EXPECTATIONS FOR DEFENDANT EMOTION

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Participants ($N = 160$) read scenarios in which a defendant's guilt status (guilty, not guilty); type of emotion judgment made (feeling, displaying); and defendant/victim relationship (husband and stranger) were varied to determine their influences on expectations for defendants' emotional responses. In a second experiment, we presented these same variables between-subjects to 324 online participants. In a third experiment, 329 online participants provided expectations for a defendant's crying behavior when defendant gender, guilt status, and defendant/victim relationship varied. Generally, more emotion (e.g., sadness) was expected when a spouse versus stranger was killed, but only when the defendant was not guilty. Expectations varied with defendant gender and participants' self-reported emotionality. The implications of having defendant emotion expectations are discussed within a wrongful conviction context.

Keywords: expectations for defendant emotion, crying, wrongful conviction

Drew Peterson, convicted of murdering his third wife and a suspect in the disappearance of his fourth wife, often has been criticized for his tendency to joke about his predicament (Tarm, 2013). He defended himself by stating, "There is no book written on how I'm supposed to act…Would it be better if I hid my head down hunched over and had tears in my eyes?" (Chen, 2010). Peterson may be at least partly right. There likely isn't a book written on how to act, but is there an unwritten set of rules on how one accused of a crime is expected to behave?

Evaluating one's demeanor is traditionally encouraged by our legal system (e.g., the Confrontation Clause, Federal Rules of Evidence; Minzner, 2008), however, there is a potential problem which becomes glaringly apparent when you consider that there are convicted, but innocent defendants who have been cited for a lack of "appropriate" emotion. For example, Peter Reilly (Springer, 2004), Gary Gauger (Shapiro, 1998), Jeffrey

Deskovic (Berger, 2007) and Ronald Cotton (Loeterman, 1997) have all been said to have shown "inappropriate" emotion before or during trial (Heath, 2009). Perhaps a lack of appropriate emotion led investigators to create a mind-set that the suspect is the guilty party; as a result of a confirmation bias (Nickerson, 1998) perhaps they were less inclined to investigate other leads. Or maybe during a trial, the defendant's lack of appropriate emotion mislead jurors and led them inappropriately to render a guilty verdict.

These examples certainly do suggest that there are expectations for the emotional display of one accused of a crime and that violation of these expectations can have consequences. How prevalent is the problem of misjudging defendant emotion? An early estimate suggests cause for concern. Specifically, Heath (2011) performed a content analysis of the 38 cases represented in Warden and Drizin's (2009) book, *True Stories of False Confessions,* to determine the percentage of cases in which the emotional display/demeanor of the accused may have played an inappropriate role either before or during trial (all those portrayed were innocent). Twenty-four percent of the cases included demeanor/emotion information that could be considered incriminating.

Experimental Research Regarding Expectations for Emotion

Generally speaking, people agree on the emotional display expected in particular circumstances (Ekman, Sorenson, & Friesen, 1969). Given this information, it is reasonable to ask what happens when those expectations are violated? According to Bond et al.'s (1992) expectancy violation model, deception can be perceived from nonverbal behavior that violates normative expectation. [1] There is evidence to support this in a legal context, at least with regard to the emotional display of a crime *victim*. For example, Kaufmann, Drevland, Wessel, Overskeid, and Magnussen (2003) found that when the victim's emotional display was "incongruent" with what was expected in a rape victim (i.e., a relatively positive demeanor) as opposed to neutral (i.e., flat) or congruent (e.g., despair and occasional sobs), the victim's credibility was damaged. This is in line with what one would anticipate given an expectancy violation approach, although note that Kaufmann et al. (2003) did not empirically determine what kind of emotional display respondents expected to see. Ask and Landström (2010) extended the work on this topic by asking people directly to what extent a presented rape victim's behavior matched the expected behavior; an emotional victim was found be a better match than a neutral victim. Ask and Landström (2010) found that this expectancy violation, as well as the compassion that comes from watching the victim's emotional display, influenced views of the rape victim's credibility. Hackett, Day and Mohr (2008) also found support for an expectancy violation theory in that they found that only those with expectations for an emotional display in a rape victim found an emotional rape victim to be more credible.

Defendant Emotion

While researchers have not yet considered *explicitly* what expectations people have for defendant emotion or what the repercussions are if expectations for defendant emotion are violated, there is evidence that the emotional display of the accused can affect legal decisions. For example, Heath, Grannemann and Peacock (2004) found that when evidence was weak as opposed to strong, a stronger display of emotion (i.e., distress/sadness) ver-

sus a weaker display from a testifying defendant was associated with a lower proportion of guilty verdicts, shorter sentence assignments, and higher ratings of defendant honesty. Salekin, Ogloff, McFarland, and Rogers (1995) also found that defendant emotion had an impact on mock juror decisions. Their participants perceived a female defendant as more guilty when she displayed either high affect or flat affect and less guilty when she displayed moderate affect while testifying.

Why does seeing an emotional defendant lead to people making more favorable decisions? Bond et al.'s (1992) idea of expectancy violation certainly is in line with the above results (Heath et al.,2004; Salekin et al.,1995); violate expectations for emotion level, and you are more likely to be seen as guilty. However, as indicated above, researchers have not yet investigated *specifically* what emotions are expected from a testifying defendant. Thus, we begin by asking people explicitly for their expectations. In the first study, we gave participants basic information about a woman charged with murder. Some participants read that a defendant was guilty of committing the crime, and others read that a defendant was not guilty of committing a crime. We recognize that one is not typically privy to guilt status information but, as a first step, we wanted to determine if people have different expectations given a different mindset. We listed 15 emotions/feelings, and we asked participants to either indicate what they expect this defendant to feel or display during testimony (i.e., one could expect the defendant is feeling a particular way, but not showing it; Fabes & Martin, 1991). Participants also were asked to indicate the expected strength of each emotion. Finally, participants were asked to report what expectations they have when the victim is related to the defendant (i.e., spouse) as opposed to unrelated (i.e., a stranger).

