

## Measurement of Empathy Toward Rape Victims and Rapists

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The purpose of the present study was the construction of the Rape Empathy Scale (RES), designed to measure subjects' empathy toward the rape victim and the rapist in a heterosexual rape situation. The results of psychometric analyses of reliability for both a student and juror sample are presented, in addition to evidence of cross-validation on separate student and juror samples. Significant differences between male and female subjects' RES scores were found, as well as differences between scores of women who had experienced a rape situation (rape victims and rape resisters) and women with no previous exposure to rape. RES scores were predictive of both students' and jurors' ratings of defendant guilt, as well as their recommended sentences for the defendant and their attributions of responsibility for the crime. Furthermore, subjects' RES scores were predictive of their social perceptions of the rape victim and defendant, and male jurors' RES scores were negatively correlated with their reported desire to rape a woman. The results are discussed in relation to the low conviction rate for sexual assault cases and the importance of juror selection as a vehicle for increasing the number of just convictions in rape cases.

The importance of extraevidential factors in rape cases has been well documented. Representative studies have assessed the influence of a rape victim's respectability (Feldman-Summers & Lindner, 1976; Fulero & DeLara, 1976; Kahn et al., 1977; Kerr & Kurtz, 1977; Luginbuhl & Mullin, 1981), social role (Smith, Keating, Hester, & Mitchell, 1976), and physical attractiveness (Calhoun, Selby, Cann, & Keller, 1978; Deitz, 1980; Deitz, Littman, & Bentley, in press; Seligman, Brickman, & Koulack, 1977; Thornton, 1977) on mock jurors' decisions in rape cases. Other studies have investigated the influence of defendant characteristics, including his respectability (Kahn et al., 1977), social attractiveness (Feild &

Barnett, 1978), physical attractiveness (Deitz, 1980; Deitz & Byrnes, 1981; Feild, 1979), occupation (Deitz & Byrnes, 1981), and race (Feild & Barnett, 1978).

Few investigations, however, have addressed the importance of observer (juror) characteristics in determining the outcome of rape trials. Such studies have examined the influence of subjects' attitudes toward rape (Feild, 1978b), attitudes toward feminism (Krulowitz & Payne, 1978), belief in a just world (Kerr & Kurtz, 1977), status as students or nonstudents (Feild & Barnett, 1978), likelihood of identifying with the victim or defendant (Kaplan & Miller, 1978), and gender (Calhoun, Selby, & Warring, 1976; Fulero & DeLara, 1976; Kerr & Kurtz, 1977; Rumsey & Rumsey, 1977; Selby, Calhoun, & Brock, 1977; Seligman et al., 1977; Smith et al., 1976). With the exception of observer sex, investigations of which have produced conflicting findings, the influence of observer characteristics on perceptions of rape victims and defendants has received little attention (Feild, 1978b).

Consistent with the lack of attention to juror characteristics has been the absence of appropriate instrumentation to assess juror bias in rape cases. With the exception of the Rape Myth Acceptance Scale (RMA; Burt,

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1980) and the Attitudes Toward Rape Questionnaire (ATR; Barnett & Feild, 1977; Feild, 1978a), scales in this area have been nonexistent. Although both instruments have been used to generate interesting data, they are limited in several important respects.

The RMA (Burt, 1980) consists of 19 statements designed to tap acceptance of rape myths. Subjects indicate, on 7-point scales, their agreement or disagreement with each statement. The internal consistency of the RMA, as reflected by Cronbach's alpha, is high ( $\alpha = .875$ ) and the concurrent validity data are impressive. Burt (1980) reported that acceptance of rape myths by a random sample of 598 Minnesota adults was associated with acceptance of interpersonal violence, sex-role stereotyping, and distrust of the opposite sex. However, in focusing on the *antecedents* of rape myth acceptance, Burt (1980) did not address the potential *predictive* validity of the scale. As such, the role of the RMA in assessing juror bias remains to be demonstrated.

The ATR is composed of 32 statements that reflect societal attitudes toward rape, and subjects indicate their agreement or disagreement with each statement on 6-point scales. Feild (1978a; Feild & Bienen, 1980), arguing that attitudes toward rape are multidimensional, reported that the ATR consists of eight separate factors with a mean estimated factor reliability of .62. No additional reliability data have been reported. Of the eight derived ATR factors, only five can be scored to indicate pro- or anti-rape attitudes, and the eight factors account for only 50% of the total common variance (Feild, 1978a). Evidence for the predictive validity of the ATR is somewhat weak. Although Feild (1978b) reported that jurors' attitudes toward rape correlated with their recommended sentences for the defendant in a rape case, he noted that the correlations were neither cross-validated nor replicated and thus are subject to shrinkage (1978b, pp. 87-88). Moreover, Feild's choice of sentencing as the sole dependent variable in his research did not focus adequately on standard legal procedures. Although Feild (1978b, 1979) collected data on jurors' assessments of defendant guilt *and* their recommended sentences, he reported only the

