The Effect of Gender, Jury Instructions, Victim Intoxication, and Perpetrator Intoxication on Individual and Jury Perceptions of Sexual Harassment

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THE EFFECT OF GENDER, JURY INSTRUCTIONS, VICTIM INTOXICATION, AND PERPETRATOR INTOXICATION ON INDIVIDUAL AND JURY PERCEPTIONS OF SEXUAL HARASSMENT

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THE EFFECT OF GENDER, JURY INSTRUCTIONS, VICTIM INTOXICATION, AND PERPETRATOR INTOXICATION ON INDIVIDUAL AND JURY PERCEPTIONS OF SEXUAL HARASSMENT

Kathleen E. Nickel  
April 28, 2004  
Pages 106

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Abstract

The current study investigated the impact of gender, jury instructions, victim intoxication status, and perpetrator intoxication status on perceptions of sexual harassment of participants role-playing individual jurors and juries. Gender, victim intoxication status, and perpetrator intoxication status affected the sexual harassment perceptions. The well-established gender effect was replicated as the current study found female jurors were more likely to perceive sexual harassment than were male jurors. Individuals were less likely to find sexual harassment when they were told the victim was intoxicated than when no information was presented. When the perpetrator was intoxicated, sexual harassment was less likely to be found. Giving instructions to ignore irrelevant intoxication information had no impact on individual jurors but did impact juries. Juries were also biased by the perpetrator's intoxication status. The significant interaction between jury instructions and victim intoxication and jury instructions and perpetrator intoxication indicated giving juries instructions reduced the bias of victim intoxication status but not perpetrator intoxication status. Initial findings of the majority of individuals lead to the jury's decision 73% of the time, indicating a majority effect. Likewise, a leniency bias and an asymmetry effect were
also observed among initial findings and jury decisions. Furthermore, once juries deliberate, individuals are likely to stick to their jury’s decision.
Introduction and Review of Literature

Sexual harassment is prevalent in both the public sector (U.S. Merit Systems Protection Board, 1995) and the private sector (Fitzgerald et al., 1988) and has increasingly gained attention in the research literature. In addition, sexual harassment poses several serious consequences to both the employee that is the target of sexual harassment and the organization in which sexual harassment occurs. Some of the more serious consequences to employees are related to their health and psychological welfare (Fitzgerald, Drasgow, Hulin, Gelfand, & Magley, 1997). Several consequences related to the organization and the job include decreased job satisfaction, decreased job performance, and job loss (U.S. Merit Systems Protection Board, 1988, 1995).

The EEOC (1980) provided guidelines that include definitions and examples of sexual harassment. However, specific actions that constitute sexual harassment have not been clearly identified. Sexual harassment determinations, especially in the case of hostile environment harassment, are open to subjectivity such that extralegal factors may influence the perception of sexual harassment (Elkins & Phillips, 1999). Extralegal factors include factors that are irrelevant to making a legal determination, yet influence the decision process. Factors such as gender and the type of harassment (physical or verbal) have been shown to influence the degree to which sexual harassment is perceived (Rotundo, Nguyen, & Sackett, 2001; Dougherty, Turban, Olson, Dwyer, & Lapreze, 1996).

Given the prevalence of sexual harassment and the associated costs of sexual harassment claims to both the employee and the organization, there is a need to continue investigating the factors that influence perceptions of sexual harassment. Likewise, the
identification of these factors could be incorporated into sexual harassment training and education so harassment can be prevented or easily identified. The present review will provide an overview of the EEOC guidelines and relevant cases, the prevalence and consequences associated with sexual harassment, and the factors that have been found to influence perceptions of sexual harassment, specifically gender and intoxication status. Last, literature will be reviewed on jury decision making processes and their potential for biases.

**EEOC Definitions of Sexual Harassment**

In 1980, the EEOC released guidelines stating that sexual harassment was a violation of Section 703 of Title VII of the Civil Rights Act of 1964. The guidelines included definitions and criteria for determining sexual harassment, conditions under which an employer may be held liable, and preventative measures organizations should take. EEOC guidelines are given great deference in litigation decisions by the lower courts and the Supreme Court. According to the guidelines, sexual harassment is defined as unwelcome sexual conduct that is a term or condition of employment (EEOC, 1990). Not all conduct of a sexual nature is prohibited according to Title VII. Only when the sexual conduct is unwelcome is it unlawful. The unwelcomeness of the conduct may be difficult to determine, therefore the focus should be on whether the employee solicited the conduct or found the conduct offensive (EEOC, 1990). Title 29 of the Code of Federal Regulations Section 1604.11 defines sexual harassment as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's
employment; (b) submission to or rejection of such conduct by an individual
is used as the basis for employment decisions affecting such individual; or (c)
such conduct has the purpose or effect of unreasonably interfering with an
individual's work performance or creating an intimidating, hostile, or
offensive working environment (p 186).

The Two Types of Sexual Harassment

The EEOC (1990) defines two types of sexual harassment, *quid pro quo* and
*hostile work environment*. The two types of sexual harassment are not always
distinguishable from each other and may often occur concurrently (EEOC, 1990). Quid
pro quo sexual harassment occurs when submission to or rejection of the unwelcome
sexual conduct is used as the basis for employment decisions affecting such individual
(EEOC, 1990). For example, quid pro quo sexual harassment occurs when an employee is
denied a promotion for not complying with sexual conduct initiated by a supervisor.
Hostile environment sexual harassment occurs when the unwelcome sexual conduct
unreasonably interferes with the individual’s job performance or creates a hostile
working environment (EEOC, 1990). For example, an employee might be subjected
repeatedly to unwelcome sexual jokes, remarks, or suggestions at work.

The landmark case, *Meritor Saving Bank v. Vinson*, 1986 established that both
quid pro quo and hostile environment are prohibited under Title VII of the Civil Rights
Act of 1964. The Supreme Court stated that a violation of Title VII could be established
by proving that the sexual harassment creates a hostile or abusive working environment
(EEOC, 1990). In order to establish hostile environment sexual harassment, it must be
*sufficiently severe or pervasive* and create an abusive working environment (EEOC,
1990). The Supreme Court also contended that when making determinations of hostile environment sexual harassment, the focus should be on the *unwelcomeness* of the conduct and not the *voluntariness* of the employee's participation (EEOC, 1990). Therefore, although the victim of sexual harassment may have complied, the conduct still may be unwelcome to the individual. Later in *Harris v. Forklift* (1993), the Supreme Court stated that in determining whether a term or condition of employment has been affected, the focus should be on the *effect* of the harassing behavior and not the *intent*. Thus the suggestion is that harassers may not even be aware they are creating a hostile or abusive environment that has an effect on others.

The nature of hostile environment sexual harassment is different from quid pro quo sexual harassment in that quid pro quo involves a *tangible* or *economic* loss, while hostile environment does not (EEOC, 1990). As a result, quid pro quo sexual harassment is usually more straightforward and identifiable. However, many factors are involved in determining hostile environment sexual harassment (Wolkinson & Block, 1996). Consequently, subjectivity is more likely to influence the perceptions of sexual harassment in hostile environment sexual harassment. Given the array of behaviors, verbal, physical, or a combination, that could constitute hostile environment sexual harassment, the EEOC (1990) guidelines provide several criteria that should be considered in the evaluation of a hostile environment sexual harassment claim:

(a) Whether the conduct was verbal or physical, or both; (b) How frequently it was repeated; (c) Whether the conduct was hostile and patently offensive; (d) Whether the alleged harasser was a co-worker or a supervisor; (e) Whether the others joined in perpetrating the harassment;
and (f) Whether the harassment was directed at more than one individual (p 8).

Not all factors must be present to establish hostile environment sexual harassment, however they should all be considered. The EEOC (1990) suggest the totality of factors and circumstances is reviewed in a determination of a hostile environment sexual harassment case. Hostile environment sexual harassment usually involves a pattern of offensive conduct. A single or isolated incident usually will not create an abusive or hostile working environment unless the conduct is unusually severe. These severe cases are more likely to involve physical harassment rather than verbal. On the other hand, quid pro quo cases can be established by a single incident as long as the sexual conduct is a term or condition of employment.

The courts use the standard of a reasonable person for evaluating whether the harassment is sufficiently severe or pervasive to create a hostile environment (EEOC, 1990). Generally, the jury is asked to take the point of view of the victim in making a decision as to whether they think they would view the particular work environment as abusive, offensive, or hostile or would unreasonably interfere with their job performance. This includes taking into consideration their reaction to similar circumstances in a similar environment (Levy & Paludi, 1997).

Prevalence of Sexual Harassment

Research has indicated that sexual harassment is widespread. Data from the EEOC and the Fair Employment Practices agencies reveal that 15,475 charges were filed and resolved in 2001, while 14,396 sexual harassment charges were filed and resolved in 2002, (EEOC, 2003). The occurrence of sexual harassment is predominantly male
harassing female. Therefore, many of the prevalence statistics reflect the sexual harassment of women (Gruber, 1990). In reviewing the prevalence studies on sexual harassment, it has been suggested that one out of every two women will be sexually harassed at some time in her academic or work life (Fitzgerald, 1993; Levy & Paludi, 1997). In general, the prevalence rates of sexual harassment reported by women varies across studies. In analyzing 18 studies, Gruber (1990) found the range of prevalence for sexual harassment among women from 28% to 75%, with a median of 44%. It is important to point out that these prevalence rates are based on self-reports of a variety of harassing behaviors. Also, many of the studies on prevalence rates include broader definitions of sexual harassment. Therefore, many self-reports of sexual harassment may not necessarily constitute harassment under the EEOC's legal definitions of sexual harassment.

The U.S. Merit Systems Protection Board (USMSPB) has conducted large-scale studies investigating the nature and prevalence of sexual harassment in the federal workplace over the past decade (1988, 1995). It was reported that 44% of women employees and 19% of men employees were being sexually harassed (USMSPB, 1995). According to the 1995 survey, only 6% of the respondents who experienced sexually harassing behaviors actually took formal action. About 1% of women and 21% of men who reported being harassed indicated they had been harassed by the same gender; 65% of the men reported being sexually harassed by a woman (USMSPB, 1995). The USMSPB (1995) revealed that less severe forms of sexual harassment, such as sexual remarks, are more prevalent, while severe forms, such as assault, are more rare. However, the less serious forms of sexual harassment are not isolated incidences, generally experienced by
men and women more than once (USMSPB, 1995). For the less severe behaviors, results revealed that 37% of the women and 9% of men experienced unwanted sexual remarks, jokes, or teasing; 29% of women and 9% of men experienced suggestive looks or gestures; 24% of women and 8% of men experienced being touched or cornered; and 13% of the women and 4% of the men experienced pressure for dates. Results revealed for the more severe behaviors that 10% of women and 4% of men experienced suggestive letters, calls, or materials; 7% of women and 2% of men experienced stalking; 7% of women and 2% of men experienced sexual favors; and 4% of women and 2% of men experienced actual or attempted rape or assault (USMSPB, 1995).

Consequences of Sexual Harassment

Sexual harassment has serious consequences for both the individual and the organization (Fitzgerald et al., 1997; USMSPB, 1995). The USMSPB (1995) found that employees who experienced sexual harassment reported as a result that they used sick leave, annual leave, received medical or emotional help, were reassigned or fired, transferred to a new job, quit without a new job, and their productivity suffered. Research on the outcomes of sexual harassment can be viewed from three perspectives: work-related, psychological, and physiological (Fitzgerald & Ormerod, 1993). Work-related outcomes of sexual harassment include leaving the current job, decreased morale, absenteeism, and decreased job satisfaction (USMSPB, 1987). Fitzgerald et al. (1997) found work-related outcomes of sexual harassment including absenteeism, stronger intentions to quit, and more time thinking about quitting. Psychological outcomes include emotional distress, such as stress and depression. Fitzgerald et al. (1997) found that women who self-reported more experiences of sexual harassment had higher levels of
psychological distress. Physiological outcomes include physical symptoms. Women who experience sexual harassment may also experience physical problems such as headaches, sleep disturbances, and gastrointestinal disorders, usually indirectly through their relationship with psychological outcomes (Fitzgerald et al., 1997).

Other consequences of sexual harassment include the actual financial costs of sexual harassment to the organization. In 1995, the USMSPB estimated that sexual harassment costs the Federal Government $327 million during the two year period between April 1992 to April 1994. This cost associated with sexual harassment includes sick leave, turnover, and loss of productivity for individual and work groups. Other financial costs for the organization include recruiting and replacing employees (the victim and/or the harasser) and litigating sexual harassment cases or wrongful-discharge cases (Aaron & Isaksen, 1993). Additionally, there are economic costs to the taxpayers to support the administrative agencies that address and facilitate sexual harassment claims as well as for the justice system to try the sexual harassment cases (Aaron & Isaksen, 1993).

Factors that influence perceptions of sexual harassment

Attribution theory can readily be applied to jurors having to make a decision regarding a verdict. According to attribution research, people are flooded by an enormous amount of information and therefore must condense the amount of information they process by relying on heuristics or information processing shortcuts, such as stereotypes (Elkins & Phillips, 1999). As a result, people are continuously making inferences about other people’s behavior and personality without deliberately thinking of or evaluating the situation (Uleman, Newman, & Moskowitz, 1996). Situational and individual factors are
therefore likely to influence these attributions. Elkins and Phillips (1999) suggested that these types of inferences will likely influence the judgments jurors make in sexual harassment trials in the absence of strong case evidence. Ambiguous cases are more susceptible to bias and interpretation as there are fewer clear-cut evidential factors to base decisions. Also, ambiguous cases or cases with mixed or moderate evidence seem more likely to make it to court and therefore result in a jury decision. The cases that have clear-cut evidence are usually settled or dismissed before making it to a trial.

As sexual harassment cases are likely to reach court in the form of a civil trial rather than a criminal trial, there are different implications for the decision making process. Several distinguishable differences between criminal trials and jury trials include burden of proof, consequences, and decision rules (Sward, 2001). In criminal trials, jurors must reach a unanimous decision, while in state court civil trials, jurors must reach a consensus or majority acceptance. The juror’s responsibility is elevated in criminal trials rather than civil trials since jurors influence whether the individual is sent to jail as opposed to a monetary award. Therefore, the nature of civil trials might lead to jurors making more attributions based on external factors without careful consideration of the evidence (Elkins & Phillip, 1999).