When creating the list of 15 emotions/feelings, we used different "emotion" terms that generally refer to similar states (e.g., "nervous" and "anxious"). We expected to find four emotional domains: one representing "anxious," one representing "anger," one representing "sadness," and one representing "relaxed." We anticipated that those who are not guilty versus guilty would be expected to experience stronger levels of anger while testifying (i.e., "I'm not guilty! How can you charge me with murder?"). We hypothesized that respondents would expect stronger levels of sadness to be experienced by the testifying defendant when the victim was a spouse versus a stranger, but only when the defendant is not guilty of the murder. If one considers the experience of emotion as a biological process and the emotional display as more affected by social circumstances (and more controllable), then predictions regarding the display of emotion are more difficult to make. Will participants expect the testifying defendant to display emotion as experienced (with variations for the defendant who is guilty versus not guilty) or will participants expect the testifying defendant to display emotion at a different level than she feels, perhaps to make a good impression? Additional hypotheses were not put forth because of the lack of prior research in this area.

STUDY I

METHOD

Participants

Jury-eligible undergraduates ($N = 160$) from a small northeastern university participated in groups in exchange for extra credit. The sample was composed of 131 females and 29 males with ages that ranged from 18-53 ($M = 19.93$, $SD = 4.32$ [one participant did not provide an age, but was included because she was registered to vote]). Eighty-eight percent of the sample was Caucasian, 5% African American, 2% Asian, 3% Hispanic and 2% reported "other." There were 37-42 participants per cell.

Materials and Procedure

Participants provided informed consent, then read a scenario about a woman charged with murder, who was identified as guilty or not guilty of committing the crime. Fifteen "emotion" terms were provided, and participants were asked to either indicate what they expect this defendant to feel or to display while testifying. They also were asked what the expected strength of each emotion would be ($0 = $ not at all, $1 = $ slightly, $2 = $ moderately, $3 = $ very, and $4 = $ extremely). In addition, participants were asked to indicate what expectations they have when the victim is related to the defendant (i.e., spouse) as opposed to unrelated (i.e., a stranger); this last variable was presented within-subjects. After providing ratings, participants were debriefed.

RESULTS

To confirm that the emotion terms did measure the expected emotional domains, and to simplify the data, a principle component analysis was conducted. Based on an examination of the scree plot and minimum eigen value criteria, a four factor structure was confirmed with all items factor loading at .40 or greater. For the analysis, the mean score for the items of each of the four emotional domains was used. The four emotional domains are: 1) "anxious" comprised of "nervous," "afraid," "tense," "anxious," and "frightened;" 2) "anger" comprised of "angry," "annoyed," "outraged," and "surprised;" 3) "sadness" comprised of "sad," "depressed," and "unhappy;" and 4) "relaxed" comprised of "relaxed," "emotionless," and "calm."

A mixed Analysis of Variance (ANOVA) for each of the emotion domains was conducted with defendant/victim relationship (husband, stranger) as a repeated factor and defendant guilt status (guilty, not guilty) and emotional condition (feeling, display) as between factors. Only significant results will be presented.

The "Anxious" Domain

Defendants who were not guilty were expected to be or appear less anxious, nervous, afraid, tense, and frightened ($M = 2.63$, $SD = .78$) than those who were guilty ($M = 3.07$, $SD = .75$), $F (1, 156) = 13.27$, $p < .0005$, partial $\eta^2 = .08$.

The "Anger" Domain

Those accused of murdering a spouse are expected to feel/display more anger, annoyance, outrage, and surprise while testifying ($M = 2.21$, $SD = .97$) than those accused of murdering a stranger ($M = 1.91$, $SD = 1.02$), $F(1, 156) = 20.94$, $p < .0001$, partial $\eta^2 = .11$. This main effect was qualified by an interaction of the defendant/victim relationship x guilt status, $F(1, 156) = 10.52$, $p < .0002$, partial $\eta^2 = .06$. An examination of the means suggests that feeling/displaying anger, annoyance, outrage and surprise is similar for guilty defendants who kill either a spouse ($M = 2.12$, $SD = 1.02$) or stranger ($M = 2.03$, $SD = 1.05$), while those who are not guilty are expected to feel/display more of these emotions when a husband ($M = 2.30$, $SD = .92$) versus a stranger has been murdered ($M = 1.79$, $SD = .97$).

The "Sadness" Domain

Those accused of killing a spouse were expected to feel/display more sadness, depression, and unhappiness while testifying ($M = 3.31$, $SD = .77$) than those accused of killing a stranger ($M = 1.99$, $SD = .89$), $F(1, 156) = 290.55$, $p < .0001$, partial $\eta^2 = .59$. This effect was qualified by an interaction between defendant/victim relationship x guilt status, $F(1, 156) = 40.81$, $p < .0001$, partial $\eta^2 = .08$. Differences in expectations for sadness were most apparent when the defendant was not guilty of committing the crime. In this case, as hypothesized, being accused of killing a spouse resulted in a high level of expected sadness ($M = 3.61$, $SD = .47$), while being accused of killing a stranger resulted in a relatively low level of expected sadness ($M = 1.78$, $SD = .92$). Expectations for the defendant's level of sadness were more moderate when the defendant was guilty (husband: $M = 3.02$, $SD = .89$; stranger: $M = 2.19$, $SD = .82$).

There was also an interaction between the defendant/victim relationship x emotional condition, $F(1, 156) = 4.99$, $p < .03$, partial $\eta^2 = .01$. When a spouse was the victim, expected sadness levels were relatively high and stable whether felt ($M = 3.24$, $SD = .79$) or displayed ($M = 3.37$, $SD = .75$). When a stranger was the victim, however, participants expected lower levels of sadness to be displayed ($M = 1.88$, $SD = .91$) than felt ($M = 2.09$, $SD = .87$).