sentences jurors assigned to the defendant, arguing that sentencing was a "more sensitive measure of their decision than . . . verdicts of guilt or innocence" (Feild, 1978b, p. 82). Relying solely on the sentencing variable ignores the fact that jurors are usually charged with determining the *guilt* of the defendant, whereas sentencing, within statutory limits, is typically a task left to the judge. Thus, jurors' assessments of guilt, attributions of responsibility, and social perceptions of rape victims and defendants would reflect more accurately the mundane realism of the courtroom than measures of sentencing alone.

Finally, the single statement format of both the ATR and RMA does not reflect the adversarial process by which information is presented to real jurors. In actual rape trials, jurors are presented with not one, but at least *two* perspectives of each aspect of a rape incident (i.e., the perspectives of both the rape victim and the defendant). As such, a scale specifically designed to assess *empathy* for the rape victim, as well as the defendant, might represent more adequately the complex manner in which information is presented to jurors.

Historically, empathy has been defined in one of two major ways: as the ability to assume another person's point of view (e.g., Dymond, 1950; Regan & Totten, 1975; Sulzer & Burglass, 1968) and as a vicarious affective reaction to the perceived emotional experience of another (e.g., Adelman & Berkowitz, 1970; Clore & Jeffrey, 1972; Stotland, 1969). Clark (1980, p. 187), defining empathy as "that unique capacity of the human being to feel the experiences, needs, aspirations, frustrations, sorrows, joys, anxieties, hurt, or hunger of others as if they were his or her own," declared that empathy has been a neglected topic in psychological research. In particular, he noted that few studies have addressed the fundamental aspects of the nature and determinants of empathy, including the importance of empathy and individual differences. Recent representative research on the empathy construct has focused on the antecedents of empathy (Barnett, Howard, King, & Dino, 1980; Roe, 1980), the relationship between empathy and altruistic or prosocial behavior (Batson,

Duncan, Ackerman, Buckley, & Birch, 1981; Coke, Batson, & McDavis, 1978; Krebs, 1975) and the relationship between observational set and empathy (Aderman & Berkowitz, 1970; Aderman, Brehm, & Katz, 1974).

As early as 1968, Sulzer and Burglass suggested that an observer's ability to empathize with an actor may influence the observer's attributions of responsibility for negative outcomes that befall the actor. They reasoned that a highly empathic observer would be able to assume the actor's perspective and thus would be aware of the importance of situational, as opposed to dispositional, determinants of an event. Applying this reasoning to juror decision making, defense attorneys often view the creation of an empathic response set as crucial to their case (Cohen, 1961) and may ask jurors to consider the case from the point of view of the defendant (Belli, 1956). However, Archer, Foushee, Davis, and Aderman (1979) pointed out that jurors are typically presented with empathy-inhibiting instructions that focus their attention on the facts of a case and away from their emotional reactions during the trial. Investigating the influence of emotional empathy appeals by defense counsel and judge's instructions on mock jurors' attributions of responsibility and guilt decisions, Archer et al. (1979) reported that subjects in an empathy-appeal condition rated the defendant's actions as more lawful and attributed less responsibility for a crime to his personality than did subjects in the nonempathy condition but only in the absence of fact-focused judge's instructions. In a second experiment, Archer et al. (1979) explored the relationship between individual differences in subjects' empathy (as assessed by scores on Mehrabian and Epstein's [1972] scale) and their attributions of responsibility for a crime. Their results revealed that high-empathy subjects hearing an empathy-inducing appeal perceived the defendant as less guilty and attributed less responsibility to him for a stabbing incident than did low-empathy subjects. The potential applicability of empathy research to juror decision making was thus demonstrated. However, the role of specific

juror empathy in rape cases remains to be investigated.

### Study 1

The purpose of Study 1 was to construct and investigate the reliability of the Rape Empathy Scale (RES), designed to assess jurors' empathy toward both the rape victim and assailant in a rape case. For the purposes of this study, rape empathy was defined as the relative tendency for subjects to assume the psychological perspective of the rape victim or the rapist in viewing a rape incident.

### Method

#### *Item Selection*

Based on an extensive review of the literature concerning societal attitudes and myths associated with rape (e.g., Brownmiller, 1975; Gager & Schurr, 1976; MacKellar, 1975; Schwendinger & Schwendinger, 1974), statements that reflected empathy toward both rapists and rape victims were identified. To parallel the adversarial presentation of evidence by opposing attorneys, 20 paired statements were constructed, with each statement representing extreme empathy with either the rape victim or the rapist. The 20 initial RES items are presented in Table 1. The order of presentation of items and the order of statements within each item were randomly assigned.