The investigation of factors that influence perceptions of sexual harassment has dominated the research on sexual harassment over the past few years. Most of the research has focused on hostile environment sexual harassment rather than quid pro quo (Elkins & Phillips, 1999; Rotundo et al., 2001). Quid pro quo cases, which involve sexual requests or demands in exchange for working conditions (promotion, hire, benefits), are more objective and tend to produce greater agreement in perceptions (Runtz &
O’Donnell, 2003). On the other hand, in hostile environment the various forms of conduct (e.g., verbal comments, physical touch) tend to be more ambiguous, allowing for more bias to influence perceptions and thereby produce less agreement in perceptions (Runtz & O’Donnell, 2003). Factors found to influence perceptions of sexual harassment include the gender of the evaluator (Rotundo et al., 2001; Runtz & O’Donnell, 2003; Gowan & Zimmerman, 1996), previous experience of the evaluator (Gowan & Zimmerman, 1996), the type of behavior, verbal or physical (Dougherty et al., 1996), and the intoxication of the victim (Johnson, Benson, Teasdale, Simmon, & Reed, 1997) and perpetrator (Shoenfelt & Mack, 2003; Shoenfelt, Rainey, & Nickel, 2003).

**Gender.** A consistent finding in sexual harassment research is a difference in perceptions of sexual harassment between males and females (Runtz & O’Donnell, 2003, Rotundo et al., 2001). Substantial research has shown that men and women perceive sexual harassment differently (Runtz & O’Donnell, 2003, Rotundo et al., 2001; Gowan & Zimmerman, 1996). Even the courts acknowledged that men and women view different behaviors as sexually harassing. The gender difference is evidenced through some courts implementing standards of evaluation of the *reasonable woman* standard rather than the *reasonable person* standard. It is presumed that the perspective from which a situation is viewed, as a man or a woman, will greatly affect the outcome of the case (Levy & Paludi, 1997). As women are typically the victims of sexual harassment, some courts have decided to evaluate the sexual harassment claim based on how a *reasonable woman* would react.

Generally women more so than men tend to view a broader range of social-sexual behaviors as harassing (Rotundo et al., 2001). Women are more likely than men to view
potentially harassing behaviors as inappropriate and sexually harassing (Fitzgerald & Ormerod, 1991; Rotundo et al., 2001). Likewise, women are much more likely than men to perceive sexual harassment in situations that are more moderate or ambiguous (Runtz & O’Donnell, 2003; Gowen & Zimmerman, 1996; Rotundo et al., 2001). A meta-analysis of 62 studies investigating the influence of gender on sexual harassment perceptions confirmed a slight but significant gender difference (Rotundo et al., 2001). However, the gender difference in perceptions is moderated by the type of harassing behavior (Rotundo et al., 2001). The meta-analysis looked at the gender difference in perceptions based on the behaviors classified as quid pro quo and hostile environment sexual harassment. The largest difference in perceptions between men and women was found for the hostile environment sexual harassment. Men and women tend to agree that behaviors such as sexual coercion or propositions constitute quid pro quo sexual harassment, but are less likely to agree that behaviors such as pressure for dates or derogatory attitudes constitute hostile environment sexual harassment (Rotundo et al., 2001).

In addition, the hostile environment sexual harassment behaviors were further categorized into derogatory attitudes (personal and impersonal), dating pressure, sexual propositions, physical contact (sexual and nonsexual), and sexual coercion. Meta-analyses within the categories revealed larger gender differences for less extreme and for ambiguous behaviors. Women were more likely than men to perceive behaviors such as derogatory attitudes and dating pressures as sexual harassment. The gender difference in perceptions diminished for the more extreme hostile environment behaviors such as physical sexual contact, yet was still larger relative to quid pro quo behaviors such as sexual coercion.
Women in general may be more sensitive to the identification of potentially threatening social-sexual behaviors because they have traditionally been the victims of sexual harassment and also may have experienced more severe harassing behaviors (Runtz & O’Donnell, 2001). Bergdahl, Magley, & Waldo (1996) demonstrated that men were less likely to feel threatened or stressed by sexually harassing behaviors than were women. Gender differences in perceptions of sexual harassment may be a result of different socialization and attributional processes (Runtz & O’Donnell, 2001). Konrad and Gutek (1986) found that men suggested they would be flattered by receiving sexual suggestions or advances in the workplace.

Although research has supported gender differences in perceptions of sexual harassment, there have been instances where gender differences were not present (Shoenfelt & Mack, 2003; Shoenfelt et al., 2003). Shoenfelt and Mack (2003) investigated the effects of gender and victim/perpetrator intoxication on perceptions of sexual harassment in an ambiguous case and found no gender difference in perceptions of sexual harassment. However, participants that received no information regarding intoxication demonstrated a gender difference in sexual harassment perceptions (Shoenfelt & Mack, 2003). Using a similar method, Shoenfelt et al. (2003) also failed to find a gender difference when intoxication information was present. It appears that intoxication information moderates the gender difference (Shoenfelt & Mack, 2003). When intoxication information is present, the gender difference disappears. However, when there is no intoxication information present, the gender difference is evident. Intoxication information may have distracted the participants from the relevant facts of the case (Shoenfelt & Mack, 2003).
Intoxication. A variable that has been shown to influence the perceptions of sexual harassment is the intoxication status of the victim (Johnson et al., 1997; Shoenfelt & Mack, 2003; Shoenfelt et al., 2003) and the perpetrator (Shoenfelt & Mack, 2003; Shoenfelt et al., 2003). Johnson et al. (1997) investigated the effects of gender and victim intoxication on perceptions of sexual harassment in an ambiguous case depicting an office party. When the victim was intoxicated, participants were less certain of whether or not sexual harassment had occurred (Johnson et al., 1997). Additionally, when the victim was intoxicated, participants viewed the alleged perpetrator more favorably and the victim less favorably (Johnson et al., 1997). Specifically, participants in the intoxicated condition as opposed to the sober condition felt the victim was more responsible for the incident, perceived less trauma for the victim, and was less penalizing to the alleged harasser. Similarly, Shoenfelt and Mack (2003) found participants were less likely to perceive sexual harassment when the victim was intoxicated as opposed to sober. Shoenfelt et al. (2003) found participants were more likely to view sexual harassment when the perpetrator was sober rather than intoxicated.

Research on the role of intoxication in sexual assault cases has also supported the claim that the intoxicated victim is perceived more negatively while the intoxicated perpetrator is assigned less blame (Leigh & Aramburu, 1994; Hammock & Richardson, 1993; Richardson & Campbell, 1980; Wall & Schuller, 2000). Richardson and Campbell found intoxicated victims were attributed more responsibility and blame for violent interactions of rape (1982) and wife abuse (1980). Hammock and Richardson (1993) investigated the effects of intoxication levels in scenarios of rape and wife abuse. When the victim was intoxicated opposed to sober, participants attributed more responsibility to
the victim for the incident. When the assailant was intoxicated as opposed to sober, participants attributed more responsibility to the alcohol and less responsibility to the assailant. Likewise, Schuller and Wall (1998) found when the complainant was intoxicated rather than sober, the defendant was perceived as less likely to be guilty. However, an intoxicated as opposed to sober defendant was perceived as more likely to be guilty. Wall and Schuler (2000) suggested that intoxicated individuals are perceived as more self-regulated.

Contrary to previous findings, Leigh and Aramburu (1994) found that intoxication levels increased the amount of responsibility attributed to both the victim and the perpetrator in a sexual assault case. When the victim was intoxicated, the aggressor was attributed less blame and responsibility for the act. However, when the aggressor was intoxicated, he was perceived as more guilty and responsible for the act than a sober aggressor. Research on the effects of intoxication and sexual assault cases has provided mixed evidence with regards to the intoxicated perpetrator (Leigh & Aramburu, 1994; Hammock & Richardson, 1993; Richardson & Campbell, 1980; Wall & Schuller, 2000). Some research has provided support that intoxicated assailants are perceived as less responsible due to the effects of the alcohol (Hammock & Richardson, 1993; Richardson & Campbell, 1980, 1982), while other research indicates that intoxicated assailants are attributed more responsible (Leigh & Aramburu, 1994; Wall & Schuller, 2000).

The intoxicated victim may be assigned more responsibility for the sexual harassment incident due to the premise of a just world (Leigh & Aramburu, 1994; Richardson & Campbell, 1982; Johnson et al., 1997). The just world theory suggests that in order to maintain a sense of security in a society that tolerates the suffering of
innocents, people will either ignore the injustice or look for reasons to blame the victim (Lerner, 1980). In general, women who drink or become intoxicated are viewed more negatively in our society. Therefore alcohol could be seen as an indication that the victim is deserving of sexual harassment. Likewise, the discounting principle may explain why perpetrators of sexual harassment are assigned less responsibility. The discounting principle states an inclination to ignore or devalue a potential cause of behavior when other plausible causes are present (Kelley, 1973). Shoenfelt et al. (2003) found that sexual harassment was perceived more when the perpetrator was sober rather than intoxicated, suggesting that participants may have viewed the sober perpetrator as more responsible. The effects of the alcohol may have discounted the personal responsibility of the perpetrator such that the intoxicated perpetrator was assigned less blame than the sober perpetrator.

**Jury Decision Making**

Until this point, the sexual harassment research presented has focused on independent, individual juror decisions and not collective jury decisions. Collective jury decisions are likely to have very different dynamics than the individual juror decisions commonly used in research. The following literature review will provide an overview of the virtues and flaws of the civil jury system, the process of jury decision making, potential biases in jury decisions including inadmissible evidence, and individual versus jury decision making.

The use of trial juries in making legal decisions is based on two important suppositions (Köhnken, 1996). First, it is assumed that a trial jury will act as a defense to filter out the potential biases through deliberation and, second, that group decisions are
far more effective than individual decisions. Sexual harassment cases are most frequently resolved through a civil trial. In the past decade, the civil jury system has been criticized for its lack of competence in making legal determinations to the point that some critics are pushing for civil jury reform and even advocating the eradication of civil juries (Sward, 2001). Some of the criticism stems from the general trend of civil juries in favoring sympathetic plaintiffs and also from the enormous damages awarded in recent cases (Daniels, 1989).

Despite the criticism, the American Bar Association (ABA) and the Brookings Symposium (1992) emphasized the value of the civil jury system and outlined the merits of the civil jury system in their publication, *Charting a Future for the Civil Jury System*. The civil jury system offers a valuable and effective process to arrive at decisions in disputes, provides defenses against officials with the potential to abuse power, incorporates societal values into resolving the dispute, aids in resolving legal issues such as standards of “reasonableness,” provides a “check” on the legal system such that jurors bring fairness to their decisions, and is a way to rationalize legal decisions (ABA/Brookings Symposium, 1992).

Research has focused substantial attention on the complex task of how jurors take information and evidence from a case and come to a conclusion of guilt or innocence. A number of models of juror decision making that attempt to explain how jurors evaluate and incorporate evidence have been developed (Hastie, 1993). However, no single theory has dominated throughout the research (Devine, Clayton, Dunford, Seing, & Pryce, 2000). Models of jury decision making are generally computational or explanatory (Greene et al., 2002). The computational models include probability theories, algebraic
processes, stochastic processes, and information processing theories (Hastie, 1993). The computational or mathematical models attempt to explain juror decisions by applying logical or mathematical "mental" rules, while the information processing models emphasize juror's cognitive or mental representations (Hastie, 1993). Each model has its own advantages and disadvantages over the other. Although there are elaborate mathematical models of decision making available, the current study will focus on the more general model of jury information processing proposed by Pennington and Hastie (1981).

Pennington and Hastie's (1981) model of jury decision making incorporates seven components. First, the jury absorbs information from the events of the trial which can include the jury processing information that is both legally relevant as well as extralegal factors. The juror then attempts to create a reconstruction of the events in the trial that applies to the charges. Likewise, the juror tries to determine the credibility of the information presented by the witness. These evaluations include perceptions of judgments, character, and underlying motivation. The juror then must distinguish between admissible and inadmissible evidence in order to make a verdict based on appropriate evidence. The juror learns the legal categories that apply to the verdict and attempts to associate a "best-fit" of the evidence of the trial with the legal categories. Last, the juror compares his or her own belief in the verdict to the legal standard. In criminal cases, the standard is "beyond reasonable doubt," while in civil cases this standard is usually the "preponderance of evidence" (Sward, 2001). These seven components do not necessarily occur in a sequence, do not always occur before deliberation, and may not always be performed competently (Hastie, 1993).
Biased Juries. Research has shown that individual jurors are susceptible to extralegal factors that can bias their perceptions in making a legal decision regarding the guilt or innocence of a defendant (Runtz & O’Donnell, 2003; Rotundo et al., 2001; Gowan & Zimmerman, 1996; Johnson et al., 1997; Shoenfelt & Mack, 2003; Shoenfelt et al., 2003; Blakely et al., 1995). There are several potential sources of bias that could influence jurors. Juror bias could stem from the juror’s disposition, personality or experiences, elements of the case, such as the charges, or the juror might have specific attitudes or information about the specific case (Hans & Vidmar, 1982). Hans and Vidmar suggested that these biases could influence any step in the information processing (i.e., encoding and storing evidence, assessing witness credibility, retrieving information to make a decision). Some researchers have concluded that juries are less influenced than individual jurors by extralegal factors that could potentially bias their decision (Kaplan & Miller, 1978).

A theory of jury decision making that has been applied to how jurors put together and evaluate case information in order to make a decision is the information integration theory. The information integration theory states that juries will separately process information through two stages, the valuation of the evidence and the integration of the evidence (Hastie, 1993). Jurors will place a value of relevance to the case in making a decision about each piece of evidence during valuation. The integration stage involves making a global evaluation based on all the values (Hastie, 1993). Thus pieces of evidence will be given different values; those pieces of evidence with more weight will contribute more to the global evaluation. Juror biases that may be formed prior to or
during the case will also be given a valuation and weight that can enter into the juror's judgment (Kaplan, 1982).

Information integration theory suggests that jurors will share information during deliberation that all members may not have initially considered (Kaplan & Miller, 1978). Integrating information that had not been previously considered and that contains a conviction value different than that of the extralegal information, would lead jurors to base their perceptions on the trial evidence. The implications of a weighted average model suggest that deliberation will lessen the value placed on extralegal information and increase the value of trial evidence, thus leading to a decision that is less influenced by biased information.

Based on the information integration theory, Kaplan and Miller (1978) hypothesized that deliberation would lessen the potential for bias. They investigated mock jurors and juries with strong or weak case evidence and an obnoxious defense attorney or an obnoxious prosecuting attorney. By comparing juror versus juries, Kaplan and Miller (1978) found that the juries were less influenced by the biasing information (the obnoxiousness of the attorney) in both the strong and the weak case.