The "Relaxed" Domain

Those accused of killing a spouse were expected to be less relaxed, emotionless and calm while providing testimony ($M = .38$, $SD = .50$) than those accused of killing a stranger ($M = .65$, $SD = .76$), $F(1, 156) = 21.65$, $p < .0001$, partial $\eta^2 = .12$.

DISCUSSION

The data did reveal four emotional domains as hypothesized. Beyond that, these data reveal that the defendant/victim relationship has a significant impact on expectations for defendant emotion. Those accused of murdering a spouse were expected to be or appear more angry, annoyed, outraged, surprised, sad, depressed, unhappy, less relaxed, emotionless, and calm while testifying than those accused of murdering a stranger.

We also varied the defendant's guilt level status. Although we found that defendants who were not guilty were expected to be or appear less anxious, nervous, afraid, tense, and frightened while testifying than those who were guilty, we did not find guilt status to affect anger as we hypothesized. Anger showed a more complex pattern than expected. Participants expected stronger levels of anger when the victim was a spouse versus a stranger, but only when the defendant wasn't guilty of the crime. This was, in fact, the pattern of results hypothesized and obtained for sadness. As for anger, it's possible that those not guilty of killing their spouse versus a stranger are expected to be especially angry because murder could be considered the antithesis of their feelings for their spouse (i.e., how could people think I could kill a person I loved?).

Our respondents generally did not have varied expectations for what they expected the defendant to feel versus display while testifying. There was one exception; participants expected less sadness to be displayed than felt when a stranger rather than a spouse was killed. A possible reason for the general absence of differences in expectations for what the defendant feels versus displays is that participants generally think that the defendant, who is female, will just show what she feels. Sadness may be an exception because the husband versus spouse comparison was made salient for respondents (i.e., it was a within-subjects variable), and differences in sadness may be a natural expectation given this comparison. We will revisit the feeling versus displaying issue in the next study to determine if the present results will be replicated with a different type of sample. We also will use this new sample to investigate the generalizability of the results regarding the defendant/victim relationship and the guilt status factors.

STUDY II

Our second study was designed to extend our investigation of what emotional responses are expected in testifying defendants. In the present study, the defendant/victim relationship (spouse, stranger) was varied between-subjects as opposed to within–subjects so that respondents would be less likely to compare conditions. In addition, in the present study, participants were recruited online in an effort to make the sample more variable in terms of demographics such as age (recall that undergraduates with a mean age of 19.93 years were tested in the first study). The average juror is likely to be older than the typical undergraduate (Weiten & Diamond, 1979). There also may be non-demographic differences between student samples and samples not limited to students that may impact their decision-making (Sears, 1986). Sampling online instead of sampling undergraduates may lead to increased generalizability of the results (Fraley, 2004). Those who have compared legal decisions made by student samples versus community samples have reported mixed results (Hosch, Culhane, Tubb, & Granillo, 2011). In any case, comparing the results obtained from undergraduates with those from a sample that may more closely approximate the population of interest can help us know more about whether these results can be generalized (Wiener, Krauss, Lieberman, 2011).

Thus, in the present study, participants read online scenarios in which a female murder defendant's guilt status (guilty, not guilty), the defendant/victim relationship (husband,

stranger), and the type of emotion judgment made (what feeling or display is expected) were varied between-subjects. Participants rated the expected strength of 15 emotions that the defendant would be feeling/displaying while testifying. We anticipate that the results obtained will be similar to that obtained in the previous study, although, because community members tend to be older and will be filtering their perceptions through their more varied life experiences, there may be differences between the two samples (Hosch et al., 2011).

METHOD

Participants

Participants were recruited from two websites: The Social Psychology Network (http://www.socialpsychology.org/expts.htm) and the Hanover College listing of research studies (http://psych.hanover.edu/Research/exponent.html). Only data from those eligible to be U.S. jury members were used. Thus, data from 253 participants were not included because they did not meet study criteria for age, citizenship or jury eligibility. In addition, 48 study participants were dropped from the analyses because they did not complete the study. Thus, after dropout rates that ranged from 1-11 per cell, the final cell sizes ranged from 37-44. An overall chi-square analysis performed to test for potential differences in dropout rates was non-significant.

The end result was that 324 jury-eligible U.S. citizens were tested (81 males and 243 females, 18-65 years old [$M = 26.86$, $SD = 11.22$]). Approximately 79% of the sample was Caucasian, 13% African American, 7% Hispanic, 1% Asian, 1% Native American and 3% reported "other" (participants could choose more than one ethnicity).

Materials and Procedure

As in Study I, participants provided consent, then read a scenario about a woman charged with murder who was identified as guilty or not guilty. (The scenarios contain the same information presented in Study I.) Participants rated 15 emotion terms as they did in Study I, except that here participants were asked to indicate what expectations they have when the victim is related (i.e., spouse) or unrelated (i.e., a stranger) to the defendant (i.e., a between-subjects variable). After providing ratings, participants were debriefed.

RESULTS

A 2 (defendant/victim relationship: spouse, stranger) x 2 (defendant guilt status: guilty, not guilty) x 2 (emotional condition: feeling, display) ANOVA for each of the emotional domains are presented below (all variables are between-subjects). Again, only significant results will be presented.

Anxious

Participants expected the testifying defendant to feel more anxious, nervous, afraid, tense, and frightened ($M = 3.94$, $SD = .86$) than she showed ($M = 3.52$, $SD = .96$), $F(1, 316) = 19.06$, $p < .0001$, partial $\eta^2 = .05$.

Anger

Participants expected the defendant who was testifying to feel significantly more anger, annoyance, outrage, and surprise ($M = 3.13$, $SD = .96$) than she showed ($M = 2.86$, $SD = .99$), $F (1, 316) = 6.61$, $p < .02$, partial $\eta^2 = .02$.