Subjects were instructed to choose the statement from each item that they preferred and to indicate their degree of preference for one statement over the other (ranging from strong preference for a statement to no preference for one statement or the other). Responses were coded on 7-point Likert scales so that an item score of 1 indicated strong empathy for the rapist and 7 indicated strong empathy for the rape victim. To provide a test situation analogous to that experienced by a juror, the RES included a neutral midpoint at which a subject could indicate equal empathy with the victim and rapist on any particular item of evidence.

#### *Subjects*

The RES was first administered to 255 male and 384 female undergraduates enrolled in lower-division psychology courses at Colorado State University. All student subjects received course credit in exchange for their participation in the study. In addition, the RES was administered by mail to 130 male and 130 female citizens from Larimer County, Colorado, who were randomly selected from jury lists at the time of the study. Of the 260 juror subjects, 170 ( $n = 72$  males and 98 females) returned usable questionnaires within an 8-week period, representing a return rate of 65.4%.

#### *Item Analysis and Reliability*

Item-total correlations for the RES were calculated for each of the subject groups. Estimates of internal

Table 1  
*The Rape Empathy Scale*

Item
1. *a) I feel that the situation in which a man compels a woman to submit to sexual intercourse against her will is an unjustifiable act under any circumstances. b) I feel that the situation in which a man compels a woman to submit to sexual intercourse against her will is a justifiable act under certain circumstances.
2. a) In deciding the matter of guilt or innocence in a rape case, it is more important to know about the past sexual activity of the alleged rape victim than the past sexual activity of the alleged rapist. *b) It is more important to know about the past sexual activity of the alleged rapist than the past sexual activity of the alleged rape victim in deciding the matter of guilt or innocence in a rape case.
3. a) In general, I feel that rape is an act that is provoked by the rape victim. *b) In general, I feel that rape is an act that is not provoked by the rape victim.
4. a) I would find it easier to imagine how a rapist might feel during an actual rape than how a rape victim might feel. *b) I would find it easier to imagine how a rape victim might feel during an actual rape than how a rapist might feel.
5. a) Under certain circumstances, I can understand why a man would use force to obtain sexual relations with a woman. *b) I cannot understand why a man would use force to obtain sexual relations with a woman under any circumstances.
6. *a) In a court of law, I feel that the rapist must be held accountable for his behavior during the rape. b) In a court of law, I feel that the rape victim must be held accountable for her behavior during the rape.
7. a) When a woman dresses in a sexually attractive way, she must be willing to accept the consequences of her behavior, whatever they are, since she is signaling her interest in having sexual relations. *b) A woman has the right to dress in a sexually attractive way whether she is really interested in having sexual relations or not.
8. a) I would find it easier to empathize with the shame and humiliation a rapist might feel during a trial for rape than with the feelings a rape victim might have during the trial. *b) I would find it easier to empathize with the shame and humiliation a rape victim might feel during a trial to prove rape than with the feelings a rapist might have during the trial.
9. a) If a man rapes a sexually active woman, he would probably be justified in his actions by the fact that she chooses to have sexual relations with other men. *b) If a man rapes a sexually active woman, his actions would not be justified by the fact that she chooses to have sexual relations with other men.
10. a) I believe that all women secretly want to be raped. *b) I don't believe that any women secretly want to be raped.
11. a) In deciding whether a rape has occurred or not, the burden of proof should rest with the woman, who must prove that a rape has actually occurred. *b) In deciding whether a rape has occurred or not, the burden of proof should rest with the man, who must prove that a rape has not actually occurred.
12. *a) I believe that it is impossible for a rape victim to enjoy being raped. b) I believe that it is possible for a rape victim to enjoy the experience of being raped, whether she admits it or not.
13. a) I can really empathize with the helplessness a rapist might feel during a rape, since he's at the mercy of forces beyond his control. *b) I can really empathize with the helplessness a victim might feel during a rape if all of her attempts to resist the rape have failed.
14. *a) After a rape has occurred, I think the woman would suffer more emotional torment in dealing with the police than the man would. b) After a rape has occurred, I think the man would suffer more emotional torment in dealing with the police than the woman would.

