of verdict	6.93	2.32	7.29	1.72
Appropriate prison sentence	1.78	1.70	2.25	2.24
Credibility of defence	4.90	2.16	5.12	1.92
Responsibility for attack	6.73	2.29	7.17	2.20
Control over actions	5.34	2.50	5.47	2.34
Likelihood of accepting excuse for actions	4.22	2.45	3.68	2.15
Likelihood of jury accepting excuse	4.44	2.03	4.71	2.08
How sorry do you feel for the defendant	5.31	2.58	4.72	2.75
How sorry do you feel for the victim	7.38	1.82	6.07	2.79

Table 3:
Defendant Excuse - Descriptive Statistics

Variable	CDD defendant		PTSD defendant	
	M	*SD*	*M*	*SD*
Certainty of verdict	7.13	2.06	7.09	2.04
Appropriate prison sentence	2.80	2.00	1.21	1.65
Credibility of defence	4.62	2.03	5.41	1.99
Responsibility for attack	7.50	2.00	6.38	2.35
Control over actions	5.37	2.14	5.45	2.68
Likelihood of accepting excuse for actions	3.22	1.93	3.22	1.93
Likelihood of jury accepting excuse	4.17	1.89	5.00	2.13
How sorry do you feel for the defendant	2.99	1.99	5.02	2.66
How sorry do you feel for the victim	7.50	2.10	6.72	2.43

Table 4:
Statistically significant variables - Descriptive Statistics

Excuse	*Age*	*M*	*SD*
Sentence given to the defendant			
CDD	22	2.33	1.58
CDD	65	3.27	2.27
PTSD	22	1.21	1.66
PTSD	65	1.21	1.68
Credibility of defence			
CDD	22	4.27	2.03
CDD	65	4.97	1.99
PTSD	22	5.55	2.13
PTSD	65	5.28	1.87
Responsibility of defendant for attack			
CDD	22	7.07	2.20
CDD	65	7.93	1.72
PTSD	22	6.38	2.37
PTSD	65	6.38	2.38
Likelihood of mock juror accepting defence excuse			
CDD	22	3.50	2.13
CDD	65	2.93	1.70
PTSD	22	4.97	2.57
PTSD	65	4.45	2.31
Likelihood of jury accepting defence excuse			
CDD	22	3.83	1.82
CDD	65	4.50	1.93
PTSD	22	5.07	2.03
PTSD	65	4.93	2.25
How sorry mock jurors feel for defendant			
CDD	22	2.73	1.95
CDD	65	3.23	2.03
PTSD	22	5.31	2.58
PTSD	65	4.72	2.75
How sorry do you feel for the victim			
CDD	22	7.63	2.17
CDD	65	7.37	2.06
PTSD	22	7.38	1.82
PTSD	65	6.07	2.79

Overall, the findings of this study support two of the study's hypotheses.

- Mock jurors are more likely to give guilty judgements to the defendant with CDD than the one with PTSD.

- Mock jurors will give longer sentences for the defendant with the highly self-inflicted excuse defence, CDD.

Excuse type significantly affected participant's answers. Defendant age and an interaction between excuse and age did not show significant effects. Unfortunately, the hypothesis that mock jurors will feel most sorry for 22-year-old defendant with the less self-inflicted excuse defence, PTSD; and the hypotheses that mock jurors will feel least sorry for the 65-year-old defendant with the highly self-inflicted excuse defence, CDD, was not supported.

General Discussion

This study explored how a defendant's age and excuse type would affect mock jurors' decision-making. Quantitative results showed that excuse type had a huge influence on participant's answers. As expected, mock jurors' presented with the defendant with the, highly self-inflicted, Cocaine Dependency Disorder excuse (CDD) were far more likely to find the defendant guilty, only 1% of participants given the CDD scenario did not find the defendant guilty. Longer sentences were suggested to punish the defendant with CDD than the one with PTSD. Mean scores give an indication that participants sympathised most with the 22-year-old defendant with, the less self-inflicted excuse, PTSD, but these were not significantly different from the other three groups and thus it was not supported.

Mock jurors' saw PTSD as a far more credible excuse than CDD. Participants found the defendant using CDD as an excuse, far more responsible for the attack than the defendant using PTSD as an excuse. Mock jurors were significantly more likely to accept PTSD as an excuse as opposed to CDD; and believed that PTSD is more likely to be accepted as an excuse by a real jury than CDD. Participants felt most sorry for the victim attacked by the 22-year-old defendant with CDD, followed by the victim attacked by the 22-year-old defendant suffering from PTSD. The victim they felt least sorry for was the one attacked by the 65-year-old defendant with PTSD, but there were not significant differences between the groups.