Sadness

Those accused of killing a spouse were expected to be or appear more sad, depressed, and unhappy ($M = 3.86$, $SD = .92$) than those accused of killing a stranger ($M = 3.29$, $SD = .96$), $F (1, 316) = 28.13$, $p < .0001$, partial $\eta^2 = .09$. There was also an interaction between the defendant/victim relationship and defendant guilt status, $F (1, 316) = 7.99$, $p < .006$, partial $\eta^2 = .02$. Differences in expectations for sadness were most evident when the defendant was identified as not guilty of the crime. In this case, being accused of killing a spouse resulted in the highest level of expected sadness ($M = 4.06$, $SD = .85$), while being accused of killing a stranger resulted in the lowest level of expected sadness ($M = 3.23$, $SD = .92$). Expectations for sadness (felt/displayed) were more moderate when the defendant was guilty (husband: $M = 3.64$, $SD = .94$; stranger: $M = 3.37$, $SD = .92$).

There was also a significant interaction between defendant/victim relationship and emotional condition, $F (1, 316) = 5.19$, $p < .03$, partial $\eta^2 = .02$. In this case, when a spouse was killed, expected sadness levels were fairly high and stable whether felt ($M = 3.81$, $SD = .87$) or displayed ($M = 3.91$, $SD = .96$). When a stranger was killed, however, participants expected lower levels of sadness to be displayed ($M = 3.12$, $SD = .97$) than felt ($M = 3.48$, $SD = .93$).

Relaxed

Participants expected the defendant to appear more relaxed, emotionless and calm while testifying ($M = 1.65$, $SD = .77$) than she felt ($M = 1.47$, $SD = .61$), $F (1, 316) = 5.53$, $p < .02$, partial $\eta^2 = .02$.

DISCUSSION

In the first study, the defendant/victim relationship often affected expectations for defendant emotion. However, in that study participants were encouraged to compare how the presence or absence of a familial relationship between defendant and victim might impact expectations. This time the defendant/victim relationship was manipulated between-subjects to determine if the previously seen effects would be obtained with this new, online sample. When study participants were less likely to compare conditions, the defendant/victim relationship variable lost some of its influence. The previously seen influence of the defendant/victim relationship on expectations regarding anger and relaxation were not replicated.

On the other hand, the influence of the defendant/victim manipulation was fully replicated when defendant sadness was rated. When a spouse versus a stranger was the victim, the defendant was expected to be sadder while testifying. In addition, here, as in the

first study, stronger levels of sadness were expected when the victim was a spouse versus a stranger, but only when the defendant wasn't guilty of his murder.

Interestingly, the concept of feeling versus displaying was clearly important to this online sample, yet less so to the undergraduate sample. The current sample expected the testifying defendant to feel more anxiety and anger than she displayed, and they expected her to appear more relaxed than she felt. With regard to sadness, both samples expected variation as a function of the defendant/victim relationship with relatively high levels of sadness expected to be felt and displayed when a spouse was killed, but lower levels of sadness displayed than felt when a stranger was killed. Why the differences between studies? The online participants seem to be more consistently responding with impression management concerns in mind (Leary & Kowalski, 1990). It is also worth noting that undergraduate samples are known to be relatively young, intelligent, and possessing of "less crystallized" attitudes than those who are older (Sears, 1986, p. 521). A national sample of respondents obtained online is likely to be more heterogeneous than an undergraduate sample. While ethnicity and gender breakdowns appear similar between the two samples, ages of the online sample varied more widely. Perhaps the older participants were making finer distinctions between what one would feel versus display because they had more time to learn that people do not always display exactly what they feel. Of course, there also may be variations in demographic or attitudinal characteristics that were not accessed. Researchers may wish to consider this in future research.

STUDY III

The results for the first two studies reveal that there are consistent findings regarding the sadness experienced/displayed from a testifying defendant. The next study will examine additional questions regarding expectations for the emotional display of a defendant, with a particular focus on sadness. One question addressed here is whether the defendant under varied conditions is expected to cry. Crying can be precipitated by a variety of situations (e.g., loss), and emotional states (e.g., sadness, powerlessness, pain, happiness) (Vingerhoets, Boelhouwer, Van Tilburg, & Van Heck, 2001). In addition, many have the ability to control their tears (Kraemer & Hastrup, 1988), and crying can occur merely as moist eyes, flowing tears or sobbing (Warner & Shields, 2007). Different levels of crying intensity have been shown to impact decisions made regarding the one crying (Golding, Fryman, Marsil, & Yozwiak, 2003; Salekin et al., 1995). Here we will address whether, and if so, how much crying people expect to see from a testifying defendant.

Another question addressed here is whether people have different expectations for male versus female defendants. Researchers have found that people generally have different expectations for emotionality in males and females (Ashby Plant, Shibley Hyde, Keltner, & Devine, 2000; Fabes & Martin, 1991; Hess et al., 2000), although there is evidence that views of crying men has changed in recent years (Timmers, Fischer, & Manstead, 2003). We do have evidence that people view male defendants versus female defendants differently. Salekin et al. (1995) found that a defendant's level of emotion (flat, moderate, or high

affect) affected perceptions of guilt for female but not male defendants. What is not yet known is whether people have different *expectations* for male versus female defendants.

Thus, in the following study, we asked participants questions regarding a defendant's crying. Participants were asked to make judgments of male versus female defendants, presented as guilty or not guilty, and accused of killing a spouse or a stranger. Based on our previous results, participants were expected to be more certain that defendants will cry and will cry more when a spouse versus stranger has been killed, especially when the defendant is not guilty. In addition, based on prior research (Hess et al., 2000), it is anticipated that participants will be more certain that females will cry and will cry more than males. We also asked participants if they consider themselves to be emotional. This question will tell us the extent to which people are using themselves as a reference point for their expectations. Researchers have found that those who have expectations consistent with traditional sex differences in emotional experiences tend to fit within those roles themselves (Grossman & Wood, 1993). What is not yet clear is whether participants will use their own experiences when deciding what to expect from defendants, a role they are unlikely to have experienced themselves.