(table continued)

Table 1 (continued)

Item
15. a) If a rape were interrupted, I think the victim would feel more embarrassment than the rapist. b) If a rape were interrupted, I think the rapist would feel more embarrassment than the rape victim.
16. a) I feel it is impossible for a man to rape a woman unless she is willing. *b) I feel it is possible for a man to rape a woman against her will.
17. *a) If a rape trial were publicized in the press, I feel the rape victim would suffer more emotional trauma from the publicity than the rapist. b) If a rape trial were publicized in the press, I feel the rapist would suffer more emotional trauma from the publicity than the rape victim.
18. a) Once a couple has had sexual intercourse, then that issue is resolved and it is no longer possible for that man to rape that woman. *b) Even if a couple has had sexual intercourse before, if the man forces the woman to have sexual intercourse with him against her will, this should be considered rape.
19. *a) I can understand a wife's humiliation and anger if her husband forced her to have sexual relations with him. b) A husband has every right to determine when sexual relations with his wife occur, even if it means forcing her to have sex with him.
20. *a) If I were a member of the jury in a rape trial, I would probably be more likely to believe the woman's testimony than the man's, since it takes a lot of courage on the woman's part to accuse the man of rape. b) If I were a member of the jury in a rape trial, I would probably be more likely to believe the man's testimony than the woman's, since rape is a charge that is difficult to defend against, even if the man is innocent.

*Note.* Item 15 was eliminated from the final version of the scale. An asterisk denotes the victim-empathic statement within each item.

consistency, utilizing coefficient alpha, were then computed separately for both groups.

## Results

### Item Analysis

Item-total correlations, calculated separately for jurors and students, revealed that, with the exception of Item 15, all RES items should be retained in the final version of the scale. Further inspection of this item indicated that it was ambiguous and it was eliminated from all further analyses. Item-total correlations for the remaining 19 RES items ranged from .33 to .75 for jurors and from .18 to .52 for students.

### Reliability

Coefficient alpha for the final 19 RES items was calculated separately for each of the subject groups and for males and females within each group. For the 170 jurors,  $\alpha = .89$  (.89 for females; .85 for males). For the

639 students,  $\alpha = .84$  (.84 for females; .82 for males). Thus, the results demonstrated the internal consistency of the RES to be acceptable and not dependent on sex differences as a major source of item homogeneity.

### Study 2

Study 2 was designed to investigate the empirical, convergent, and discriminant validity of the RES. Additionally, in response to Burt's (1980) criticism that most rape research has been atheoretical, the authors investigated the predictive validity of the scale within the framework of attribution theory.

Two attribution theory positions, exemplified by the work of Jones and Nisbett (1971, 1972) and Lerner (1970; Lerner & Miller, 1978; Lerner, Miller, & Holmes, 1976), suggest reasons why jurors often respond with callousness and hostility toward rape victims (Wood, 1975). Jones and Nisbett (1972) asserted that "there is a perva-

sive tendency for actors to attribute their actions to situational requirements [of an event], whereas observers tend to attribute the same actions to [the actor's] stable personal dispositions" (p. 80). Jones and Nisbett also noted, however, that when observers *empathize* with actors, a decrease in dispositional attributions and a corresponding increase in situational ones may result. According to the actor-observer model, jurors may respond judgmentally toward rape victims either because (a) they are functioning as rational observers whose literal perspective of the rape incident emphasizes the salience of the victim's behavior or (b) they are unable or unwilling to empathize with sexual assault victims. Support for the actor-observer hypothesis has been provided in a variety of experimental settings (e.g., Gurwitz & Panciera, 1975; Jones, Rock, Shaver, Goethals, & Ward, 1968; McArthur, 1972; Nisbett, Caputo, Legant, & Maracek, 1973; Schlenker, Bonoma, & Forsyth, 1977) and in a series of studies in which the actor-observer perspective was manipulated experimentally. These ingenious experiments indicated that when observers assumed the actor's visual perspective of an event, they tended to attribute relatively greater responsibility for the actor's behavior to situational determinants of the incident (Arkin & Duval, 1975; Duval & Wicklund, 1973; Storms, 1973; Taylor & Fiske, 1975). Moreover, Regan and Totten (1975) reported empirical evidence of the moderating role of empathy in the attribution process.

Investigations by Lerner (1970; Lerner & Matthews, 1967; Lerner & Simmons, 1966) resulted in a second attribution model, termed the *just world hypothesis*. According to Lerner and his colleagues, when observers witness a victim's apparently undeserved suffering, their belief in an orderly and just world is threatened. Motivated by self-protection, observers will attempt to reaffirm their belief in a just world to avoid the realization that a similar random negative event could befall them. Lerner reasoned that restoration of belief in a just world can be accomplished by either (a) eliminating a victim's suffering or compensating the victim or (b) derogating the victim by rationalizing that the victim deserved to suffer.

Rape jurors, incapable of eliminating a rape victim's suffering, might have no alternative but to blame the rape victim for her plight. Lerner and Miller (1978), in a review of the just world literature, argued that the tendency for observers to derogate an innocent victim is a robust phenomenon. However, when observers expect to be in a situation similar to that of the victim, Lerner and Miller noted that empathy for the victim, rather than victim derogation, may emerge. Lerner and Miller (1978) predicted that when observers empathize with victims, they will focus their attention more on the situational determinants of the victim's suffering than on the victim's personal characteristics. The moderating role of empathy-inducing instructions in victim derogation was demonstrated by Aderman et al. (1974).