However, other research has shown that juries are more susceptible than jurors to extralegal factors in making decisions (MacCoun, 1990; Kerr, Niedermeier, & Kaplan, 1999). MacCoun (1990) found that the physical attractiveness of the defendant only biased postdeliberation juror and jury judgments. The researcher used a case involving an auto theft that resulted in relatively equal acquittals and convictions. When the defendant was attractive, the jurors' judgments leaned towards acquittal, while when the defendant was unattractive, there was no shift. Kerr et al. (1999) found that in ambiguous cases or
cases with moderate conviction rates, juries were more influenced by extralegal information than jurors. However, for the cases with strong evidence or extreme conviction rates, jurors were more influenced by the extralegal information than juries. Although jury decision making is difficult to study and often times very complex, there is a need to continue research in this area.

Jury Instructions. During civil trials, judges present instructions to the jury on how to use the evidence and make a verdict. Oftentimes, these instructions include the judge asking the jury to either ignore certain evidence or making the evidence inadmissible in making a determination, even though the information has already been presented. Inadmissible evidence occurs when information presented to the jury is subsequently ruled by the judge as invalid (Rind & Jaeger, 1995). Judges will then give juries instructions to ignore the information. For example, the judge might tell the jury to ignore prejudicial pretrial information regarding the defendant. Jurors usually cannot ignore this information and thus their decisions may be biased (Rind & Jaeger, 1995). According to Devine et al. (2000), jurors are either reluctant to or not able to ignore information that may be relevant to making a judgment about the case, regardless of the judges instructions.

Research has shown that giving juries instructions to ignore specific evidence or extralegal factors has mixed results. Sometimes research has supported that jurors do ignore the evidence (Wolf & Montgomery, 1977), while other research has supported that jurors do not (Sue, Smith, & Caldwell, 1973). More recent research on inadmissible evidence generally examines the mediating effects of other variables on inadmissible evidence (Rind & Jaeger, 1995). Rind and Jaeger observed the effect of the seriousness of
the crime on inadmissible evidence. Participants read a case either regarding a nonserious offense of vandalism, a slightly serious offense of arson, and a serious offense of murder where across the cases there was either ambiguous evidence or ambiguous evidence and damaging inadmissible evidence. Participants were biased by the inadmissible evidence only when the offense was not serious. The researchers hypothesized that jurors may have been reluctant to make a verdict of guilt since the offense was minor and the evidence was ambiguous.

Other research on inadmissible evidence has shown that juries respond differently to the instructions than individuals acting as jurors (Kerwin & Shaffer, 1994). Kerwin and Shaffer (1994) hypothesized that juries that deliberated on a verdict would be more likely to follow the instructions than individuals acting as jurors that did not go through deliberation. The rationale was that during jury deliberation, individuals would be less likely to discuss their own bias with the group and likewise other group members would less likely be persuaded to view their bias. The results of the study supported their hypothesis. Before participants formed juries, the verdict preferences were relatively the same. However, after deliberation, juries and jurors differed with respect to the inadmissible evidence. Juries instructed to ignore the inadmissible evidence were more likely to acquit than individual jurors instructed to do so, suggesting that the juries were more likely to disregard the inadmissible information. The study also showed that juries instructed to ignore inadmissible evidence were more likely to lean toward acquittal after they had deliberated as opposed to before. On the otherhand, juries with the same evidence presented as admissible evidence, were more likely to lean toward conviction
after deliberation as opposed to before. This suggests that the judge’s instructions influenced the juries more than the individual jurors.

*Initial Vote and Verdict Preference.* A finding that has been replicated in the literature is that the majority prevails; that is, the initial verdict preference of the majority will be that jury’s final verdict 90% of the time after deliberation (Sandys & Dillehay, 1995; MacCoun & Kerr, 1988). This phenomenon has been called the *majority effect* (MacCoun & Kerr, 1988). The majority is usually defined as two-thirds or greater (Devine et al., 2000). A *leniency bias* has also been supported in literature on initial preferences and jury verdicts, which suggests that jury deliberation leads to acquittal more often than conviction (MacCoun & Kerr, 1988). A similar idea by MacCoun and Kerr (1988) is the *asymmetry effect*, which suggests that in situations where the majority at the onset of deliberation is split, or there is no prevailing preference, juries will more likely lean towards acquittal than conviction. To demonstrate this point, MacCoun and Kerr (1988) used meta-analytic techniques on twelve different studies involving verdict preferences and jury verdicts and found that 62% to 88% of the juries that were initially split resulted in acquittal. Aside from a *majority effect* being supported, an *asymmetry effect* was also supported. Juries with a two-thirds majority prior to deliberation leaning towards convictions resulted in a jury verdict of guilty 67% of the time, while juries with a two-thirds majority prior to deliberation leaning towards acquittal resulted in the jury verdict of not guilty 94% of the time. This asymmetric pattern supports the hypothesis that proacquittal groups are more influential than proconviction groups. Sandys and Dillehay (1995) suggested that a mediating influence of the initial preference and the jury verdict is the style of the deliberation or the nature in which juries reach a verdict. Juries
can adopt an evidence-driven style, a verdict-driven style, or a mix of styles (Devine et al., 2000). Verdict-driven styles occur when juries take an initial poll of where individuals stand and then base the jury discussion around the verdict. Evidence-driven styles occur when the jury delves into discussions based on the examination of evidence before taking a vote.

*Individual versus Jury Decisions.* Social identity theory suggests that people are motivated to interact with each other in order to maintain a desirable self-image that includes a personal self and a social self (Tajfel & Turner, 1986). The groups to which people belong characterize the social self. Since a person’s self-image is partly derived from information from the group to which he/she belongs, people will try to enhance the status of the group to which they belong, *ingroup bias* and minimize the status of other groups, *outgroup derogation* (Tyler, Kramer, & John, 1999). Accordingly, *ingroup bias* and *outgroup derogation* are a result of an individual’s desire to enhance his/her self-image (Tyler et al., 1999).

Research utilizing the *minimal group paradigm* has shown that even superficially manipulated groups in laboratory research have an impact on the individual’s concept of the group, such that the individual is more likely to show *in-group favoritism* and *out-group derogation* (Turner, Brown, & Tajfel, 1979). Shoenfelt et al. (2003) investigated the effects of gender and intoxication on individual decisions before and after jury group decisions. Shoenfelt et al. (2003) found participants that did not perceive sexual harassment in the jury group decision were also more likely not to perceive sexual harassment in a final individual decision, suggesting that the participants may have an *ingroup* attachment to the group decision.
For many years, researchers have been trying to understand the complex process of jury decision making. Many researchers have attempted to understand the nature of jury decision making by looking at independent individual jurors rather than the jury as a collective group. Although individual juror research does provide insight into how extralegal biases influence the juror judgment, it is more important to understand how these biases influence the deliberation process, since it more closely simulates the dynamics of the courtroom. As the research has shown, individual jurors are influenced by extralegal factors quite differently than deliberating juries even in cases where they are presented with the same case and evidence (Kerwin & Schaffer, 1994; Kaplan & Miller, 1978; Rind & Jaeger, 1995; MacCoun, 1990; Kerr et al., 1999). Considering the amount of research conducted utilizing individuals acting as jurors, it is important to understand how individual jurors differ from deliberating juries. Additionally, the research that has been conducted on extralegal influences on jurors versus juries has focused more on criminal cases rather than civil cases. Taking into consideration the differences between criminal and civil cases (i.e., the burden, the decision process), extralegal factors are likely to impact civil trials quite differently.
The Present Study

The present study investigated the effects of the jury member’s gender, victim intoxication status, and perpetrator intoxication status on individual and jury group perceptions of sexual harassment. Research has focused primarily on hostile environment sexual harassment. Quid pro quo sexual harassment is more objective in its determination. More people agree on the occurrence of quid pro quo sexual harassment because it is straightforward. On the other hand, hostile environment sexual harassment by nature contains more ambiguity and thus perceptions are more susceptible to bias. The present study will focus on hostile environment sexual harassment.

Participants were given a hypothetical case of an alleged incident of sexual harassment experienced by a woman at an office party. Intoxication status was manipulated for both the victim (visibly intoxicated, sober, no information) and the perpetrator (visibly intoxicated, sober, not information) in nine scenarios. All participants were trained in the EEOC guidelines and definitions of sexual harassment. Additionally, before reading the scenario and making a determination of sexual harassment, half of the participants were instructed to ignore the intoxication status since it is not included among relevant criteria in the EEOC guidelines. Participants were briefly trained in consensus decision making before discussing the case as a jury. Last, participants made a final decision individually on whether they believe the incident constituted sexual harassment. Both individual perceptions as well as jury group perceptions were analyzed.

A consistent research finding in the sexual harassment literature is a gender difference in perceptions of sexual harassment (Rotundo et al., 2001). In a meta-analysis of 62 studies, Rotundo et al. (2001) found that women were more likely than men to view
sexual harassment among a wider variety of behaviors. Rotundo et al. (2001) also identified the type of harassment as a mediator of the gender difference. Men and women were more likely to agree on behaviors constituting quid pro quo sexual harassment, but much less likely to agree on the ambiguous behaviors that constituted hostile environment sexual harassment. However, Shoenfelt and Mack (2003) and Shoenfelt et al. (2003) failed to replicate the gender difference. Intoxication information manipulated in these studies somehow impacted juror decisions such that when intoxication information was present there was no gender effect.

Hypothesis 1: Intoxication information will interfere with the gender effect such that when either intoxication information is not present or when jurors are instructed to ignore it, the gender effect in perceptions of sexual harassment will be present. When intoxication information is salient, no gender difference in perceptions of hostile environment sexual harassment will be present.

Johnson et al. (1997) investigated the effects of target intoxication on perceptions of sexual harassment. They concluded that participants were less sure of the occurrence of sexual harassment when the victim was intoxicated. Furthermore, the perpetrator was viewed more positively when the victim was intoxicated, suggesting that intoxicated targets were allocated more responsibility and less favorable opinions. The intoxicated victim may be assigned more responsibility for the sexual harassment incident due to the premise of a just world (Leigh & Aramburu, 1994). Public intoxication, a behavior frowned upon by society, could be seen as an indication that the victim is deserving of sexual harassment.
Hypothesis 2: There will be a difference in perceptions of sexual harassment based on the victim’s intoxication status. Specifically, sexual harassment will be perceived more when the victim is sober rather than intoxicated.

Research on attributions about intoxicated assailants in rape and wife abuse situations has shown that more blame is attributed to the alcohol than to the assailant (Hammock & Richardson, 1993; Richardson & Campbell, 1982). The discounting principle states an inclination to ignore or devalue a potential cause of behavior when other plausible causes are present. The discounting principle can be applied to the context of sexual harassment. Similar to the research on rape and domestic abuse, the harassing behavior may be discounted due to effects of alcohol, thus an intoxicated perpetrator will be assigned less blame than a sober perpetrator.

Hypothesis 3: There will be a difference in perceptions of sexual harassment based on the perpetrator’s intoxication status. Specifically, sexual harassment will be perceived more often when the perpetrator is sober rather than intoxicated.

Kaplan and Miller (1978) suggested that juries tend to be less susceptible to bias from irrelevant factors than individual jurors. They rationalized that jurors would share information that may have been ignored by individuals in their initial judgement. They propose the jury discussion will focus the attention of jurors on relevant case information rather than biasing information (Kaplan & Miller, 1978). However, Kerr et al. (1999) suggested juries would be less biased than jurors only in cases with strong evidence. The researchers found that juries were more biased than individual jurors in moderate or ambiguous cases, with base rates from 50-60% (Kerr et al., 1999). Such ambiguous cases
are analogous to many hostile environment sexual harassment cases, including the case addressed in the present study.

Hypothesis 4: There will be a difference in jury group perceptions among sexual harassment in conditions where participants are not instructed. Specifically, when not instructed to ignore it, juries will be influenced by the intoxication information such that sexual harassment will be perceived less when the victim is intoxicated, while sexual harassment will be perceived more when the perpetrator is sober.

Past research has shown that the intoxication status of the victim and the perpetrator may distract the evaluator from making a determination of sexual harassment (Johnson et al., 1997; Shoenfelt & Mack; 2003, Shoenfelt et al., 2003). In making a legal determination of sexual harassment, the intoxication status of either party is an irrelevant factor and should not be considered. It is likely that jurors will ignore the intoxication information when instructed to do so. However, research on inadmissible evidence has shown that individual jurors do not always adhere to instructions (Rind & Jaeger, 1995; Kerwin & Schaffer, 1994). Kerwin and Schaffer (1994) found that individual jurors react differently than juries do to instructions. Specifically, the juries were more likely to adhere to the instructions to ignore inadmissible evidence than were individual jurors.

Hypothesis 5a: Individual jurors that are instructed to ignore the intoxication status of the victim and the perpetrator will still be influenced by the intoxication information such that sexual harassment will be perceived more when the victim is sober (just world), while sexual harassment will be perceived less when the perpetrator is intoxicated (discounting principle).
Hypothesis 5b: Jury groups instructed to ignore the intoxication status of the victim and the perpetrator will not be influenced by the intoxication information. Sexual harassment will be perceived less when the victim is sober, while sexual harassment will be perceived more when the perpetrator is intoxicated, diminishing the effects of the just world hypothesis and the discounting principle.

A prominent finding in criminal juror research is the majority effect, which suggests that the majority of individual preference prior to deliberation will most likely be the jury’s verdict (MacCoun & Kerr, 1988). Similar to the majority effect is the leniency bias, which suggests that the majority individual preference prior to deliberation that leans toward acquittal will be more prevalent than the majority individual preference prior to deliberation leaning towards conviction. Another research finding in criminal juror research is the asymmetry effect, which states that when individual preferences are split prior to deliberation, the jury verdict after deliberation will most likely lean towards acquittal or not guilty (MacCoun & Kerr, 1988).

Hypothesis 6a: A majority effect will be evident such that when the majority initial individual finding perceives sexual harassment, the jury will perceive sexual harassment. Likewise, when the majority initial individual finding does not perceive sexual harassment, the jury will not perceive sexual harassment.

Hypothesis 6b: Consistent with the leniency bias, we would expect to see a higher percentage of the majority initial individual finding not perceiving sexual harassment to result in the jury’s verdict of no sexual harassment than the majority initial individual finding perceiving sexual harassment to result in the jury’s verdict of sexual harassment.
Hypothesis 6c: Juries with majority initial individual findings that are split (half perceive sexual harassment, half do not perceive sexual harassment) will exhibit an *asymmetry effect*, and will most likely not perceive sexual harassment.

Research on the *minimal group paradigm* has shown that even manipulated groups in laboratory research have an impact on the individual’s concept of the group, such that the individual is more likely to show *in-group favoritism* and *out-group derogation* (Rabbie & Horwitz, 1969). Shoenfelt et al. (2003) found when juries found no sexual harassment, participants were also more likely not to perceive sexual harassment in their final individual decision, (regardless of their initial decision), suggesting that the individual might have an *in-group* attachment to the group decision.