METHOD

Participants

The final sample was composed of 329 jury-eligible U.S. citizens (110 males and 219 females, 18-64 years old [$M = 29.12$, $SD = 10.45$]), who completed the survey online after being recruited through the two websites used in Study II. Data from an additional 168 participants were not included because they did not meet study criteria for age, citizenship or jury eligibility. In addition, 49 were dropped because they did not provide anything besides demographic data. No one dropped out after being assigned to a group. The final cell sizes ranged from 34-49.

Approximately 70% of participants were Caucasian, 13% African-American, 11% Hispanic, 2% Native American, 2% Asian; 3% indicated "other" as their ethnicity (participants could choose more than one ethnicity).

Materials and Procedure

After providing informed consent, participants read a short scenario in which a male or female defendant is described as guilty or not guilty of killing a spouse or a stranger (variables were all between-subjects). The scenarios contain the same information presented in both earlier studies except that in the present study defendant gender is varied and the display/felt distinction has been removed. After reading the scenario, participants were asked: A) whether crying is expected from the defendant while he/she testifies (1 = I am certain that the defendant will not cry; 5 = I am certain that the defendant will cry); B) how much emotion they expect the defendant to show while testifying (1 = I expect that the defendant will not show any emotion at all, 2 = I expect that the defendant's eyes will well up with tears, 3 = I expect that tears will stream down the defendant's face, and 4 = I expect that the defendant will be hysterically sobbing); C) to indicate the most amount of

emotion that the defendant should show if trying to make a good impression (1 = the defendant should not show any emotion at all while he/she testifies, 2 = the defendant's eyes should well up with tears while he/she testifies, 3 = the defendant's tears should stream down her check while he/she testifies, and 4 = the defendant should be hysterically sobbing while he/she testifies); D) if they were in the defendant's situation and were testifying at their own trial, how much do they think they would cry (1 = I imagine that I would not cry at all while I testify, 2 = I imagine that my eyes would well up with tears while I testify, 3 = I imagine that tears will stream down my cheeks while I testify, and 4 = I imagine that I will be hysterically sobbing while I testify); and E) to indicate to what degree they consider themselves to be an emotional person (1 = I am not at all emotional; 5 = I am an extremely emotional person). After answering the questionnaire, participants were debriefed.

RESULTS

A 2 (defendant guilt status: guilty, not guilty) x 2 (defendant/victim relationship: spouse, stranger) x 2 (defendant gender: male, female) ANOVA was conducted for each continuous variable unless otherwise specified (all variables are between-subjects). As before, only significant results will be presented.

Is Crying Expected From the Testifying Defendant?

Participants were more certain that the defendant would cry when a spouse was killed ($M = 3.58$, $SD = .96$) versus a stranger ($M = 2.80$, $SD = .99$), $F(1, 321) = 53.74$, $p < .0001$, partial $\eta^2 = .14$. Participants were also more certain that the female would cry ($M = 3.35$, $SD = 1.04$) than the male ($M = 3.05$, $SD = 1.04$), $F(1, 321) = 6.00$, $p < .02$, partial $\eta^2 = .02$.

How Much Emotion Do You Expect From a Testifying Defendant?

Participants expected more emotion from a defendant when a spouse died ($M = 2.52$, $SD = .79$—midway between expecting the defendant's eyes to well up with tears and expecting tears streaming down the defendant's face) versus a stranger ($M = 1.84$, $SD = .76$—between expecting no emotion at all and expecting the defendant's eyes to well up with tears), $F(1, 321) = 70.13$, $p < .0001$, partial $\eta^2 = .18$, and more emotion from a female ($M = 2.40$, $SD = .80$) than a male ($M = 1.97$, $SD = .85$), $F(1, 321) = 23.69$, $p < .0001$, partial $\eta^2 = .07$.

These effects were qualified by an interaction between defendant/victim relationship and defendant guilt status, $F(1, 321) = 5.95$, $p < .02$, partial $\eta^2 = .02$. The means showed the most variation when the defendant was not guilty of the crime with the most emotion expected when the spouse was killed ($M = 2.68$, $SD = .82$), and the least emotion when a stranger was killed ($M = 1.75$, $SD = .66$). When the defendant was guilty, more moderate levels of emotion were expected (spouse/guilty $M = 2.40$, $SD = .75$; stranger/guilty $M = 1.92$, $SD = .84$).

What is the Most Amount of Emotion That the Testifying Defendant Should Show?

Stronger emotional responses were recommended for those charged with killing a spouse ($M = 2.79$, $SD = .84$) versus a stranger ($M = 2.05$, $SD = .86$), $F(1, 321) = 62.84$, $p < .0001$, partial $\eta^2 = .16$.

If You Were in the Defendant's Situation, How Much Would You Cry?

Participants indicated that they would cry more when a spouse was the victim ($M = 2.97$, $SD = .96$) rather than a stranger ($M = 2.26$, $SD = 1.08$), $F(1, 321) = 43.01$, $p < .0001$, partial $\eta^2 = .12$. There was also an interaction between the defendant/victim relationship and the defendant's guilt status, $F(1, 321) = 11.58$, $p < .001$, partial $\eta^2 = .04$. The most variation was found when the respondents were picturing themselves as not guilty of murder. When wrongly accused of killing their spouse, participants thought that they would cry far more ($M = 3.14$, $SD = .88$) than if wrongly accused of killing a stranger ($M = 2.02$, $SD = .99$). Thinking of themselves as guilty of a crime led to more moderate expectations (spouse/guilty $M = 2.83$, $SD = 1.00$; stranger/guilty $M = 2.48$ $SD = 1.12$).

Do you consider yourself to be an emotional person?

To evaluate whether the participants' level of emotionality had an influence on judgments, two series of general linear models were run using a two-step hierarchal process (Cohen & Cohen, 1983). As a first step, participant emotionality was added to the 2 x 2 x 2 ANOVA; all main effects and all possible interactions were included. The next model dropped all non-significant interactions with emotionality and was evaluated.