The following hypotheses were tested to explore the empirical validity of the RES (i.e., the extent to which subjects expected to vary on this measure obtained significantly different scores). First, it was predicted that female subjects would obtain higher RES scores, indicating greater empathy for a rape victim, than would males. This prediction was based on the assertion that women are more likely to be victimized by rape than are men (see Griffin, 1971). Further, it was hypothesized that female subjects who reported prior exposure to rape (rape victims and women who had successfully resisted rape) would obtain higher RES scores than women who had never been exposed directly to rape.

To investigate the convergent validity of the RES, Study 2 was further designed to explore the relationship between societal attitudes and empathy for rape victims. Green (Note 1) reported that the RES scores of 119 college students were negatively correlated with Factors 1, 2, 4, 5, and 6 of the ATR (Women's Responsibility for Rape Prevention, Sex as Motivation for Rape, Victim Precipitation of Rape, Normality of Rapists, and Power as Motivation for Rape, respectively; Feild, 1978a). Correlations ranged from  $r = -.20$  for Factor 6 to  $r = -.59$  for Factor 1. RES scores were positively correlated with students' scores on Factors 3 (Severe Punishment for Rape;  $r = .16$ ) and 7 (Favorable Perception of a

Woman After Rape;  $r = .31$ ). Russell (1975) argued that traditional sex-role socialization contributes to the objectification of women and provides the background for attitudes that promote and foster rape in our society. To further test the convergent validity of the RES, it was hypothesized that higher RES scores would be associated with less stereotypical, less traditional attitudes toward the role of women in our society than would lower RES scores. Thus, subjects who scored high on the RES were expected to obtain high scores on the short form of the Attitudes Toward Women Scale (AWS; Spence, Helmreich, & Stapp, 1973). Moreover, high-scoring RES subjects were also expected to exhibit greater support for the enactment of a marital rape law in Colorado, greater support for the women's movement in general, and greater support for the Equal Rights Amendment than were low-scoring subjects. Similarly, it was predicted that male subjects who scored low on the RES would express greater personal desire to rape a woman than would male subjects who empathized more with the rape victim.

To explore the discriminant validity of the RES, it was hypothesized that subjects' RES scores would be better predictors of their attributions of responsibility for a rape incident than would their scores on the AWS and that subjects' RES scores would not correlate significantly with their scores on the Marlowe-Crowne Social Desirability Scale (Crowne & Marlowe, 1964). The latter hypothesis was formulated to insure that the RES assessed empathy specific to a rape situation and was not confounded by the tendency for subjects to respond with socially desirable empathy toward rape victims.

Finally, to investigate the predictive validity of the RES, it was hypothesized that subjects who scored high on the RES (indicating greater empathy for rape victims) would assume the victim's perspective of a rape incident to a greater extent than would subjects scoring lower on the RES (indicating relatively greater empathy for rapists). Thus, high-scoring subjects were expected to attribute greater responsibility for a rape incident to the defendant and less responsibility to the victim than were low-scoring subjects. Further, it was hypothesized that

high RES scores would be associated with harsher penalties for the defendant in a hypothetical rape case, greater certainty about his guilt, greater identification with and more positive feelings toward the rape victim, less identification with and less positive feelings toward the defendant, and greater attribution of causality for the event to chance. Moreover, it was hypothesized that subjects who scored high on the RES would view the victim as less likely to have done something to encourage the rape, would rate the psychological impact of the rape for the victim as greater, and would perceive rape to be a more serious crime than would low-scoring subjects.

## Method

### Subjects

Three groups of subjects participated in Study 2. Group 1 consisted of 66 female and 50 male undergraduates enrolled in lower-division psychology courses at Colorado State University who participated in the empirical and discriminant validity portion of the study. Group 2 included 93 male and 97 female undergraduates who were primarily involved in the predictive validity phase of the study. All students received credit toward a course requirement in exchange for their participation in the research.

Group 3 consisted of 190 male and 190 female residents of Larimer County, Colorado, who were randomly selected from lists of eligible jurors. Of the 380 juror subjects who were mailed questionnaires, 77 had moved and could not be contacted. Of the 303 remaining subjects, 199 (65.7%) returned completed questionnaires within 8 weeks of receiving them. An additional 13 subjects were eliminated from this sample prior to statistical analyses, due either to missing data or failure to follow directions. The final juror sample included 82 males and 104 females with the following characteristics: middle-aged ( $M = 41.42$  years), Caucasian (95%), middle-class (average annual family income of \$23,305) citizens with a mean educational level of 14.4 years (completion of two years of college). These subjects were employed in a wide variety of occupations ranging from janitor and truck driver to physician and attorney.