From the qualitative data obtained and analysed, three superordinate themes were found. 1. Sympathy for victim vs. sympathy for defendant; 2. Controllability of condition vs. responsibility of situation; and 3. Help in the past vs. help in the future. Within the first superordinate theme it emerged that participants felt sorrier for the defendant, and attributed more blame to the victim, if the defendant was suffering from PTSD. Conversely, more sympathy was given to the victim than the defendant if the defendant had CDD; this could be due to the knowledge that the defendants in the CDD conditions were suffering from a highly self-inflicted condition and therefore they attribute blame with him. In relation to the second superordinate theme, participants tended to view the defendants with

CDD as in control of their disorder and actions, whereas, they accepted that the soldiers' pasts were controlling their disorder and actions. Participants regarded the defendant as more responsible for the situation when he had CDD and the victim as more responsible for the situation if the defendant had PTSD. With the third superordinate theme it was found that participants alleged the defendants with CDD were liable for not seeking help in the past but suggested that the defendants with PTSD seek help as a future measure.

Even though the descriptions of the attack and symptoms of the disorders were exactly the same, participants obviously saw differences, especially with excuse type. Participants felt sorrier for the defendant with PTSD and were more blameworthy of the defendant with CDD in relation to both the disorder and attack. These findings support Higgins, et al. (2007); and Heath, et al. (2001) who found that a defendant using a highly self-inflicted defence excuse was seen less favourably than a defendant using a less self-inflicted defence excuse. Interestingly, in all four conditions, participants deemed real juries as more likely to accept the excuses than they were themselves.

The defendant's age did not influence participant's decisions. This is also supportive of Higgins, et al. (2007) who produced null results when testing the impact of the defendant's age on mock jurors' decision-making. With this in mind, it is fitting to recall Bergeron and McKelvie (2004), who conducted a study on the impact of defendant's age on punishment. Their findings showed participants sentenced the 20-year-old and 60-year-old defendants less harshly than they sentenced the 40-year-old defendant. They found that effect sizes were generally greater for the 60-year-old vs. the 40-year-old comparison than for the 20-year-old vs. 40-year-old comparison. The result occurred for the main effect of age and for the effect of age on murder with the free sentence, free parole, and restricted proportional parole measures (Bergeron & McKelvie, 2004). This result was consistent with archival work showing more lenient treatment of people over 50 years than of people under 50, and more lenient treatment of an elderly person than of a nonelderly adult.

A future recommendation for research may be to choose different defendant ages as 22 and 65 may not be the best possible comparative groups. On the contrary, Smith and Hed's (1979) findings showed that age did affect participant's perceptions and their study included defendants aged 23 and 53. As Alicke et al.'s (2008) study shows, knowledge that a harmful outcome could easily have been avoided does not predict blame. The authors' research found that an outcome's mutability influences blame and related judgments when it is coupled with a basis for negative evaluations. The current study's findings support this. Participant's evaluations of the defendant with CDD were negative, as the qualitative results show, and participants felt the attack may have been avoided if the defendant's drug-taking behaviour had not commenced. Although the attack is described exactly the same in the PTSD conditions, and both PTSD and CDD are described with the same symptoms, the participants are not as negative

towards the defendant with PTSD as they are to the defendant with the CDD. Participants accept PTSD is a result of the defendant serving his country and he is deemed honorable and therefore not blamed in the same way the defendant with CDD is, the excuse the CDD defendant uses - that his friend got him addicted to cocaine - is not considered a sufficient enough reason for the defendant to take drugs and become dependent on them. In fact, his friend getting him onto cocaine is further evidence that he is a week person compared to the PTSD defendant who is strong enough to have served his country.

Following on from the previous discussion, under the just-desert rationale, it is suggested a more culpable defendant receives a more severe punishment (Gebotys & Roberts, 1987; Steffensmeier, et al., 1998). Punishment is to be greater for a more serious offence than for a less serious offence and for an intended crime. In all four conditions, the crime is exactly the same. Tom, the victim, is attacked and put into hospital for over a week; after walking into Doug, the defendant, and yelling. The offence remains the same; only the defendant's excuse and age differ. However, participants presented with a condition involving the defendant with CDD, put forward a guilty verdict 99% of the time, and recommended a much harsher sentence. The participants' qualitative answers make reference to the CDD defendant being "punished" and "serving time". In contrast, participants presented with a condition involving the defendant with PTSD only give a guilty verdict 71% of the time and did not suggest such a long sentence, in some cases no sentence at all. Participants' qualitative results in the PTSD conditions included suggestions for "slight punishment"; many participants proposed a small "community service" order would be sufficient, and no prison sentence. This could be as a result of how participants attributed blame across the PTSD conditions; mock jurors' attributed blame to the victim in these conditions and sympathised with the defendant, the jurors' affect also affected their responsibility judgment. Sequentially, their sympathy mediated the effect outcome of the punishment's severity.