When we included the participants' emotionality in the analysis of "is crying expected from a defendant," we found a main effect of participant emotionality, $F(1, 319) = 9.22$, $p < .003$, partial $\eta^2 = .12$. In order to understand this main effect, we examined the beta weight for this variable in the general linear model; the beta weight ($\beta = .17$) indicates that as participant emotionality increases, participants are more certain that the defendant will cry. The main effect of defendant gender continued to be significant, $F(1, 319) = 5.07$, $p < .03$, partial $\eta^2 = .07$. The main effect of defendant/victim relationship also continued to be a significant influence on decisions, $F(1, 319) = 46.83$, $p < .0001$, partial $\eta^2 = .60$. With the addition of participant emotionality, guilt status becomes a significant influence on decisions regarding whether the defendant is expected to cry, $F(1, 319) = 5.39$, $p < .03$, partial $\eta^2 = .07$. This main effect was qualified by an interaction between participant emotionality and defendant guilt status, $F(1, 319) = 5.84$, $p < .02$, partial $\eta^2 = .07$. To better understand this effect one can examine the expected values for each of the defendant's guilt status levels separately using the regression weight of the participants' emotionality as a predictor of "is crying expected from a defendant" (Figure 1). In general those with higher as opposed to lower levels of self-rated emotionality were more certain that the defendant would cry. This is moderated by defendant's guilt status. Those with higher levels of self-rated emotionality were more certain that the guilty defendant would cry rather than the defendant who was not guilty, whereas those with lower levels of self-rated emotionality expected the opposite (i.e., they were more certain that the defendant who was not guilty would cry than the defendant who was guilty).
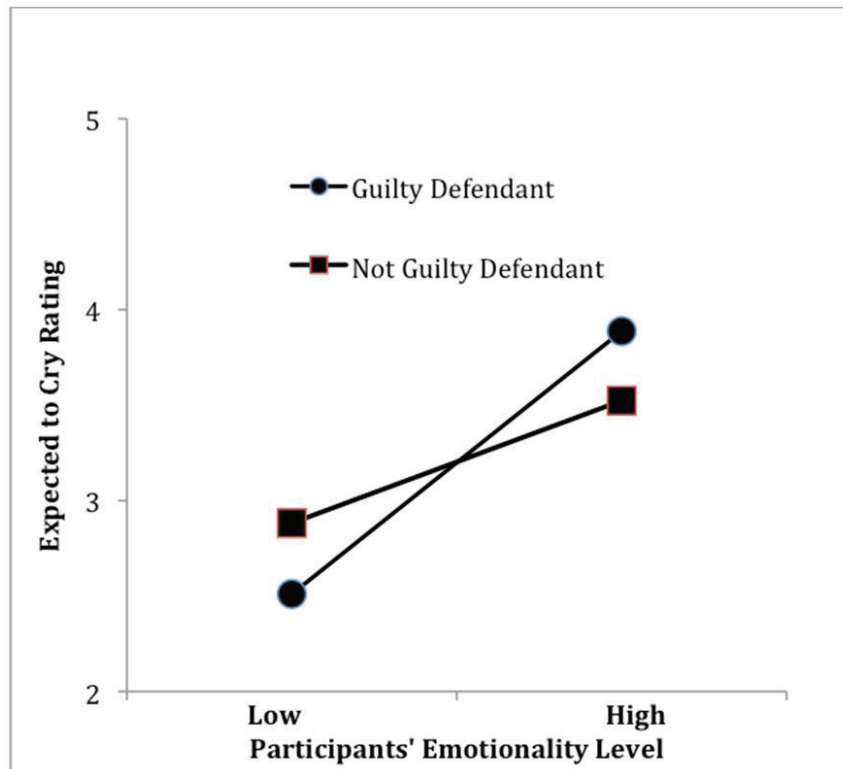
Figure 1. Expected values at + 2 standard deviations. Those who considered themselves more versus less emotional were more certain that the defendant would cry. In addition, those who saw themselves as more emotional were more certain that the guilty defendant would cry, while those who saw themselves as less emotional were more certain that the innocent defendant would cry.

When we included the participants' emotionality in the analysis of "how much emotion do you expect from a testifying defendant," we found a main effect of participant emotionality, $F (1, 320) = 5.42, p < .03$, partial $\eta^2 = .06$. In order to understand this main effect, we examined the beta weight for this variable in the general linear model (ß = .12); as above, this beta weight indicates that as participant emotionality increases, participants expect more crying from the defendant. We also found a main effect of defendant gender, $F (1, 320) = 22.56, p < .0001$, partial $\eta^2 = .23$, a main effect of defendant/victim relationship, $F (1, 320) = 60.79, p < .0001$, partial $\eta^2 = .63$, and an interaction between defendant/victim relationship x guilt status, $F (1, 320) = 5.44, p < .03$ partial $\eta^2 = .06$ (i.e., all of our original findings are intact). Thus even though our participants' emotionality influences how much emotion they expect from a testifying defendant, it doesn't affect any of the original findings. The amount of emotion expected from a defendant as a function of defendant gender, the defendant/victim relationship and the interaction of that relationship with varying guilt status is robust, regardless of how emotional the observer considers himself or herself to be.

DISCUSSION

Participants did anticipate differences in crying behavior. As expected, they anticipated that defendants would cry more when a spouse versus a stranger had been killed, and the defendant was not guilty of committing that murder. Participants also acknowledged that the defendant/victim relationship was important when asked what is the most emotion a defendant should show in order to make a good impression. Stronger emotional responses were recommended for those who were on trial for killing a spouse rather than a stranger. These results are congruent with our previous results in which participants expected more sadness when the testifying defendant was charged with killing her spouse rather than a stranger.

As hypothesized, the defendant's gender also affected expectations. Participants were more certain the female rather than the male defendant would cry while testifying and thought that the female defendant would cry more than the male defendant. These results are in line with research that has found that females are more likely to cry than males (Hess et al., 2000).

When participants were asked how much emotion they expect from a testifying defendant, their responses indicated that, similar to that seen in the previous two studies, participants expected the most emotion when the defendant was wrongly accused of killing her spouse, and the least emotion when the defendant was wrongly accused of killing a stranger. Interestingly, the same pattern of results was obtained when participants were asked how much they would cry if they were in the defendant's situation. This is an indication that participants expect of others what they expect from themselves.