### Procedure

Subjects in Groups 1 and 2 were tested in separate experimental sessions, whereas juror subjects received all questionnaires by mail. All student subjects were tested by a male and a female experimenter (both psychology graduate students) who shared equally in all aspects of the experiment, including scale administration, presentation of verbal instructions, and provision of debriefing information.

Group 1 subjects completed the RES, the short form of the AWS (Spence et al., 1973), and the Marlowe-

Crowne Social Desirability Scale (Crowne & Marlowe, 1964), administered in randomized order. Female subjects in this sample were also asked to indicate if they had ever been raped and if they had ever escaped from a situation in which they believed they would have been raped had they not escaped. To insure honest responding to these sensitive questions, the experimenters stressed the anonymity and confidentiality of subjects' responses.

Group 2 and 3 subjects received packets containing the following: the RES and the AWS (in randomized order), a written description of a hypothetical rape case, and the Rape Responsibility Questionnaire (RRQ; Deitz & Byrnes, 1981). The rape case description was similar to that developed by Jones and Aronson (1973) and included a one-page description of the rape incident, as well as a police description of the rape victim and defendant. Subjects were informed that a rape had occurred on the campus of Colorado State University, after Nancy Marshall (a 5'4", 125-pound, 20-year old Caucasian female) left a night class and walked to her car, parked in a nearby parking lot. The defendant, Roger Carlson, was described as a 25-year old Caucasian male, 5'10", weighing 175 pounds. Subjects were told that the victim had been stripped and raped less than a block from her car and that a passerby had phoned the police, who arrived within minutes after the completed assault. All evidence leading to the arrest of the defendant was circumstantial, to allow for individual differences in response to the ambiguous case to emerge. Subjects were informed that the case was brought to trial and decided by a jury of 12 Larimer County citizens. The subjects were asked to put themselves in the place of actual jurors hearing the case and to answer a series of questions about the incident. The RRQ consisted of 12 questions based on the rape case and included the following items (with anchor points in parentheses): the sentence subjects would impose for the defendant (in accordance with Colorado law, less than 1 year to greater than 40 years), the certainty subjects felt about the defendant's guilt ("not at all sure" to "very sure"), the degree of identification subjects felt with the rape victim and defendant ("none at all" to "very much") and the personal feelings that subjects had for both parties ("very negative" to "very positive"). Additional items assessed the degree of responsibility attributed to the defendant and victim ("not at all responsible" to "very responsible"), the extent to which the victim's involvement in the incident was due to chance ("not at all due to chance" to "totally due to chance"), the likelihood that the victim did something that encouraged the rape ("highly unlikely" to "highly likely"), the severity of the psychological impact of the rape for the victim ("not at all severe" to "very severe"), and the seriousness of the crime of rape ("not at all serious" to "very serious"). All items were scored on 11-point Likert scales.

In addition, juror subjects were asked to indicate, on 7-point Likert scales ranging from "strongly opposed" to "strongly supportive," their degree of support for the enactment of a marital rape law in Colorado, for the women's movement, and for the Equal Rights Amendment. Male jurors were further asked to indicate the extent to which they had ever felt a desire to rape a woman ("very little desire" to "very strong desire").

Once again, anonymity and confidentiality were stressed to insure candid responding to these sensitive items.

## Results

### Empirical Validity

Male and female subjects' RES scores were compared, using one-way analyses of variance. RES means for males in Groups 1, 2, and 3 were 98.25, 100.15, and 101.91, respectively (range: 35–131), whereas means for females in the three groups were 108.86, 111.71, and 112.60, respectively (range: 60–133). The results supported the hypothesis that females would exhibit greater empathy for the rape victim than would males,  $F_s = 21.43, 37.47, \text{ and } 25.32; d_f s = (1, 114), (1, 188), \text{ and } (1, 184), \text{ respectively; } p_s < .001$ .

The results of an analysis of variance comparing Group 1 women who had experienced a rape situation and those who indicated they had not had this experience revealed significant differences between the groups,  $F(1, 48) = 7.29, p < .01$ . Means for rape victims/resisters and women without personal exposure to rape were 113.63 and 105.78, respectively. As predicted, women who indicated personal contact with rape exhibited greater empathy toward rape victims than did women who had not been exposed directly to the crime.

### Convergent and Discriminant Validity

Pearson's  $r$  was computed to assess the relationship between subjects' RES scores and their scores on the AWS, the Marlowe-Crowne Scale, their support for the enactment of a marital rape law, for the women's movement, and for the Equal Rights Amendment. Similarly, correlations between male jurors' RES scores and their reported desire to rape a woman were computed.