Hypothesis 7: There will be a difference in perceptions of sexual harassment in the final individual decision based on the jury group’s decision. Specifically, participants will be more likely to base their final individual decision on the jury group’s decision.
Method

Participants

Participants were 268 undergraduate students enrolled in psychology classes at a mid-sized southeastern university. At the discretion of the instructor, some participants were given extra credit in their course for participation in the present study. The mean age was 20.08 years (SD=4.03), with the age ranges between 18 and 57. All participants are eligible for jury duty (at least age 18). Some 63% of the participants were female. The majority of participants were Caucasian (91%); 5% were African American; 2% were Asian; and Hispanic, Cuban, and Japanese were each under 1%.

Most of the participants said they had at some time been employed in a business, industry, or organizational setting (93%). Approximately 71% of the participants stated that their environment was not at all sexually harassing, while 27% said their environment was somewhat harassing; 2.6% said it was extremely harassing. When asked if participants believed they had been a victim of sexual harassment, 69% said no, 9.7% said they were uncertain, and 21% said they had been.

Materials

Informed Consent. The informed consent document described the nature and purpose of the project, a brief explanation of the procedures, discomfort and risk associated with participation, the benefits of participation, confidentiality, and the right to refuse or withdraw from the study at any time (Refer to Appendix A). The participants were guaranteed anonymity. There were told not to include any identifying information on any of the materials provided. The participants were asked to sign and date the
informed consent form and then have a student nearby sign and date the consent as a witness.

*Demographic Items.* The Demographic items consisted of six questions found on the Sexual Harassment Response Sheet (Refer to Appendix B). Participants were asked to indicate their (a) gender, (b) race/ethnicity, (c) age, (d) whether they have ever been employed in a business, industry, or any organizational setting (yes/no), (e) the extent to which they believe their present environment is sexually harassing (1-Not at all to 3-Extremely harassing) (f) if they have ever experienced negative consequences of sexual harassment (1-No, 2-Uncertain, 3-Yes), and (g) if they believe they have been a victim of sexual harassment (1-No, 2-Uncertain, 3-Yes).

*Manipulation Checks.* Two manipulation check items were included to assess whether participants were able to correctly identify the manipulation of victim and perpetrator intoxication (sober, intoxication, no information) in the scenario they read. The participant was asked to circle an adjective among a list of semantic differentials describing the victim (Item 8) and the perpetrator (Item 9) in the scenario they read. Only data from participants correctly identifying the manipulation were included in the data analyses (Refer to Appendix B). Some 34 participants either did not answer items 8 and/or 9 or failed to correctly identify the intoxication status of Bill Roger and/or Sara Smith. These participants’ data were not included in any further analyses.

*Dependent Measure.* The dependent measure consisted of two questions. First, participants were asked (Item 10) if they believed the perpetrator, Bill Roger’s, behavior is sexual harassment (Yes/No). Then participants were asked (Item 11) to indicate their
degree of confidence in their decision to item ten on a five-point scale (A-Not at all confident to E-Completely Confident; Refer to Appendix B).

**EEOC items.** Five additional items were included on the data collection instrument that reflect the EEOC criteria that should be reviewed before making a hostile environment sexual harassment determination. The five questions were as follows: (a) Does this have the effect of unreasonably interfering with Sara’s (the victim) work performance? (b) Does the incident described create an intimidating environment? (c) Does the incident described create a hostile environment? (d) Does the incident described create an offensive environment? and (e) Does Bill Roger’s behavior constitute hostile environment sexual harassment? Participants were asked to reply to the five questions with a Yes/No response. Additionally, participants indicated their degree of confidence with regard to each of the five EEOC items on a five-point scale (A-Not at all confident to E-Completely confident; Refer to Appendix B).

**Scenarios.** The scenarios used in the present study were adapted and modified from the scenarios used in Johnson et al. (1997). The scenarios describe a woman who filed a sexual harassment lawsuit after an incident at an annual company party. The intoxication status of the victim, the intoxication status of the perpetrator, and no intoxication information were manipulated across nine scenarios (Refer to Appendix C). The sexually harassing conduct used in the scenario was determined by a stimulus centered rating study conducted by Shoenfelt and Mack (2003). In the study, participants were asked to rate (1-Definitely not sexual harassment to 5- Definitely sexual harassment) the degree of perceived sexual harassment for a list containing combinations of comments and behaviors. Based on Shoenfelt and Mack (2003), the behavior “Placed
his hand on her shoulder” and comment “Your ass sure looks good in that dress” were used in all the scenarios. This particular behavior and comment were selected because their perceived sexual harassment ratings were closest to the midrange of the scale, thus most likely representing ambiguous conduct which should result in higher variability among participants in whether or not the behavior constitutes hostile environment sexual harassment.

Procedure

Participants were welcomed and given a brief introduction of the study. Participants filled out the informed consent form. A training session was presented to the participants that provided information on the EEOC (1990) definitions and examples of sexual harassment, including the two types, quid pro quo and hostile environment. In addition, the three key features outlined in the EEOC (1990) guidelines that need to be present in both types of sexual harassment were presented (Refer to Appendix D). In addition, half of the participants were further instructed to ignore the intoxication status of both the perpetrator and the victim (refer to Appendix E). Throughout the presentation, overhead transparencies of the definitions and key features of sexual harassment were used as visual aids for the participants in the training session. The transparencies were displayed throughout the duration of the study. After the training session was over, students were provided an opportunity to ask questions.

Participants were then given a packet that included the Sexual Harassment Response Sheet, one of nine case scenarios, a Jury Record Sheet (Refer to Appendix F), and an Individual Record Sheet (Refer to Appendix G). First, the participants were asked to fill out the demographic items (item 1-7). Next, they were instructed to read the
scenario of an alleged sexual harassment case and then fill out items 8 to 22 on the Sexual Harassment Response Sheet. Packets were labeled with the letters A through F to randomly assign participants to juries. In each data collection session, four to six individuals randomly received a packet with each letter representing the jury to which they belonged. Half of the participants were randomly assigned to either receive instructions to disregard intoxication status or no instructions. Once all the participants had completed filling out the Data Collection Sheet, they were instructed to form “jury” groups based on the packet letter (A through F), representing the scenario located in the packet. Once in groups, the participants were told they would be making a jury decision regarding whether the case constituted hostile environment sexual harassment. Before making their group decision, the juries were presented with guidelines on group consensus making (Refer to Appendix D). The juries were asked to discuss the case and make a decision on the Jury Record Sheet. Once all juries had made a decision, each participant was then asked to review everything (i.e., their first decision and their jury decision) and to make a final decision on the Individual Record Sheet. Finally, the participants were thanked for their time.
Results

The case used in the present study was designed to be ambiguous so that an approximately equal number of individuals would either perceive sexual harassment or not perceive sexual harassment. Although participants tended to find sexual harassment more often than not, the actual rates imply that the case was relatively ambiguous. When individual jurors responded, 35% believed that the perpetrator’s behavior did not constitute sexual harassment, while 64% believed that the perpetrator’s behavior did constitute sexual harassment. Some 56% of the juries said the perpetrator’s behavior was not sexual harassment, while 44% of the juries said the perpetrator’s behavior was sexual harassment on the same case. Therefore, individuals tended to find sexual harassment while juries tended to lean towards finding no sexual harassment.

Individual Jurors

To analyze the individual juror decisions, a continuous dependent variable was created by coding the individual juror decisions 1 for “yes” and –1 for “no” and then multiplying this number by the corresponding confidence level (1-Not at all confident to 5-Completely Confident). Therefore, positive responses indicate sexual harassment, while negative responses indicate no sexual harassment. A 2 (Gender: male, female) X 2 (Instructions, No Instructions) X 3 (Victim Intoxication: victim intoxicated, no information on victim’s intoxication, victim sober) X 3 (Perpetrator Intoxication: perpetrator intoxicated, no information on perpetrator’s intoxication, perpetrator sober) ANOVA was conducted on individual jurors’ decisions to test Hypotheses 1, 2, 3, and 5a (refer to Table 1). There was no Instruction main effect. Therefore, individual jurors were not impacted by the instructions. The results revealed a main effect for Gender, $F(1, 229)$
= 4.55, \( p = .03 \). Females (\( M = 1.43, SD = 3.14 \)) were more likely than males (\( M = .41, SD = 3.50 \)) to view the conduct as sexual harassment, supporting the gender difference often found in sexual harassment research (Rotundo et al., 2001).

Table 1.

*ANOVA of individual juror decisions in perceptions of sexual harassment.*

<table>
<thead>
<tr>
<th>Source</th>
<th>( df )</th>
<th>( MS )</th>
<th>( F )</th>
<th>( \eta^2 )</th>
<th>( p )</th>
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<td>Gender (G)</td>
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<td>.03*</td>
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<td>.00</td>
<td>.37</td>
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<td>.03</td>
<td>.01*</td>
</tr>
<tr>
<td>Perpetrator Intoxication (PI)</td>
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<td>67.62</td>
<td>6.40</td>
<td>.05</td>
<td>.00**</td>
</tr>
<tr>
<td>G X I</td>
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<td>4.53</td>
<td>0.43</td>
<td>.00</td>
<td>.51</td>
</tr>
<tr>
<td>G X VI</td>
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<td>1.54</td>
<td>.01</td>
<td>.22</td>
</tr>
<tr>
<td>G X PI</td>
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<td>4.69</td>
<td>0.44</td>
<td>.01</td>
<td>.64</td>
</tr>
<tr>
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<td>8.56</td>
<td>0.81</td>
<td>.01</td>
<td>.45</td>
</tr>
<tr>
<td>I X PI</td>
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<td>14.21</td>
<td>1.35</td>
<td>.00</td>
<td>.26</td>
</tr>
<tr>
<td>VI X PI</td>
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<td>10.26</td>
<td>0.97</td>
<td>.01</td>
<td>.42</td>
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<tr>
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<td>7.04</td>
<td>0.67</td>
<td>.00</td>
<td>.52</td>
</tr>
<tr>
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<td>0.08</td>
<td>.01</td>
<td>.92</td>
</tr>
<tr>
<td>G X VI X PI</td>
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<td>.02</td>
<td>.31</td>
</tr>
<tr>
<td>I X VI X PI</td>
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</tbody>
</table>
However, we specifically hypothesized based on similar research (Shoenfelt et al., 2003) that intoxication or instructions would interfere with the gender effect, such that when intoxication information was not present, or when juror’s were instructed to ignore intoxication, a gender difference would be present. In this case, the Gender X Victim Intoxication and Gender X Perpetrator Intoxication were not significant such that the gender effect was present regardless of intoxication status or instructions. However, the gender effect explained only a small amount of the variance accounted for ($\eta^2 = .02$).

There were main effects for Victim Intoxication, $F(2, 229) = 4.75, p = .01$ and Perpetrator Intoxication, $F(2, 229) = 6.40, p = .00$. Tukey’s HSD post hoc test revealed that individual jurors were less likely to perceive sexual harassment when the victim was intoxicated ($M = .50, SD = 3.37$) than when no information was presented regarding the victim’s intoxication status ($M = 1.69, SD = 3.14$). However the sober victim ($M = .90, SD = 3.34$) did not significantly differ from the intoxicated victim or no information on victim intoxication status conditions. The results fail to support Hypothesis 2, which stated that when the victim was sober as opposed to intoxicated, individual jurors would be more likely to perceive sexual harassment. Although sexual harassment was less likely to be found for an intoxicated victim than when no intoxication information was presented, there was no difference between sexual harassment findings for sober and intoxicated victims.

Tukey’s HSD post hoc test for the Perpetrator Intoxication status showed that individuals that were presented with no information ($M = 1.47, SD = 3.04$) regarding the perpetrator’s intoxication status or a sober perpetrator ($M = 1.56, SD = 3.28$) were more likely to perceive sexual harassment than individuals presented with an intoxicated
perpetrator \((M = -.16, SD = 3.44)\). There was no difference in perceptions of sexual harassment between sober perpetrator and no information conditions. The main effect for perpetrator intoxication supports Hypothesis 3. Individual jurors were less likely to perceive sexual harassment when the perpetrator was intoxicated suggesting that individuals were discounting the intoxication information for the perpetrator.

**Juries**

A continuous dependent variable was created for the jury decisions in the same manner as for the individual juror decisions. A 2 (Instructions, No Instructions) X 3 (Victim Intoxication: victim intoxicated, no information on victim’s intoxication, victim sober) X 3 (Perpetrator Intoxication: perpetrator intoxicated, no information on perpetrator’s intoxication, perpetrator sober) ANOVA was conducted on jury decisions to test Hypotheses 4 and 5b (refer to Table 2). Gender was not used as a factor in this model because juries were mixed in gender. The results revealed a main effect for

Table 2

ANOVA of jury decisions of sexual harassment.

<table>
<thead>
<tr>
<th>Source</th>
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<th>F</th>
<th>(\text{Eta}^2)</th>
<th>(p)</th>
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<td>54.17</td>
<td>6.36</td>
<td>.02</td>
<td>.01*</td>
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<td>.01</td>
<td>.10</td>
</tr>
<tr>
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<td>190.69</td>
<td>22.38</td>
<td>.13</td>
<td>.00**</td>
</tr>
<tr>
<td>I X VI</td>
<td>2</td>
<td>83.14</td>
<td>9.76</td>
<td>.06</td>
<td>.00**</td>
</tr>
<tr>
<td>I X PI</td>
<td>2</td>
<td>37.26</td>
<td>4.37</td>
<td>.02</td>
<td>.01*</td>
</tr>
<tr>
<td>VI X PI</td>
<td>4</td>
<td>22.62</td>
<td>2.66</td>
<td>.03</td>
<td>.03*</td>
</tr>
<tr>
<td>I X VI X PI</td>
<td>4</td>
<td>16.55</td>
<td>1.94</td>
<td>.02</td>
<td>.10</td>
</tr>
<tr>
<td>Error</td>
<td>248</td>
<td>8.52</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Instruction, $F(1, 248) = 6.36, p = .01$. Juries that received instructions to ignore intoxication status ($M = .19, SD = 3.46$) were more likely to perceive the occurrence of sexual harassment than were juries who did not receive instructions ($M = -.74, SD = 3.23$). The suggestion is that juries were impacted more by these instructions than were individual jurors in forming determinations of sexual harassment. Individual jurors were not affected by the instruction manipulation. Juries, regardless of intoxication, were more likely to perceive sexual harassment when instructed to ignore the intoxication information.