Participants' self-rated level of emotionality also affected other decisions. Generally speaking, the more emotional participants saw themselves, the more certain they were that the defendant would cry while testifying and the more they expected the defendant to cry. Again this evidence suggests that people use themselves as a reference point for their expectations. In addition, guilt status influenced decisions when participants were asked whether crying is expected from the defendant. Those who saw themselves as more emotional were more certain that the guilty defendant would cry, while those who saw themselves as less emotional were more certain that the innocent defendant would cry.

GENERAL DISCUSSION

There is a consensus, across the three studies, that more emotion is expected from a testifying defendant who has been charged with murdering a spouse versus a stranger. This finding was most robust with regard to sadness. In fact, across all studies, the most sadness was expected when the defendant was not guilty of killing her husband. When a stranger was the victim however, participants did not expect as much emotion, although they tended to expect lower levels of sadness to be displayed than actually felt. These differences in expectations were found when participants had the opportunity to consider directly their perceptions of those charged with killing strangers versus spouses, and when they were pre-

sented with just one defendant to consider. Thus this distinction of stranger versus spouse appears to be important to those making decisions regarding defendants. Would these expectations extend to other kinds of familial relationships? Anecdotal evidence suggests that it would. Gary Gauger, Peter Reilly, Michael Crowe, Melvin Nimer, Richard LaPointe were all accused of killing family members *other than spouses,* and all were cited as having "inappropriate emotion." The expectations of those making judgments in these cases were possibly violated; the consequences were severe. All were charged with crimes they did not commit. Empirical investigation of the parameters of this expectancy violation is warranted.

We also found evidence that participants' level of emotionality is important in that persons with higher rather than lower self-reported emotionality are more certain that the defendant will cry and expected the defendant to cry more. Thus, it appears that participants are using themselves as a reference for what is to be expected. This could have implications for juror selection and decision-making as it implies that those who are more emotional will be more likely to expect emotion from a defendant. If that expectation is violated, resulting perceptions of the defendant will likely be less favorable. The case of Ronald Cotton, a man exonerated after more than 10 years in prison, may well be an illustration of this. After his rape trial concluded, one of the jurors indicated that Cotton's lack of emotion during the trial made him look guilty (Loeterman, 1997). Was this juror using her own level of emotionality as a guide? Should attorneys ask prospective jurors during *voir dire* to report on their level of emotionality if they have a defendant who is not likely to live up to expectations for emotionality?

Another way to think about the match between an observer's emotion and the emotion levels of the observed is to consider the research on implicit theories of emotion. Some believe that people have the ability to control their emotional experience ("incremental beliefs"), while others believe that one's emotional experience cannot be controlled ("entity beliefs") (Tamir, John, Srivastava, & Gross, 2007). If people differ in their beliefs for the malleability of the expression of emotion, it may be that those who think that emotions can be controlled would be most likely to expect certain emotional displays and punish more severely given a violation of these expectations. Researchers may wish to test for this directly.

Our respondents thought that the female defendant would show more emotion while testifying than the male, findings in line with that obtained from previous researchers investigating expectations for emotion in males versus females generally (Fabes & Martin, 1991). Thus when evaluating expectations for emotion in defendants, gender does seem to matter to observers. Future researchers may wish to consider whether expectations for emotional display might vary with other defendant characteristics. For example, Durik et al. (2006) found that expectations for emotional displays vary across ethnicities. A violation of these expectations or judging a defendant as if they belong to another group can potentially have repercussions for those being judged; future researchers may wish to investigate this possibility.

Limitations

Although the present research is similar to much of the work completed in psychology and law (e.g., mock jurors reading written trial summaries;Bornstein, 1999), it is reasonable to raise questions concerning the generalizability of these findings to the legal system. First, our sample for the first study was a group of jury-eligible undergraduates. While we can speculate that accessing the views of *jury-eligible* undergraduates as opposed to undergraduates in general is an improvement, Hosch et al. (2011) recently found differences in sentencing (although not in verdicts) between jury-eligible undergraduates and a sample recruited from the community's jury pool. In our second and third studies, we attempted to increase generalizability by accessing online samples of jury-eligible participants. Although testing online may not provide an ideal representation of the target population, the ability to test a more diverse population can increase the external validity of the work (Daftary-Kapur & Greathouse, 2011; Wiener et al., 2011).

The generalizability of this work also can be questioned because, in the first two studies, we presented a female charged with murder rather than a male. We chose a female offender primarily because of a general consensus for expectations for emotion in females (Lombardo, Cretser, Lombardo, & Mathis, 1983). However, choosing only a female defendant and a male victim limits our external validity. Males are far more likely to commit homicide than females (Cooper & Smith, 2011), and researchers have found that female defendants are treated with more leniency than males (Spohn & Beichner, 2000). In addition, defendants tend to be punished more severely when the victim is female rather than male (Mazzella & Feingold, 1994). In light of this information, and in light of the expectation for different levels of emotionality for males versus females (Ashby Plant et al., 2000), it is reasonable to question whether our results will hold for defendants and victims of both genders. Overall, the research suggests that all other things being equal, female rather than male defendants and those who kill males rather than females will be treated more leniently. However, our work suggests stronger expectations for the emotional display of females. Stronger expectations would likely mean stronger repercussions for violations, a finding that Salekin et al. (1995) supports.

Juror gender has also been shown to affect decisions, with females generally more likely to convict than males (Golding et al., 2003), although this finding mostly has been found in cases that "society finds to be of special interest to women, such as rape" (Benlevy, 2000, p. 448; Bottoms, Golding, Stevenson, Wiley, & Yozwiak, 2007). Homicide was the crime in the present research, and most of those making decisions here were females. One could speculate that if mostly males were deciding these cases, the results may indeed differ. Males tend to be less emotional than females (Lombardo et al., 1983); thus, based on the current results, they are likely to be less certain of the expectations for defendant emotion, and therefore less likely to perceive violations. Researchers may wish to consider directly how juror gender could impact the types of decisions made here.