As predicted, Group 1 subjects' RES scores correlated significantly with their scores on the AWS ( $r = .33, p < .05$ ). This finding was replicated in Groups 2 and 3 (for students,  $r = .45, p < .001$ ; for jurors,  $r = .29, p < .001$ ). In addition, jurors' RES scores correlated significantly with their support for the enactment of a marital rape law



Table 2

*Correlations Between RES and AWS Scores and Rape Responsibility Questionnaire Items*

RRQ item	Jurors ( <i>n</i> = 186)		Students ( <i>n</i> = 190)	
	RES	AWS	RES	AWS
Certainty of defendant's guilt	.30***	.09	.30***	.18**
Sentence (in years)	.28***	-.01	.18**	.10
Defendant responsibility	.31***	.08	.37***	.26***
Feelings about defendant	-.30***	-.08	-.33***	-.23***
Identification with defendant	-.33***	-.04	-.36***	-.27***
Victim responsibility	-.39***	-.07	-.23***	-.16*
Victim encouragement	-.25***	-.06	-.30***	-.25***
Feelings about victim	.25***	.08	.21**	.17**
Identification with victim	.24***	.13*	.25***	.21**
Psychological impact of rape	.41***	.07	.47***	.40***
Seriousness of rape	.44***	.06	.52***	.39***
Attribution to chance	.19**	.25***	.24***	.08

Note. RES = Rape Empathy Scale; AWS = Attitudes Toward Women Scale; RRQ = Rape Responsibility Questionnaire.

\*  $p < .05$ . \*\*  $p < .01$ . \*\*\*  $p < .001$ .

( $r = .34$ ,  $p < .001$ ), for the women's movement ( $r = .15$ ,  $p < .05$ ), and for the Equal Rights Amendment ( $r = .19$ ,  $p < .005$ ): As expected, less stereotypical, less conservative attitudes toward women and women's issues were associated with greater empathy toward rape victims. Moreover, male jurors' RES scores were negatively correlated with their reported desire to rape a woman ( $r = -.58$ ,  $p < .001$ ). Male jurors who exhibited strong empathy toward rape victims reported less desire to rape a woman than did males who expressed less empathy for victims.

Support for the discriminant validity of the RES was revealed by the lack of significant correlation between Group 1 subjects' RES scores and their scores on the Marlowe-Crowne Social Desirability Scale ( $r = .05$ , *ns*). Further evidence for the discriminant validity of the RES may be found in Table 2. Although students' AWS scores correlated significantly with most RRQ items, in comparison to the RES, the AWS was not an impressive predictor of jurors' responses to the RRQ. The results of tests for differences between dependent correlations revealed that jurors' RES scores correlated more highly with 10 of the 12 RRQ items than did their AWS scores:  $t$  scores ranged from  $t(183) = 1.89$ ,  $p < .05$ , to  $t(183) = 4.81$ ,  $p < .001$ . On two items

("identification with the victim" and "attribution to chance"), correlations with the RES and AWS did not differ significantly.

### *Predictive Validity*

As predicted, RES scores of both students and jurors correlated significantly with measures of their attributions of responsibility for rape and their social perceptions of rape victims and defendants. Specifically, subjects who indicated high levels of empathy with the rape victim sentenced the defendant in a hypothetical rape case to a longer prison term, expressed greater certainty that the defendant was guilty, and attributed less responsibility for the crime to the victim and greater responsibility to the defendant than did subjects who expressed less empathy toward the victim. Similarly, high-scoring RES subjects identified more with the victim and less with the defendant, expressed more positive feelings toward the victim and more negative feelings toward the defendant, felt that the victim's involvement in the incident was attributable more to chance factors, rated the psychological impact of the rape for the victim as greater, and perceived rape as a more serious crime than did low-scoring subjects. Correlations between subjects' RES scores and their RRQ responses are presented in Table 2.

### General Discussion

Feild and Bienen (1980) reported that of the four major violent crimes in the United States, including rape, murder, aggravated assault, and armed robbery, acquittal/dismissal rates are highest and conviction rates are lowest for rape. Gager and Schurr (1976) estimated that as few as 3% of all rapists are convicted of the crime, and analyses of 635 sexual assault cases in Seattle and Kansas City during 1974 and 1975 revealed that only 2% of all *reported* rapes ended in conviction of the assailant (Battelle Law and Justice Study Center, 1977). Feldman-Summers and Lindner (1976) related this low conviction rate to the judgmental attitudes of police, attorneys, and jurors, who may doubt the credibility of the rape victim, often the only witness to the crime.