Not all participants involved in the study received incentives. Psychology students received 20 minutes participation time to contribute to their research folders but the remaining participants did not receive anything in return for their participation. This was not an issue with any of the participants. The questionnaires only took ten to fifteen minutes to complete and as the participants were made up of friends, family members, neighbours and colleagues they were happy to do something to help.

There were limitations to the study. The study was artificial in that many participants were undergraduates, who do not represent the general population from which most jurors would be chosen. Furthermore, mock jurors were not in a court setting; it would be an idea for future studies to have mock jurors to sit through real court cases; that way, mock jurors could hear evidence, as opposed to reading it all.

Participants in the current study had to read a limited amount of information and the fictional vignettes lacked the details of a real case. Real jurors would have an immense amount of detail to sift through. Horowitz and Bordens (1990) suggest that there is a recency effect, in which information delivered later in the trial is more heavily weighted in decision making (cited in Hogg and Vaughan, 2005). In addition, in a real jury some jurors would find certain parts and details they read or hear of real importance and others may forget about that particular part, but together the jurors would form a conclusion, reminding others of details they have stored and by contributing together they would reach a decision. In the current study, the amount of information given is small and lacks realism in comparison to the literature real jurors are expected to read through. Mock jurors were also asked to reach a decision alone, with no input or discussion from anyone else. Real jurors would deliberate in a group and the deliberation process could affect the final verdict and therefore may be an area for future study.

Much of the data was collected in lectures. Unfortunately, participants were sat close together and as a result, when the data was collected back in, in the order it was given out, it became apparent that some participants had merely copied what the person sitting next to them had written. This was disappointing, but because 120 participants were needed, it was a quick way to collect data. Where clear evidence of copying was evident data was excluded. The qualitative component of the questionnaire was a bonus in this situation as it made it easy to identify copying and therefore exclude the less reliable data. On a negative note, when participating in these conditions, such as lecture halls, participants may answer desirably as peers may see their answers.

A major criticism of the study is that the age of the participants was not asked. It would have been interesting to see how participants of different ages differed in their qualitative answers, decision-making, and sentencing; for instance, would a particular age group be more widely accepting of drug abuse or more appreciative of a defendant's efforts in combat? What age group would be most certain of their verdict? Higgins, et al. (2007) found that older adult mock jurors were more certain of their verdicts than younger adult mock jurors were, but would this result have been replicated? It would also have been interesting to investigate how judgment and decision-making may have been affected by whether the participant was in the same or different age group as the target. On the other hand, maybe mock juror age would have no effect. The range age of the current study was determined because the participants had to be jury eligible to participate; I knew a student who had participated was 18 and my neighbour was 68 and therefore I included a range age, as it was impossible to work out an average.

The gender of the participants was obtained from the consent forms; therefore, it was impossible to say which questionnaires belonged to men and which to women. This is something else that future studies could research; whether gender differences play a part in jury decision making. Are men or women most

persuasive when it comes to deliberating in a group? Or do individual differences affect decision-making?

The results of the study indicate that jurors do perceive excuses differently and how they perceive a defendant and his excuse does, in turn, affect their judgement and verdict; for example, highly self-inflicted excuses were seen more negatively than a less self-inflicted excuse. This research has added to the previous literature with the inclusion of rich data obtained from the qualitative methods employed. For practice, it has emphasized the difficulty real jurors' face, each day, and encourages us to consider if our legal system should really rely on the assumption that juries are generally accurate.

A potential follow-up study to this one would be a study using the same independent variables and dependant variables but including a picture of the defendant, with the vignettes as a way to emphasize his age. In this study, age may not have been salient for participants as it was only written once in the vignettes. Maybe the inclusion of a photo, either a young man or old man, would make defendant age more prominent for mock jurors, and the study more reflective of real-life as, more often than not, jurors see the defendants and victims. Although, it should be taken into account that the physical characteristics of the defendant and victim can affect the jury; for instance, attractive defendants are more likely to receive a lighter sentence (Stewart, 1980), or be acquitted (Michelini & Snodgrass, 1980).

As stated earlier, even though the descriptions of the attack and symptoms of the disorders were exactly the same, participants obviously saw differences, especially with excuse. It would be interesting to advance on this fascinating idea and pick a range of excuses, some with and some without the same symptoms; and then cross controllability of condition and type of symptom to see what results show. It would also be interesting to investigate how mock jurors' judge more salient defendants; for instance, this study included a 65-year-old, drug-taking defendant. Research on blame attribution associated with salient groups would be fertile ground for empirical research.

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