There was a main effect for Perpetrator Intoxication, $F(2, 248) = 22.38, p < .001$. Tukey’s HSD post hoc tests revealed that juries presented with no information regarding the intoxication status of the perpetrator ($M = 1.19, SD = 3.16$) were more likely to perceive sexual harassment than juries presented with a sober perpetrator ($M = -.29, SD = 3.66$). Likewise, juries presented with an intoxicated perpetrator ($M = -1.80, SD = 2.55$) were significantly less likely to perceive sexual harassment than juries presented with either a sober perpetrator or no information regarding the perpetrator’s intoxication. It appears juries are also influenced by the intoxication information. Similarly to individual jurors, juries are apparently discounting the intoxication by assigning less responsibility for the perpetrator’s sexual harassment conduct when the perpetrator is intoxicated than when sober.

There were three significant interactions, an Instruction X Victim Intoxication interaction, $F(2, 248) = 9.76, p < .001$, an Instruction X Perpetrator Intoxication interaction, $F(2, 248) = 4.37, p = .01$, and a Victim Intoxication X Perpetrator Intoxication interaction, $F(4, 248) = 2.66, p = .03$. Separate one-way ANOVAs were
conducted on victim intoxication for those who received instructions, $F(2, 132) = 5.33, p < .01$, and those who did not receive instructions (salient intoxication) $F(2, 128) = 4.51, p < .05$ (refer to Table 3). Tukey’s HSD post hoc tests showed that juries that were given instructions to ignore the intoxication information were more likely to perceive sexual harassment when the victim was intoxicated ($M = 1.61, SD = 2.58$) than when the victim was sober ($M = -.48, SD = 3.49$) or when there was no information regarding the victim’s intoxication ($M = -.40, SD = 3.75$). On the other hand, juries that were not given any instructions were more likely to perceive sexual harassment when there was no information regarding the victim’s intoxication ($M = .31, SD = 2.98$) than when the victim was intoxicated ($M = -1.67, SD = 2.81$). The sober victim condition ($M = -.88, SD = 3.63$) did not significantly differ from the intoxicated victim condition or the no information on victim’s intoxication status condition. When the victim was intoxicated, juries that were given instructions to ignore the intoxication status of the victim and the perpetrator were likely to perceive sexual harassment, while juries not given instructions were more likely to not perceive sexual harassment (refer to Figure 1). The results of the

One-Way ANOVAs of jury group sexual harassment perceptions for victim intoxication X instruction.

<table>
<thead>
<tr>
<th>Received Instructions</th>
<th>$df$</th>
<th>$MS$</th>
<th>$F$</th>
<th>$\text{Eta}^2$</th>
<th>$p$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Between Groups</td>
<td>2</td>
<td>59.82</td>
<td>5.33</td>
<td>.07</td>
<td>.01*</td>
</tr>
<tr>
<td>Error</td>
<td>132</td>
<td>11.22</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salient Intoxication</td>
<td>$df$</td>
<td>$MS$</td>
<td>$F$</td>
<td>$\text{Eta}^2$</td>
<td>$p$</td>
</tr>
<tr>
<td>Between Groups</td>
<td>2</td>
<td>44.57</td>
<td>4.51</td>
<td>.07</td>
<td>.01*</td>
</tr>
<tr>
<td>Error</td>
<td>128</td>
<td>9.88</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
juries not receiving instructions to ignore the intoxication information support the just world hypothesis. Since the victim was intoxicated, juries were less likely to perceive sexual harassment suggesting that she possibly deserved the harassment for being drunk. Conversely, it appears that juries receiving instructions to ignore intoxication information actually did ignore the information, eliminating the just world bias, thus providing partial support for Hypothesis 5b.

*Figure 1.* Mean jury response for victim intoxication status by instruction type.

![Graph showing mean jury response for victim intoxication status by instruction type.](image)

Separate one-way ANOVAs were conducted on perpetrator intoxication for those who received instructions, $F(2, 132) = 15.73, p < .001$, and those who did not receive instructions (salient intoxication) $F(2, 128) = 8.80, p < .001$ (refer to Table 4). Tukey’s HSD post hoc tests revealed that juries that received instructions were more likely to perceive sexual harassment when there was no information regarding the perpetrator’s intoxication ($M = 1.44, SD = 2.98$) and when the perpetrator was sober ($M = .90, SD = ...
Table 4.

One-Way ANOVAs of jury group sexual harassment perceptions for perpetrator intoxication X instruction.

<table>
<thead>
<tr>
<th>Received Instructions</th>
<th>df</th>
<th>MS</th>
<th>F</th>
<th>Eta²</th>
<th>p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Between Groups</td>
<td>2</td>
<td>153.97</td>
<td>15.73</td>
<td>.19</td>
<td>.00**</td>
</tr>
<tr>
<td>Error</td>
<td>132</td>
<td>9.79</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Salient Intoxication</th>
<th>df</th>
<th>MS</th>
<th>F</th>
<th>Eta²</th>
<th>p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Between Groups</td>
<td>2</td>
<td>81.77</td>
<td>8.80</td>
<td>.12</td>
<td>.00**</td>
</tr>
<tr>
<td>Error</td>
<td>128</td>
<td>9.29</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3.63) than when the perpetrator was intoxicated (M = -2.00, SD = 2.79). On the otherhand, juries that did not receive instructions were more likely to perceive sexual harassment when there was no information regarding the perpetrator’s intoxication (M = .88, SD = 3.39) than when the perpetrator was sober (M = -1.40, SD = 3.37) or when the perpetrator was intoxicated (M = -1.61, SD = 2.32) (refer to Figure 2). In this case, it appears that juries were not following the instructions to ignore intoxication status and that there was a bias from the perpetrator’s intoxication. For all juries, those that received instructions and those that did not, the discounting principle was still evident. Juries were less likely to perceive sexual harassment when the perpetrator was intoxicated, thus failing to support Hypothesis 5b.

There was a significant interaction between Victim Intoxication and Perpetrator Intoxication (refer to Figure 3). Juries were likely to find sexual harassment when there was no information on perpetrator intoxication status. Juries were likely to find no sexual harassment when the perpetrator was intoxicated. However, when the perpetrator was
Figure 2. Mean jury response for perpetrator intoxication status by instruction type.

Figure 3. Mean jury sexual harassment response for perpetrator intoxication by victim intoxication.
sober, the finding of sexual harassment was dependent on the victim’s intoxication status. When the perpetrator was sober and there was no information on victim intoxication status, juries found sexual harassment ($M = 1.19, SD = 3.87$); when there was information indicating the victim was sober ($M = -.63, SD = 3.87$) or intoxicated ($M = -1.47, SD = 3.20$), juries were inclined to find no sexual harassment.

**Verdict Preferences and Jury Decision**

To examine Hypotheses 6a, 6b, and 6c, that is whether the majority individual preference was actually the jury’s decision, a chi-square test was conducted on the jury’s majority individual preference (majority yes, majority no, or split juries) and the dichotomous yes/no jury decision, $\chi^2(2, N=54) = 18.32, p < .001$. Of the 56 juries, 35 had initial majority individual findings stating the incident constituted sexual harassment, 13 had initial majority individual findings stating the incident did not constitute sexual harassment, while 6 juries had split initial individual findings (half of the individuals stated sexual harassment, while the other half stated there was no sexual harassment). Of the 35 juries that had initial majority individual findings of sexual harassment prior to deliberation, 66% resulted in jury verdicts of sexual harassment. Of the 13 juries that had initial majority individual findings of no sexual harassment prior to deliberation, 92% resulted in jury verdicts of no sexual harassment (refer to Table 5). This result clearly supports the *majority effect*. The initial majority of individuals prior to deliberation more times that not results in the jury’s verdict. This result also lends support for the *leniency bias* in the literature since a higher percentage of initial majority individual findings of no sexual harassment lead to jury verdicts of no sexual harassment than initial majority.
Table 4.

Frequencies and percentages of initial individual finding and jury finding.

<table>
<thead>
<tr>
<th>Initial Individual Finding</th>
<th>Jury Finding Yes</th>
<th>Jury Finding No</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Majority Yes</td>
<td>23 (66%)</td>
<td>12 (34%)</td>
<td>35</td>
</tr>
<tr>
<td>Majority No</td>
<td>1 (8%)</td>
<td>12 (92%)</td>
<td>13</td>
</tr>
<tr>
<td>Split</td>
<td>0 (0%)</td>
<td>6 (100%)</td>
<td>6</td>
</tr>
</tbody>
</table>

individual findings of sexual harassment resulting in jury verdicts of sexual harassment. All six juries that were initially split in their individual decision resulted in jury verdicts of no sexual harassment. This result supports the asymmetry effect found in injury decision making research that suggests split initial findings will most likely result in leniency towards the defendant, thus Hypotheses 6a, 6b, and 6c were all supported.

The data were then analyzed in a One-Way ANOVA, where the continuous jury decision variable was used to examine differences across the three majority conditions (majority yes, majority no, split), $F(2, 54) = 13.92, p < .001$ (refer to Table 6). Tukey's HSD post hoc tests revealed significant differences among juries with an initial majority of yes, juries with an initial majority of no, and those that were initially split. Juries with
majority initial findings of sexual harassment were more likely to have jury verdicts of
sexual harassment ($M = 1.23, SD = 3.25$) than were juries with majority initial findings of
no sexual harassment ($M = -3.15, SD = 1.72$) or juries that were split ($M = -2.67, SD =
1.37$). The juries that were split were not significantly different than the juries with a
majority initial finding of no sexual harassment. Again, these analyses show that the
majority of the initial verdict preference usually results in the jury’s verdict. Again
providing support for Hypotheses 6a, 6b, and 6c.

Correlational Analyses

Pearson’s $r$ correlation coefficients were calculated for the demographic variables
and the continuous initial individual decision variable of sexual harassment (refer to
Table 7). Specifically, the demographic items included age, ethnicity, work in an
organizational setting, personal experience of sexual harassment, including if they felt
they have been a victim of sexual harassment, and personal experience of negative
consequences of sexual harassment. There was a significant correlation between personal
experience of sexual harassment and the initial individual decision, $r = .13, p = .04$. The
more harassing individuals felt their present environment was, the more likely they were
to perceive sexual harassment in their initial individual decision. Similarly, there was a
significant correlation between victims of sexual harassment and initial individual
decisions, $r = .15, p = .02$. Specifically, individuals that reported being a victim of sexual
harassment were more likely to perceive sexual harassment in their initial individual
decision. Therefore, personal experience of sexual harassment influenced participant’s
perceptions of sexual harassment, such that those that experienced sexual harassment
were more likely to perceive the occurrence of sexual harassment in the present case. No other demographic variables were related to initial perceptions of sexual harassment.

Table 7.

Bivariate Correlations of demographic variables and initial individual decision of sexual harassment.

<table>
<thead>
<tr>
<th></th>
<th>Ethnicity</th>
<th>Age</th>
<th>Employed in Organization</th>
<th>Environment is Sexually Harassing</th>
<th>Negative Consequences</th>
<th>Victim of SH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ethnicity</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employed in Organization</td>
<td>-.17</td>
<td>.12*</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Environment is Sexually Harassing</td>
<td>.06</td>
<td>-.06</td>
<td>-.04</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Negative Consequences</td>
<td>-.01</td>
<td>.30**</td>
<td>.02</td>
<td>.18**</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Victim of SH</td>
<td>.01</td>
<td>.27**</td>
<td>.10</td>
<td>.28**</td>
<td>.54**</td>
<td></td>
</tr>
<tr>
<td>Individual Decision</td>
<td>.09</td>
<td>.07</td>
<td>.04</td>
<td>.13*</td>
<td>.02</td>
<td>.15*</td>
</tr>
</tbody>
</table>

*p<.05, **p<.001

Jury Decisions and Final Individual Decisions

Chi-square analyses were conducted on the dichotomous jury verdict (yes/no) and the final post deliberation individual verdict, $\chi^2 (1, N=267) = 135.85, p < .001$. Of the 117 individuals that were in juries that resulted in a verdict of sexual harassment, 86% still found the incident was sexual harassment when given one final individual decision. Of the 150 juries that did not find sexual harassment, 85% still stated that the incident did
Table 8.

*Frequencies and percentages of jury findings and final individual findings of sexual harassment.*

<table>
<thead>
<tr>
<th>Jury Finding</th>
<th>Final Individual Finding</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td>101 (86%)</td>
<td>16 (14%)</td>
<td>117</td>
</tr>
<tr>
<td>Yes</td>
<td>No</td>
<td>22 (15%)</td>
<td>128 (85%)</td>
<td>150</td>
</tr>
<tr>
<td>No</td>
<td>Total</td>
<td>123</td>
<td>144</td>
<td>267</td>
</tr>
</tbody>
</table>

not constitute sexual harassment during their final individual decision (refer to Table 8). Whether the jury verdict was yes or no, individuals were likely to stick with their jury verdict 85% of the time, while 15% changed their mind from their jury decision. This finding lends support to the Hypothesis 7 that individuals will be likely to stick to their jury's decision.

*EEOC Relevant Factors*

The five EEOC items on the data collection questionnaire were scored along with their confidence levels in a similar manner to the individual decision and the jury decision to create five new continuous variables. All five EEO items were then regressed on the individual decision to examine if the relevant EEO factors affected participants’ in making their determination of sexual harassment (refer to Table 9). The five variables were entered simultaneously into the regression analysis. Three of the five variables were found to be significant predictors of the individual decision of sexual harassment. The items, “Does the incident create an intimidating environment,” “Does the incident create a hostile environment,” and “Does the behavior constitute hostile environment sexual
Table 4.

Regression of the five EEO relevant items on individual perceptions of sexual harassment.

<table>
<thead>
<tr>
<th>Model</th>
<th>$b$</th>
<th>Std. Error</th>
<th>$B$</th>
<th>$p$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constant</td>
<td>-.54</td>
<td>.25</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Does the behavior have the effect of unreasonably interfering with the victim’s work performance?</td>
<td>.13</td>
<td>.07</td>
<td>.11</td>
<td>.09</td>
</tr>
<tr>
<td>Does the incident create an intimidating environment?</td>
<td>.15</td>
<td>.08</td>
<td>.13</td>
<td>.05*</td>
</tr>
<tr>
<td>Does the incident create a hostile environment?</td>
<td>-.18</td>
<td>.08</td>
<td>-.16</td>
<td>.02*</td>
</tr>
<tr>
<td>Does the incident create an offensive environment?</td>
<td>.03</td>
<td>.08</td>
<td>.03</td>
<td>.67</td>
</tr>
<tr>
<td>Does the behavior constitute hostile environment sexual harassment?</td>
<td>.56</td>
<td>.08</td>
<td>.52</td>
<td>.00**</td>
</tr>
</tbody>
</table>

Dependent Measure: Individual Perceptions of Sexual Harassment
$R^2 = .328$

“harassment,” were all found to be significant predictors of individual perceptions of sexual harassment. However, the items “Does the behavior have the effect of unreasonably interfering with the victim’s work performance” and “Does the incident create an offensive environment” were not significant predictors of individual perceptions of sexual harassment.