Drawing on the rape literature (e.g., Babcock, Freedman, Norton, & Ross, 1975; Brownmiller, 1975), Feild (1979) pointed out that although extraevidential factors may influence any criminal trial, rape trials appear particularly sensitive to the influence of factors that favor acquittal of the defendant. One such factor, jurors' attitudes toward rape, has received substantial attention. Previous research, utilizing the ATR and RMA scales (Burt, 1980; Feild, 1978b), highlighted the importance of attitudinal variables in predicting potential jurors' reactions to rape victims and defendants. Feild and Bienen (1980) reported that jurors' attitudes toward rape were better predictors of their recommended sentences for a defendant accused of rape than were their background characteristics. Burt (1980) pointed out the preponderance of rape myth acceptance in our society and reported that rape attitudes were strongly related to the pervasive societal attitudes of sex role stereotyping, distrust of the opposite sex, and acceptance of interpersonal violence. Further, Burt hypothesized that societal blaming of rape victims is the end product of rape myth acceptance. In a similar vein, Feild (1979) suggested that changes in attitudes toward rape might lead to more guilty verdicts in rape trials and offered several strategies for identifying and changing juror attitudes. Feild's suggestions included the introduction

of expert witnesses in rape trials and use of the *voir dire* process to select jurors with more informed attitudes toward rape.

A second extraevidential factor that may favor the defendant in a rape trial is the interaction between empathy and the observational set assumed by jurors. Archer et al. (1979) pointed out that jurors in criminal cases are presented with instructions that focus their attention on the facts of the case being tried, but which may also inhibit jurors from empathizing with the victim. Stotland and Sherman (reported in Stotland, 1969) suggested that detached attention, as might result from such instructions, can interfere with empathic responding. Support for this position has been offered in a variety of experiments designed to explore both actor-observer and just world attributional hypotheses. Regan and Totten (1975), providing support for Jones and Nisbett's information-processing explanation of actor-observer attributional differences, found that observers who adopted an empathic set toward a target person attributed causality for the target's behavior to relatively more situational and less dispositional factors. Exploring the limits of victim derogation, Adelman et al. (1974) reported that subjects instructed to *watch* another subject who received electric shocks as part of a paired-associate learning experiment derogated the victim, whereas subjects who were instructed to *imagine how they would feel as the learner* rated the victim more favorably than they rated themselves. In a later experiment, Adelman, Archer, & Harris (1975) found that subjects who were induced to empathize with an innocent victim exhibited compassion for the victim's suffering by attributing a relatively high degree of responsibility for the victimization to actors other than the victim and concluded that the "vicarious experience of a victim's plight . . . tends to override 'just world' considerations" (p. 165). Finally, applying the concept of empathy to a courtroom setting, Archer et al. (1979) found that not only the observational set assumed by jurors but also their individual differences in empathy (as assessed by scores on Mehrabian and Epstein's [1972] scale) influenced their judgments of the defendant tried for a stabbing incident.

To date, the role of juror empathy in rape cases has received little experimental attention. Several experts (e.g., Bohmer & Blumberg, 1975; Robin, 1977; Wood, 1975) have observed that jurors often exhibit sympathy toward defendants accused of rape and respond judgmentally toward rape victims. In response to this observation, other writers have stressed the importance of jurors' empathy toward and identification with rape victims and rapists (Calhoun et al., 1976; Feldman-Summers & Lindner, 1976; Thornton, 1977) and have advocated the selection of jurors who can empathize and identify with rape victims (Battelle Law and Justice Study Center, 1977; Fulero & DeLara, 1976). However, with the exception of the present research, systematic empirical investigations of the rape empathy construct have been nonexistent. The results of this study revealed that high RES scores (indicating greater empathy for the rape victim) were associated with greater certainty of the defendant's guilt, harsher sentencing of the alleged rapist, and attribution of greater responsibility for a rape incident to the defendant, with correspondingly less responsibility attributed to the victim than were low RES scores. Similarly, RES scores were predictive of subjects' social perceptions of the rape victim and defendant and their views of the crime of rape, as well.

The development of any new scale to measure empathy toward rape victims and rapists is a lengthy process, requiring the results of many studies to assess adequately the reliability and validity of the scale. However, the present results indicate that the Rape Empathy Scale represents a promising initial step toward providing appropriate instrumentation in this area and suggest that the RES may have important applications to applied as well as laboratory settings. Specifically, just as Kirby and Lamberth (Note 2) developed an oral version of the F scale to assess jurors' authoritarianism, future research might focus on the development of a verbal form of the RES or a similar instrument that could be administered to jurors during the *voir dire* process. If individuals biased against either the rape victim or defendant could be identified prior to the presentation of evidence in a rape trial, a

scientific basis for the elimination of biased jurors would be established. The result of this strategy might be to increase the number of just convictions in rape cases, a goal of reform in rape legislation (Babcock et al., 1975).

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