Finally, the external validity of this work can be questioned because our study participants had an experience that lacks similarity to jurors' real experiences. Our participants read very short scenarios in which the defendant was definitively identified as being

guilty or innocent, and they made decisions that are not explicitly asked for under real-life circumstances. In addition, we asked participants questions about a defendant who was testifying, and defendants often don't testify [2] (Frank & Broschard, 2006). Finally, our participants made decisions individually as opposed to deliberating with others as jurors do. There is evidence to suggest that deliberation can change how one's emotional display is viewed. Specifically, Dahl, Enemo, Drevland, Wessel, Eilertsen and Magnussen (2007) found that the emotions shown by a testifying female rape victim affected individual jurors' judgments; however, the effects of this emotion variation disappeared when jury members deliberated. It remains to be seen if perceptions of defendant emotion would be similarly affected. All of these differences between the real juror experience and our respondents' experience can limit the generalizability of our results. The simplicity of our presentation materials was purposeful as we wanted to know, on a basic level, what emotions are expected from defendants. Future researchers may wish to investigate expectations for defendant emotion in a more externally-valid context.

Implications

As Ekman (1993) noted, "not every event calls forth an emotion, nor does an event call forth the same emotion across individuals" (p. 385). Ekman's statement is relevant to the issue of expectations for defendant emotion. We've shown here that there is some agreement for the emotion expected in one charged with murder, especially with regard to sadness. The problem is that, in reality, there is variation in emotional responding. For example, some rape victims are extremely emotional immediately after the attack while others are not (Burgess & Holmstrom, 1974). As a result, there is now a growing contingent of researchers (Bollingmo, Wessel, Sandvold, Eilertsen and Magnussen, 2009; Kaufmann et al., 2003; Klippenstine & Schuller, 2012; Wessel et al., 2006) that acknowledge that a variety of reactions should be considered "normal" for rape victims. These researchers claim that, for victims, as we claim for defendants, expecting a particular emotion can lead to erroneous credibility judgments. Varied emotional displays have also been documented for child victims testifying in a child sexual abuse trial (Goodman et al., 1992) and for those experiencing grief in general (Zisook & Shuchter, 1985). When explaining the noted variation of grief reactions, DeVaul, Zisook, and Faschingbauer (1979) cite factors that included "the bereaved's psychosocial and cultural backgrounds,..personality,…the nature of the bereaved's relationship with the deceased and the existing social support network" as possible reasons for individual differences in grief experience" (p. 393). Couldn't the same reasoning be used to explain the different emotional reactions among defendants? Given the varied background, personality, and situational influences, why should we expect anything but a variety of responses for the emotions of one accused of a crime? Thus, what Wessel et al. (2006) noted with regard to victim emotion appears to be relevant for defendant emotion: "stereotypic beliefs about the proper behavior among the players in the court are a potential danger to justice" (p. 222).

Given the above information, the potential implications of this research are clear. People have expectations for the emotional display of defendants. A violation of these expectations can occur with resulting repercussions for decisions made on behalf of the

defendant. In light of this, a reasonable next step would be to determine if it is possible to alleviate the problem of inappropriately judging from emotional displays by providing instructions to decision-makers. A similar idea has been investigated with regard to victims. Ask (2010) found that prosecutors and police officers who had taken part in special training regarding victims' reactions to crime were less likely to consider the victim's nonverbal behavior as an indicator of credibility. Similarly, Bollingmo et al. (2009) found that instructions asking observers to avoid using a rape victim's emotional display as an indicator of her credibility served to weaken the relationship between emotional display and perceptions of victim credibility (credibility of the victim was positively correlated with defendant guilt). Future researchers may wish to consider whether similar instructions could affect views of the relationship between defendant emotion and credibility/guilt.

Conclusion

We have determined that there is general agreement regarding the expectations for emotion displayed by a defendant, particularly with regard to sadness, with clear expectations when a spouse versus a stranger is killed. If there are expectations, then there are potentially repercussions for violations to those expectations. While there is little doubt that more goes into legal decisions than just perceived judgments of defendant emotion, recall that there have been cases in which an innocent person charged with a crime has been cited as not showing emotions as expected. Those working within the legal system (e.g., jurors) need to be informed that although they may expect to see particular emotional displays, defendants may display a variety of emotional reactions in reaction to the situation at hand. Quite simply, demeanor information is not the reliable source of information that the legal system claims it to be.

ENDNOTES

[1] While many considering how emotional victims and/or defendants are viewed have cited Bond et al.'s (1992) expectancy violation theory as a basis for hypotheses (Ask & Landström, 2010; Bollingmo et al., 2009 Hackett et al., 2008; Heath et al., 2004; Salekin et al., 1995), there are concerns regarding the use of this theory, or at least Bond et al.'s test of the theory. As Levine et al. (2000) point out, Bond et al. (1992) used very unusual nonverbal behaviors (e.g., raising a shoulder to the ear) to test the theory that the presence of nonverbal behavior that violates norms would lead one to conclude that a person was being deceptive. Given that the behaviors that Bond et al. used were far more bizarre than that used by the other authors noted above, it is reasonable to question the external validity of Bond et al.'s (1992) results as Levine et al. (2000) have. Furthermore, Levine et al. (2000) point out that Bond et al. (1992) confounded norms and expectations (i.e., you can expect something from someone even though it is not what a norm would dictate). When Levine et al. (2000) tested violations of norms and expectations separately, a *norm* violation model was a better fit of the data. In the present article, we will refer to *expectancy* violations even though expectations for a defendant's emotional expression may well be normative driven. Our position here is that if what you expect (e.g., a certain level of emotional expressivity) does not occur, then your expectations have been violated, and perceptions of the defendant will be less favorable.

[2] It is worth noting that even if defendants do not testify, observers in the courtroom likely will have expectations regarding their emotional display.

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