Further Analyses

In the conditions where no information was presented regarding the victim and/or the perpetrator’s intoxication status, frequencies were conducted to investigate what
individuals assumed the intoxication status was for the victim and the perpetrator. In the three scenarios where there is no information presented regarding the intoxication status for the victim, individuals in this condition all stated that the victim was sober. On the other hand, in the three scenarios where there was no information presented regarding the intoxication status of the perpetrator, some individuals stated the perpetrator was sober, while some individuals stated the perpetrator was intoxicated. When no information was presented on intoxication status for either the victim or the perpetrator, 12 individuals stated that the perpetrator was intoxicated, while 23 stated the perpetrator was sober. When the victim was intoxicated, and no information was presented on intoxication for the perpetrator, 4 individuals stated that the perpetrator was intoxicated, while 29 stated that the perpetrator was sober. When the victim was sober, and no intoxication information was presented, 13 stated that the perpetrator was intoxicated, while 15 stated that the perpetrator was sober. When individuals were not given information regarding the intoxication status on either the victim or the perpetrator, some individuals still presumed an intoxicated perpetrator and therefore may have been influenced by the intoxication status in making their decision.

Previous analyses regarding intoxication were examined by the condition the individual was randomly assigned to and not the intoxication status that the individual identified for the victim and the perpetrator (individuals were required to correctly identify intoxication status in sober or intoxicated conditions but not the no information conditions). These data were reanalyzed assigning participants to conditions based on their reported perceptions of victim and perpetrator intoxication. A 2 (Gender: male, female) X 2 (Victim Intoxication: victim sober, victim intoxicated) X 2 (Perpetrator
Intoxication: perpetrator sober, perpetrator intoxicated) ANOVA was conducted on individual perceptions of sexual harassment. There was a significant main effect for Gender, $F(1, 257) = 4.40, p = .02$ and a significant main effect for Perpetrator Intoxication, $F(1, 257) = 10.87, p = .00$ (refer to Table 10). Females ($M = 1.43, SD = 3.14$) were more likely than males ($M = .41, SD = 3.50$) to perceive sexual harassment.

Individuals that stated the perpetrator was intoxicated ($M = .22, SD = 3.38$) were less likely to perceive sexual harassment than when the perpetrator was sober ($M = 1.72, SD = 3.10$), providing support for the discounting principle. A main effect for Victim Intoxication approached significance, $F(1, 257) = 3.79, p = .05$. Individuals that stated the victim was intoxicated ($M = .49, SD = 3.37$) were less likely to perceive sexual harassment than when they stated the victim was sober ($M = 1.32, SD = 3.25$), which

<table>
<thead>
<tr>
<th>Source</th>
<th>df</th>
<th>MS</th>
<th>$F$</th>
<th>$\text{Eta}^2$</th>
<th>$p$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender (G)</td>
<td>1</td>
<td>43.78</td>
<td>4.40</td>
<td>.02</td>
<td>.04*</td>
</tr>
<tr>
<td>Victim Intoxication (VI)</td>
<td>1</td>
<td>37.71</td>
<td>3.79</td>
<td>.01</td>
<td>.05</td>
</tr>
<tr>
<td>Perpetrator Intoxication (PI)</td>
<td>1</td>
<td>108.20</td>
<td>10.87</td>
<td>.04</td>
<td>.04*</td>
</tr>
<tr>
<td>G X VI</td>
<td>1</td>
<td>.47</td>
<td>.05</td>
<td>.00</td>
<td>.83</td>
</tr>
<tr>
<td>G X PI</td>
<td>1</td>
<td>7.83</td>
<td>.79</td>
<td>.00</td>
<td>.38</td>
</tr>
<tr>
<td>VI X PI</td>
<td>1</td>
<td>14.45</td>
<td>1.45</td>
<td>.01</td>
<td>.23</td>
</tr>
<tr>
<td>G X VI X PI</td>
<td>1</td>
<td>50.53</td>
<td>5.07</td>
<td>.02</td>
<td>.03*</td>
</tr>
<tr>
<td>Error</td>
<td>257</td>
<td>9.96</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

ANOVA of individual decisions by identified victim and perpetrator intoxication status.
provides support for a just world. There was a significant three-way interaction among Gender, Victim Intoxication, and Perpetrator Intoxication, $F(1, 257) = 5.07, p = .25$ (refer to Figures 4 and 5). Both males ($M = .08, SD = 2.96$) and females ($M = -.47, SD = 3.70$) do not find sexual harassment when they perceive both the victim and the perpetrator as intoxicated, supporting both the just world theory and the discounting principle. However, females ($M = 1.81, SD = 2.86$) are more likely than males ($M = -.38, SD = 3.57$) to find sexual harassment when they perceive an intoxicated victim and a sober perpetrator, suggesting that males but not females are employing the just world theory. Both males ($M = 1.89, SD = 3.37$) and females ($M = 2.30, SD = 2.62$) find sexual harassment when they perceive a sober victim and a sober perpetrator. However, females ($M = .93, SD = 3.29$) are more likely than males ($M = -.68, SD = 3.36$) to find sexual harassment when they perceive a sober victim and an intoxicated perpetrator. This result
suggests that males are employing the discounting principle more so than females.

Interestingly, males and females both agree in their sexual harassment findings when they perceive the perpetrator and the victim as both sober or both intoxicated.

Figure 5. Mean individual sexual harassment response when victim is sober.
Discussion

The results of the current study provided some interesting findings for individual juror research and jury research. Gender, Victim Intoxication, and Perpetrator Intoxication were all found to influence individual juror perceptions of sexual harassment. While Instructions and Perpetrator Intoxication were found to influence jury perceptions of sexual harassment. Both individual jurors and juries displayed biases with regard to intoxication status.

It’s interesting to note that overall, individual jurors were more likely to perceive sexual harassment, while juries were more likely to not perceive sexual harassment. Some 64% of individual jurors stated the incident constituted sexual harassment, while 44% of juries stated the incident constituted sexual harassment. This finding is supportive of a leniency bias reported in jury research, which suggests that group deliberation often results in leniency towards the defendant (MacCoun & Kerr, 1988). The results of this research are strikingly similar to Stasser (1977) (as cited in Stasser, Kerr, & Bray, 1982) who found that 64% of jurors favored conviction prior to deliberation, while 49% favored conviction post deliberation.

Hypothesis 1, that intoxication information will interfere with the gender effect such that when either intoxication information is not present and when jurors are instructed to ignore it, the gender effect in perceptions of sexual harassment will be present or when intoxication information is salient, no gender difference in perceptions of hostile environment sexual harassment will be present, was not supported. Although prior research suggested that intoxication information interacts with the gender effect such that the presence of intoxication information mitigates the gender effect (Shoenfelt & Mack,
2003; Shoenfelt et al., 2003), the current study found a gender effect regardless of the intoxication information or instructions; the variance accounted for (d=.32) was similar to the effect size (d=.30) typically found in studies of sexual harassment (Rotundo et al., 2001). Overall, women were more likely than men to perceive the incident as sexual harassment. This finding has been extensively replicated in hostile environment sexual harassment research (Rotundo et al., 2001). The implications of this finding further lend support to the notion that men and women perceive sexual harassment in different ways.

As regards the legal system and sexual harassment cases, the gender of the juror can bias the perception of the outcome of the case, such that female jurors may be more likely to perceive sexual harassment, while male jurors may be more likely to not perceive sexual harassment, despite all jurors being presented the same information.

Hypothesis 2 predicted a difference in perceptions of sexual harassment based on the victim’s intoxication status; specifically, sexual harassment will be perceived more when the victim is sober rather than intoxicated. The results partially supported this hypothesis. When jurors were told the victim was intoxicated as opposed to when jurors had no information regarding the victim’s intoxication, individuals were less likely to perceive the occurrence of sexual harassment. This result is consistent with previous research on victim intoxication in hostile environment sexual harassment (Johnson et al., 1997) as well as research on intoxicated victims in rape and wife abuse scenarios (Richardson & Campbell, 1980, 1982; Hammock & Richardson, 1993). The results also support the conceptualization of a just world, as society views female intoxication more harshly than intoxication in men. In the case of hostile environment sexual harassment, an intoxicated woman, although the victim, is viewed as deserving the sexual harassment.
In the current study, the intoxicated victim was evidently perceived as deserving of the harassing behavior as observers were less likely to view this scenario as constituting sexual harassment. The implications of this finding to actual sexual harassment cases suggests that jurors may be biased in perceiving sexual harassment when the victim is intoxicated. Although sexual harassment may have occurred and intoxication information should not be used as a basis for forming a decision of sexual harassment, an intoxicated victim is more likely to be seen as deserving the harassing behavior than as a victim of harassment and jurors likely will not perceive this situation as constituting sexual harassment.

The third hypothesis predicted differences in perceptions of sexual harassment based on the perpetrator’s intoxication status. Specifically, it was hypothesized that sexual harassment would be perceived more when the perpetrator was sober rather than intoxicated. The results of this study supported this hypothesis. Individuals were less likely to perceive the incident as constituting sexual harassment when the perpetrator was intoxicated as opposed to sober or when there was no information regarding the perpetrator’s intoxication. This finding is also consistent with research on attributions of intoxicated assailants in rape and wife abuse situations, which has shown that more blame is attributed to the effects of alcohol than to the personal responsibility of the assailant (Hammock & Richardson, 1993; Richardson & Campbell, 1982). The results of the current study suggest that individuals discounted the sexual harassment incident as a result of the perpetrator being intoxicated by assigning less blame; consequently individuals were less likely to perceive sexual harassment. The implications to the legal system and sexual harassment cases is that intoxication status of the perpetrator may bias
juror perceptions in favor of the defendant in cases of sexual harassment. Despite the irrelevance of intoxication to the outcome of sexual harassment cases and the actual occurrence of sexual harassment, an intoxicated perpetrator may be seen as less responsible for his/her actions and not convicted of sexual harassment.

Hypothesis 4 stated there will be a difference in jury group perceptions among sexual harassment as a function of instructions to ignore intoxication status. Specifically, when not instructed to ignore it, juries will be influenced by the intoxication information such that sexual harassment will be perceived less when the victim is intoxicated and sexual harassment will be perceived more when the perpetrator is sober. This hypothesis is based on research that has shown juries as opposed to jurors, are more biased in regards to cases with weak or ambiguous evidence rather than strong case evidence (Kerr et al., 1999). The results of the current study show that jury groups are biased by extralegal factors. Hypothesis 4 received support. There was no main effect for victim intoxication, however there was a main effect for perpetrator intoxication. Juries were much less likely to perceive sexual harassment when the perpetrator was intoxicated as opposed to a perpetrator that was sober or when there was no information regarding the perpetrator. Therefore juries in the present study were biased by the intoxication information, however only by the intoxication status of the perpetrator. In this study, in jury decisions, the intoxication status of the perpetrator, that is the alleged harasser, carried more weight than the intoxication status of the victim.

Other possible explanations for not finding a biasing effect of the victim’s intoxication status in jury decisions is the effect of the instruction manipulation. When looking at only the juries that did not receive instructions to ignore the intoxication status,
juries were less likely to perceive sexual harassment when the perpetrator was intoxicated rather than when there was no information regarding the intoxication status of the perpetrator thus clearly supporting the discounting principle. On the other hand, juries that were not given any instructions were more likely to perceive sexual harassment when there was no information regarding the victim’s intoxication rather than when the victim was intoxicated. This result supports the notion of a just world, such that the intoxicated victim was viewed more harshly since juries were less likely to view the occurrence of sexual harassment in these incidents. Therefore, juries given no instructions were biased by the intoxication information in the same manner that individual jurors were. The results supported previous research, which found that juries were more biased than individual jurors (Kerwin & Schaffer, 1994). The present study was not designed to address whether juries were more biased than individual jurors, but that juries would be just as biased as individual jurors. Generally, research on sexual harassment has not utilized jury groups, but has relied on individual jurors. In the legal system, jurors do not formally make individual decisions, but deliberate as a group on a verdict. Implications to sexual harassment trials include that once deliberating, the jury still may be biased by the intoxication status of the perpetrator and the victim in a similar manner to individual jurors. Intoxicated victims may be less likely to be perceived as victims despite the actual occurrence of sexual harassment. Consequently, juries may decide in favor of the defendant. Likewise, an intoxicated perpetrator may not be held accountable due to the effects of alcohol. Despite the occurrence of sexual harassment and the irrelevance of intoxication in making a determination of sexual harassment, juries might decide in favor
of the defendant. Instructions to the jury, but not individual jurors, may eliminate some of that bias, especially for victim intoxication status.

Hypotheses 5a and 5b both addressed whether receiving instructions to ignore specific biasing evidence of the case would be followed. Hypothesis 5a predicted that individual jurors receiving instructions to ignore the intoxication status of the victim and the perpetrator will still be influenced by the intoxication information such that sexual harassment will be perceived more when the victim is sober (just world), while sexual harassment will be perceived less when the perpetrator is intoxicated (discounting principle). Hypothesis 5a was supported. There was no main effect for instruction and no interaction between instructions and victim or perpetrator intoxication status. Regardless of the instructions, individual jurors showed a biasing pattern such that sexual harassment was perceived less when the victim was intoxicated supporting the just world hypothesis. Likewise, regardless of instructions, individual jurors perceived sexual harassment less when the perpetrator was intoxicated, supporting the discounting principle. The results are consistent with previous research regarding inadmissible evidence, that individual jurors do not always follow the instructions (Rind & Jaeger, 1995; Kerwin & Schaffer, 1994). Implications to the legal system suggest that jurors may not follow the instructions to ignore biasing evidence that should not be used in making determinations of sexual harassment. However, despite the fact much research is conducted on individual jurors, jurors do not make individual decisions, they deliberate as a group.

Hypothesis 5b stated that jury groups instructed to ignore the intoxication status of the victim and the perpetrator will not be influenced by the intoxication information, such that sexual harassment will be perceived more when the victim is intoxicated, while
sexual harassment will be perceived more when the perpetrator is intoxicated, diminishing the effects of the just world hypothesis and the discounting principle. Hypothesis 5b states the opposite of 5a suggesting that juries rather than individual jurors would adhere to the instructions. The results provided partial support for Hypothesis 5b. Juries that were given instructions to ignore the intoxication status were more likely to perceive sexual harassment in the case where the victim was intoxicated opposed to the cases where the victim was sober or when there was no information regarding the victim's intoxication. The just world bias was eliminated for the victim intoxication condition when the juries were told to ignore the intoxication status. Therefore, the results suggest that juries did adhere to the instructions with regards to the victim's intoxication status.

On the other hand, consistent with the discounting principle, juries that received instructions to ignore the intoxication status were more likely to perceive sexual harassment in the cases where there was no information regarding the perpetrator's intoxication and when the perpetrator was sober as opposed to when the perpetrator was intoxicated. The discounting principle is still evident in the perpetrator intoxication condition. Juries were not following the instructions to ignore the intoxication status. Perhaps the intoxication status of the perpetrator carries more weight in examining the case evidence. In this study, juries that were instructed to ignore the intoxication status still attributed less responsibility to the perpetrator for the alleged incident of sexual harassment when the perpetrator was intoxicated. The results of the victim intoxication condition were consistent with research on inadmissible evidence, such that juries were more likely to adhere to the instructions to ignore inadmissible evidence than were
individual jurors (Kerwin & Schaffer, 1994). Yet the results of the perpetrator intoxication condition were not consistent with this research, such that the jury groups still were biased by the intoxication information despite being instructed to ignore this information. Implications for sexual harassment cases are that juries may or may not follow instructions to ignore biasing or incriminating evidence when making a determination of sexual harassment depending upon the type of evidence. Giving instructions to juries to ignore irrelevant evidence regarding the intoxication status would likely mitigate the biasing effects of an intoxicated victim. In this case, the jury may find in favor of the victim even if the victim was intoxicated. On the other hand, regardless of giving instructions to juries to ignore biasing evidence regarding intoxication, juries would likely still be biased by the intoxication status of the perpetrator. Juries may find in favor of the defendant as a result of his intoxication status.

Interestingly, jury perceptions of sexual harassment differed as a function of an interaction of Victim Intoxication and Perpetrator Intoxication. Juries were more likely to perceive sexual harassment when the perpetrator was sober or there was no information on the perpetrator and when there was no information on the victim than when the perpetrator was intoxicated and there was no information on the victim. Juries were most likely to perceive sexual harassment when the victim was sober and when there was no information on the perpetrator than when the victim was sober and the perpetrator was intoxicated. Last, juries were more likely to perceive sexual harassment when the victim was intoxicated and when there was no information on the perpetrator than when the victim was intoxicated and the perpetrator was either sober or intoxicated.
Hypotheses 6a, 6b, and 6c referred to the initial majority finding’s effect on the jury’s outcome. Hypothesis 6a stated that a majority effect will be evident such that when the majority initial individual finding perceives sexual harassment, then the jury will perceive sexual harassment. Likewise, when the majority initial individual finding does not perceive sexual harassment, then the jury will not perceive sexual harassment. The present results were consistent with this hypothesis and previous research conducted by MacCoun and Kerr (1988), such that the majority initial finding of the individuals prior to deliberation resulted in the juries finding 73% of the time in our study compared to MacCoun and Kerr’s finding of 82% of the time. Therefore, it is clear that the individual’s initial opinion has a large impact on the jury’s decision, such that the majority opinion among individual’s will most likely result in the jury’s decision. The implications to the legal system are quite significant. Initial opinions of jurors prior to deliberation could lead to the outcome of the case. MacCoun and Kerr indicated group polarization occurs when group discussion moves the average of prediscussion preferences towards whichever end of the decision dichotomy initially was favored by individuals. Our findings are consistent with these of MacCoun and Kerr that deliberation merely polarizes the majority findings of individuals.

Hypothesis 6b predicted we would expect to see a higher percentage of the majority initial individual finding not perceiving sexual harassment to result in the jury’s verdict of no sexual harassment, than the majority initial individual finding perceiving sexual harassment to result in the jury’s verdict of sexual harassment. This pattern reflects what is termed the leniency bias, which suggests that the impact of the initial majority finding of no or not guilty will have a greater impact than the initial majority
finding of yes or guilty (MacCoun & Kerr, 1988). Consistent with the hypothesis and previous research conducted by MacCoun and Kerr, the percentage of initial majority findings of no sexual harassment resulting in the jury’s decision of no sexual harassment (92%) was larger than the percentage of initial majority findings of sexual harassment resulting in the jury’s decision of sexual harassment (66%). MacCoun and Kerr suggested that this finding implies that people are more hesitant to risk a false conviction of an innocent person than falsely acquitting a guilty person. Legal implications are that majority findings of jurors prior to deliberation that favor not perceiving sexual harassment have more impact on the jury’s decision than majority findings that perceive sexual harassment. Therefore, jury groups with initial findings or opinions that do not favor the occurrence of sexual harassment are more likely to result in a jury’s decision of no sexual harassment than a jury group with initial findings or opinions that favor sexual harassment. It is likely that juries will be more lenient than harsh.

Hypothesis 6c stated juries with initial majority findings that are split (half perceive sexual harassment, half do not perceive sexual harassment) will exhibit an asymmetry effect, such that deliberation will likely result in a jury decision that does not find sexual harassment. The results supported this hypothesis, however the confidence in conclusions drawn is limited by the small sample size. Only six juries were split in their initial findings. However all six juries that were split resulted in jury decisions of no sexual harassment, again supporting the leniency bias and the asymmetry effect found in jury decision making research that suggests split initial findings will most likely result in leniency towards the defendant (MacCoun & Kerr, 1988). The implication to the legal
system is that juries may be more lenient when the initial majority findings are split. In such cases, the jury will be more hesitant to find in favor of the defendant.

Hypothesis 7 addressed the impact of the jury’s decision on the individual’s final decision regarding perceptions of sexual harassment. Specifically, Hypothesis 7 predicted a difference in perceptions of sexual harassment in the final individual decision based on the jury group’s decision, such that participants will be likely to base their final individual decision on the jury group’s decision. The results supported this hypothesis. Whether the jury’s decision was yes or no with regards to the incident being sexual harassment, final individual decisions more often than not stayed with their jury’s decision. The results are consistent with past research conducted by Shoenfelt et al. (2003), that found that participants were likely to base their final individual decision on their jury’s decision. The results also support research on the minimal group paradigm, which has shown that even short-term groups in laboratory research impact an individual’s concept of the group such that the individual is more likely to show in-group favoritism and out-group derogation and comply with the group decision (Rabbie & Horowitz, 1969). Implications to the legal system are that jurors are likely to make a decision that they will stick with and defend. Once jurors make a decision, they are likely to stand by this decision.

Although no hypotheses were made regarding personal experience of sexual harassment and individual decision of sexual harassment, the results suggest that there is a relationship. Specifically, participants that reported their present environment to be sexually harassing were more likely to perceive sexual harassment in the present study. Likewise, participants that reported they had been a victim of sexual harassment were
also more likely to perceive sexual harassment in the present study. The results support research that has shown a relationship between personal experience of sexual harassment and perceptions of sexual harassment (Gowan & Zimmerman, 1996). Gowan and Zimmerman found that prior experience of sexual harassment influenced the outcomes of sexual harassment cases when the harassing incident was ambiguous, such that prior experience was related to favoring the plaintiff. Therefore, it is likely that jurors that have personal experience with sexual harassment may be more likely to favor the plaintiff.

Of the EEOC relevant items, three were found to be predictive of an individual’s decision of sexual harassment: “Does the incident create an intimidating environment,” “Does the incident create a hostile environment,” and “Does the behavior constitute hostile environment sexual harassment.” Two EEOC factors were not significant predictors of an individual’s decision of sexual harassment: “Does the behavior have the effect of unreasonably interfering with the victim’s work performance” and “Does the incident create an offensive environment.” Participants might not have felt the incident unreasonably interfered with the victim’s work performance or created an offensive environment since the victim was at an office party rather than at work. These results have important implications to the legal system as jurors may not consider all the relevant factors or may place more emphasis on some over others in making a determination of sexual harassment.

The no information condition allows individuals and juries to presume that the victim and/or perpetrator are intoxicated or sober. This presumption could just be adding error variance. Therefore, additional analyses were conducted based on the individuals
identification of whether the victim and the perpetrator were perceived to be sober or intoxicated regardless of whether or not information was provided on the victim’s or perpetrator’s intoxication status. When the additional analyses were done, again, a gender effect was found. Females were more likely than males to perceive the incident as sexual harassment lending further support for Hypothesis 1. A main effect for Perpetrator Intoxication was found. Sexual harassment was perceived more when the perpetrator was sober rather than intoxicated again further supporting Hypothesis 3. A main effect for Victim Intoxication approached significance. Consistent with Hypothesis 2, sexual harassment was less likely to be perceived when the victim was intoxicated rather than sober.

Finally, there was an interesting three-way interaction between Gender, Victim Intoxication, and Perpetrator Intoxication. In general, males and females agreed that sexual harassment was not likely when both the perpetrator and the victim were intoxicated and both agreed that sexual harassment was present when both the victim and the perpetrator were sober. However, when the victim was intoxicated and the perpetrator was sober, females were more likely to perceive sexual harassment. The male perception but not the female perception in this instance is consistent with a just world theory. When the victim was sober and the perpetrator was intoxicated, females were more likely to find sexual harassment than males. The male perception but not the females’ in this instance is consistent with the discounting principle. The results suggest that males but not females reason consistently with both the just world theory and the discounting principle. Perhaps future research on the effect of intoxication status on sexual harassment perceptions should not include a no information condition and retain only
sober and intoxicated conditions. With only these two conditions present, it would be interesting to see whether or not the results are similar to that found when the no information condition was operationally removed from our analyses.

Limitations

A limitation to the current study is the relatively young age of participants (M=20.08 years, SD=4.03). Even though 93% reported work experience, participants’ relatively short tenure in an organizational setting may influence their perceptions of proper work etiquette. It is reasonable to suggest that the participants in this study may have been more influenced by the intoxication manipulation than older, more experienced workers or people that would typically be on a jury for a sexual harassment trial.

Another limitation of the present study is a lack of diversity among participants. The civil jury system specifically chooses a jury that is diverse in order to eliminate biases. A jury serving on a sexual harassment trial is likely to be diverse in gender, age, ethnicity, and experience. The lack of diversity in the current study could perpetuate the biases of intoxication, instructions, and gender more so than a diverse population of participants.

Other limitations to the current study relate to the actual methods. Mock jury decision making does not replicate the actual setting of a sexual harassment trial. It is likely that the influence of the attorneys, the judge, and the setting of the court room on juror’s perceptions will differ from the current study’s use of training participants in sexual harassment and EEO law as well as reading a scenario describing the incident and the case. The seriousness of the courtroom and an actual sexual harassment case is likely
to influence jurors such that they may take the trial much more seriously and likewise pay
closer attention to the details of the law and the facts of the case.

**Summary**

The current study investigated the impact of gender, victim intoxication,
perpetrator intoxication, and jury instructions on perceptions of sexual harassment among
both individual jurors and jury groups. Gender, victim intoxication, and perpetrator
intoxication influenced perceptions of sexual harassment among individual jurors, such
that decisions of sexual harassment were biased. Women were more likely than men to
perceive the incident as sexual harassment. When the victim was intoxicated, jurors were
less likely to perceive sexual harassment. When the perpetrator was intoxicated, jurors
were again less likely to perceive sexual harassment. Individual jurors did not follow
instructions to ignore the intoxication status in making a finding of sexual harassment.
Juries were also biased in a similar manner to the individual jurors by the perpetrator’s
intoxication status in making decisions of sexual harassment. However, when the juries
were instructed to ignore the intoxication status, the biasing effect was eliminated, but
only in the condition for which the victim was intoxicated and not when the perpetrator
was intoxicated. Future investigation of why the judicial instructions were adhered to in
the cases where the victim was intoxicated and not when the perpetrator was intoxicated
would lend greater insight to this unique finding. Likewise, it would be interesting to
conduct the current study but vary the case evidence, such that the case is obviously
sexual harassment, is ambiguous like the current study, or is obviously not sexual
harassment.
Despite the limitations, the current study further lends support in identifying various factors that bias perceptions of sexual harassment. Additionally, the current study investigated the various factors not only on traditional mock individual juror research but among mock juries, which lends more validity to the implications for the legal system. The research on biasing factors and judicial instructions provides information that can be used by attorneys as well as organizations as a means to determine how biasing factors and judicial instructions impact perceptions of sexual harassment.
References


*Guidelines on discrimination because of sex*, 29 C. F. R. § 1604.11.


psychology of the social self have to offer to psychologists? In T. R. Tyler, R. M. Roderick, & O. P. John (Eds), *The psychology of the social self* (pp.1-10). Mahwah, NJ: Lawrence Erlbaum Associates.


Appendix A:

Informed Consent
Informed Consent Document

Project Title: Jury Decisions of Sexual Harassment
Investigator: Dr. Betsy Shoenfelt, Psychology Department – 745-4418

You are being asked to participate in a research project conducted through Western Kentucky University. The University requires that you give your signed agreement to participate in this project. The investigator will explain to you in detail the purpose of the project, the procedures to be used, and the potential benefits and possible risks of participation. You may ask him/her any questions you have to help you understand the project. A basic explanation of the project is written below. Please read this explanation and discuss with the researcher any questions you may have. If you then decide to participate in the project, please sign this form in the presence of the person who explained the project to you.

1. **Nature and Purpose of the Project:** To study jury decisions about sexual harassment.
2. **Explanation of Procedures:** You will receive instruction on how courts decide cases of sexual harassment. You will then read a scenario depicting a court case and answer questions as though you are a member of a jury.
3. **Discomfort and Risks:** No anticipated risks or discomfort are expected from participating in this study.
4. **Benefits:** You will receive the satisfaction that comes from contributing to behavioral research. You may also learn about legal aspects of sexual harassment.
5. **Confidentiality:** Absolute anonymity is guaranteed. No identifying information (name, social security number, etc.) will ever be linked to the questionnaires you are filling out.
6. **Refusal/Withdrawal:** You are free to withdraw from this study at any time with no penalty to you at all.

Refusal to participate in this study will have no effect on any future services you may be entitled to from the University. Anyone who agrees to participate in this study is free to withdraw from the study at any time with no penalty. I understand also that it is not possible to identify all potential risks in an experimental procedure, and I believe that reasonable safeguards have been taken to minimize both the known and potential but unknown risks.

______________________________  ____________________________
Signature of Participant                Date

______________________________  ____________________________
Witness                                  Date
Appendix B:

Sexual Harassment Response Sheet
Sexual Harassment Study Response Sheet

Instructions: DO NOT put your name anywhere on these materials. However, the researchers are interested in whether males vs. females or people of different ages, etc. view sexual harassment differently. Thus, we need the following background information.

1. Gender: Male Female (circle one)  2. Race/Ethnicity: ______________________

3. Age:_______

4. Have you ever been employed in a business, industry, or any organizational setting?  1  2

   No Yes

5. Please indicate the extent to which you believe your present work (or school) environment is sexually harassing (e.g. offensive posters, jokes, sexual remarks or behaviors, etc.):

   1  2  3

   Not at all harassing Somewhat harassing Extremely harassing

6. Have you ever experienced negative consequences of sexual harassment?  1  2  3

   No Uncertain Yes

7. Do you believe you have ever been a victim of sexual harassment?  1  2  3

   No Uncertain Yes

Answer the following questions based on the case you just read.

8. For each word pair, circle the word you believe describes Sara Phillips:

   Competent - Incompetent
   Employed - Unemployed
   Angry - Not Angry
   Intoxicated - Sober
   Honest - Dishonest

9. For each word pair, circle the word you believe describes Bill Rogers:

   Competent - Incompetent
   Employed - Unemployed
   Angry - Not Angry
   Intoxicated - Sober
   Honest - Dishonest

10. I believe that Bill Rogers’ behavior is sexual harassment. Yes / No (circle)
11. How confident are you in your answer to # 10 that Bill Roger’s behavior is/is not sexual harassment? (circle A, B, C, D, or E):

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<td></td>
<td>Not at all confident</td>
<td>Somewhat Confident</td>
<td>Confident</td>
<td>Very Confident</td>
<td>Completely Confident</td>
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12. Please list the factors that led to your decision in #10 of sexual harassment or not.

13. Does this have the effect of unreasonably interfering with Sara’s work performance? 

Yes  No

14. How confident are you in the accuracy of your above answer? (That is, it did/ did not unreasonably interfere with the individual’s work performance)

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15. Does the incident described create an intimidating environment? 

Yes  No

16. How confident are you in the accuracy of your above answer? (That is, it did/ did not create an intimidating environment)

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17. Does the incident described create a hostile environment? 

Yes  No

18. How confident are you in the accuracy of your above answer? (That is, it did/ did not create a hostile environment)

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19. Does the incident described create an offensive environment? 

Yes  No

20. How confident are you in the accuracy of your above answer? (That is, it did/ did not create an offensive environment)

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21. Does Bill Rogers’ behavior constitute hostile environment sexual harassment? 

Yes  No

22. How confident are you in your answer to #19?

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Appendix C:

The Nine Case Scenarios
Case A: Victim Intoxicated, Perpetrator Sober

On November 17\textsuperscript{th}, 2000, Sara Phillips entered Adept Corporation seeking employment. The receptionist gave her an application that she completed and returned. The next day, the human resources manager contacted Sara to inform her that she had been hired as a member of the finance department. On December 21\textsuperscript{st}, 2001, Sara attended the company's annual holiday party. Also at the party was another member of the finance department, Bill Rogers. Sara and Bill had a satisfactory professional relationship, but were not close on a personal level. Sara had several glasses of wine and was intoxicated. Bill was standing at the bar waiting to buy his first glass of wine. As Sara approached the bar to obtain another glass of wine, she slipped and almost fell on Bill. Sara stated that she did not realize she was so intoxicated. Bill and Sara became involved in a personal conversation. Eventually Bill placed his hand on Sara's shoulder and said, "Your ass sure looks good in that dress." Sara immediately moved away from Bill and soon left the party. On December 22\textsuperscript{nd}, 2001, Sara brought action against Bill and Adept Corporation. Sara asserted that she had been sexually harassed by Bill, which violated Title VII of the Civil Rights Act of 1964. Bill denied the allegations.
Case B: Victim Sober, Perpetrator Intoxicated

On November 17th, 2000, Sara Phillips entered Adept Corporation seeking employment. The receptionist gave her an application that she completed and returned. The next day, the human resources manager contacted Sara to inform her that she had been hired as a member of the finance department. On December 21st, 2001, Sara attended the company’s annual holiday party. Also at the party was another member of the finance department, Bill Rogers. Sara and Bill had a satisfactory professional relationship, but were not close on a personal level. Bill had several glasses of wine and was intoxicated. Sara was standing at the bar waiting to buy her first glass of wine. As Bill approached the bar to obtain another glass of wine, he slipped and almost fell on Sara. Bill stated that he did not realize he was so intoxicated. Bill and Sara became involved in a personal conversation. Eventually Bill placed his hand on Sara’s shoulder and said, “Your ass sure looks good in that dress.” Sara immediately moved away from Bill and soon left the party. On December 22nd, 2001, Sara brought action against Bill and Adept Corporation. Sara asserted that she had been sexually harassed by Bill, which violated Title VII of the Civil Rights Act of 1964. Bill denied the allegations.
Case C: Victim and Perpetrator Intoxicated

On November 17th, 2000, Sara Phillips entered Adept Corporation seeking employment. The receptionist gave her an application that she completed and returned. The next day, the human resources manager contacted Sara to inform her that she had been hired as a member of the finance department. On December 21st, 2001, Sara attended the company’s annual holiday party. Also at the party was another member of the finance department, Bill Rogers. Sara and Bill had a satisfactory professional relationship, but were not close on a personal level. Both Bill and Sara had several glasses of wine and were intoxicated. Bill was standing at the bar waiting to buy another glass of wine. As Sara approached the bar to obtain another glass of wine, she slipped and almost fell on Bill, who stumbled. Both Bill and Sara stated that they did not realize they were so intoxicated. Bill and Sara became involved in a personal conversation. Eventually Bill placed his hand on Sara’s shoulder and said, “Your ass sure looks good in that dress.” Sara immediately moved away from Bill and soon left the party. On December 22nd, 2001, Sara brought action against Bill and Adept Corporation. Sara asserted that she had been sexually harassed by Bill, which violated Title VII of the Civil Rights Act of 1964. Bill denied the allegations.
Case D: Victim and Perpetrator Sober

On November 17th, 2000, Sara Phillips entered Adept Corporation seeking employment. The receptionist gave her an application that she completed and returned. The next day, the human resources manager contacted Sara to inform her that she had been hired as a member of the finance department. On December 21st, 2001, Sara attended the company’s annual holiday party. Also at the party was another member of the finance department, Bill Rogers. Sara and Bill had a satisfactory professional relationship, but were not close on a personal level. Neither Bill nor Sara had consumed any alcoholic beverages. Bill and Sara were standing at the bar waiting to buy their first glass of wine. Bill and Sara became involved in a personal conversation. Eventually Bill placed his hand on Sara’s shoulder and said, “Your ass sure looks good in that dress.” Sara immediately moved away from Bill and soon left the party. On December 22nd, 2001, Sara brought action against Bill and Adept Corporation. Sara asserted that she had been sexually harassed by Bill, which violated Title VII of the Civil Rights Act of 1964. Bill denied the allegations.
Case E: No information for Victim and Perpetrator

On November 17th, 2000, Sara Phillips entered Adept Corporation seeking employment. The receptionist gave her an application that she completed and returned. The next day, the human resources manager contacted Sara to inform her that she had been hired as a member of the finance department. On December 21st, 2001, Sara attended the company’s annual holiday party. Also at the party was another member of the finance department, Bill Rogers. Sara and Bill had a satisfactory professional relationship, but were not close on a personal level. Both Bill and Sara were standing at the table eating cheese and crackers. Bill and Sara became involved in a personal conversation. Eventually Bill placed his hand on Sara’s shoulder and said, “Your ass sure looks good in that dress.” Sara immediately moved away from Bill and soon left the party. On December 22nd, 2001, Sara brought action against Bill and Adept Corporation. Sara asserted that she had been sexually harassed by Bill, which violated Title VII of the Civil Rights Act of 1964. Bill denied the allegations.
Case F: No Information for Victim, Perpetrator Intoxicated

On November 17th, 2000, Sara Phillips entered Adept Corporation seeking employment. The receptionist gave her an application that she completed and returned. The next day, the human resources manager contacted Sara to inform her that she had been hired as a member of the finance department. On December 21st, 2001, Sara attended the company’s annual holiday party. Also at the party was another member of the finance department, Bill Rogers. Sara and Bill had a satisfactory professional relationship, but were not close on a personal level. Bill had several glasses of wine and was intoxicated. Sara was standing at the bar eating cheese and crackers. As Bill approached the bar to buy another glass of wine, he slipped and almost fell on Sara. Bill stated that he did not realize he was so intoxicated. Bill and Sara became involved in a personal conversation. Eventually Bill placed his hand on Sara’s shoulder and said, “Your ass sure looks good in that dress.” Sara immediately moved away from Bill and soon left the party. On December 22nd, 2001, Sara brought action against Bill and Adept Corporation. Sara asserted that she had been sexually harassed by Bill, which violated Title VII of the Civil Rights Act of 1964. Bill denied the allegations.
Case G: Victim Intoxicated, No Information for Perpetrator

On November 17th, 2000, Sara Phillips entered Adept Corporation seeking employment. The receptionist gave her an application that she completed and returned. The next day, the human resources manager contacted Sara to inform her that she had been hired as a member of the finance department. On December 21st, 2001, Sara attended the company’s annual holiday party. Also at the party was another member of the finance department, Bill Rogers. Sara and Bill had a satisfactory professional relationship, but were not close on a personal level. Sara had several glasses of wine and was intoxicated. Bill was standing at the bar eating cheese and crackers. As Sara approached the bar to buy another glass of wine, she slipped and almost fell on Bill. Sara stated that she did not realize she was so intoxicated. Bill and Sara became involved in a personal conversation. Eventually Bill placed his hand on Sara’s shoulder and said, “Your ass sure looks good in that dress.” Sara immediately moved away from Bill and soon left the party. On December 22nd, 2001, Sara brought action against Bill and Adept Corporation. Sara asserted that she had been sexually harassed by Bill, which violated Title VII of the Civil Rights Act of 1964. Bill denied the allegations.
Case II: No Information for Victim, Perpetrator Sober

On November 17th, 2000, Sara Phillips entered Adept Corporation seeking employment. The receptionist gave her an application that she completed and returned. The next day, the human resources manager contacted Sara to inform her that she had been hired as a member of the finance department. On December 21st, 2001, Sara attended the company’s annual holiday party. Also at the party was another member of the finance department, Bill Rogers. Sara and Bill had a satisfactory professional relationship, but were not close on a personal level. Bill was standing at the bar waiting to buy his first glass of wine. Sara was at the bar eating cheese and crackers. Bill and Sara became involved in a personal conversation. Eventually Bill placed his hand on Sara’s shoulder and said, “Your ass sure looks good in that dress.” Sara immediately moved away from Bill and soon left the party. On December 22nd, 2001, Sara brought action against Bill and Adept Corporation. Sara asserted that she had been sexually harassed by Bill, which violated Title VII of the Civil Rights Act of 1964. Bill denied the allegations.
Case I: Victim Sober, No Information for Perpetrator

On November 17th, 2000, Sara Phillips entered Adept Corporation seeking employment. The receptionist gave her an application that she completed and returned. The next day, the human resources manager contacted Sara to inform her that she had been hired as a member of the finance department. On December 21st, 2001, Sara attended the company’s annual holiday party. Also at the party was another member of the finance department, Bill Rogers. Sara and Bill had a satisfactory professional relationship, but were not close on a personal level. Sara was standing at the bar waiting to buy her first glass of wine. Bill was at the bar eating cheese and crackers. Bill and Sara became involved in a personal conversation. Eventually Bill placed his hand on Sara’s shoulder and said, “Your ass sure looks good in that dress.” Sara immediately moved away from Bill and soon left the party. On December 22nd, 2001, Sara brought action against Bill and Adept Corporation. Sara asserted that she had been sexually harassed by Bill, which violated Title VII of the Civil Rights Act of 1964. Bill denied the allegations.
Appendix D:

Script for Running Participants
Thank you for agreeing to participate in our research study. To ensure that all participants in the research, whether in this class or another class, receive the same standardized instructions, I will be reading the instructions to you today (or I will be referring to these printed instructions today.)

The research in which you are participating in today is studying court decisions about sexual harassment. In particular, we are looking at how individuals serving on a jury make decisions about the facts in a case to determine whether or not sexual harassment has occurred. We will first provide a brief training session in how sexual harassment is defined legally by both the courts and the Equal Employment Opportunity Commission (EEOC). The EEOC is the official body that provides guidelines to businesses and organizations on how to comply with the laws concerning fair employment practices, such as providing a workplace that is free of sexual harassment.

After the brief training session, you will be asked to assume the role of an individual serving as a juror on a sexual harassment case. After you have read the case, you will be asked to make a number of judgments about that case. You will be given specific questions to answer. This case is based on a situation that has been used in previous research and may contain some passages that contain what some may find to be offensive language. If you believe you may be offended and prefer not to participate in the study, you may withdraw from the study at any time.

Now we will distribute the “Informed Consent Document.” The university requires that all research participants sign this form that states that you are a voluntary participant in the research. Please read and sign this form.

(pause)

After signing the “Informed Consent Document”, please pass this sheet to the front.

Since our training program is brief, it may not answer all of the questions you have about sexual harassment. The training will, however, focus on the key points you will need to know if you were a juror serving in a sexual harassment trial. After we have finished the research session, I can answer other questions you may have about sexual harassment and we can direct you to other resources on campus that can also answer any further questions you may have.

Are there any questions at this time?

Now we will begin our training session on Sexual Harassment. If you would like to do so, you may take notes.
First, we will start with a definition of sexual harassment. Sexual harassment is a violation of Title VII of the 1964 Civil Rights Act, as amended in 1972, and the 1991 Civil Rights Act. According to the definition contained in the Equal Employment Opportunity Commission (EEOC) guidelines:

(Put up overhead transparency)

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment such that:

1. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual (quid pro quo harassment);

   An example of Quid Pro Quo Harassment is when a boss tells his subordinate that she must sleep with him to receive a promotion or that if she does not sleep with him, she will be fired. Most people agree that this type of behavior constitutes sexual harassment.

2. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment (hostile environment).

   An example of Hostile Environment Sexual Harassment would be where an employee was subjected to sexual comments that were offensive as part of his or her regular workplace. Hostile Environment Sexual Harassment is not always as clear cut as Quid Pro Quo Harassment.

The line between the two types of sexual harassment is not always clear and the two forms often occur together.

Sexual harassment can occur in situations where one person has power over another, but it can also occur between persons of the same status. Both men and women can be sexually harassed, although women are most often victimized.

In both types of sexual harassment, there are three key features that must be present for the behavior to constitute sexual harassment:

(Put up overhead transparency)

1. The behavior must be sexual in nature. This may at times be difficult to determine. However, these questions may provide some guidance.

   Would a reasonable person consider the behavior sexual in a similar environment under similar circumstances?
Does the individual do the same behavior in the same way to members of his own sex? If the answer is no, his/her behavior may constitute sexual harassment.

2. The behavior must be unwelcome. Sexual conduct is unlawful only when it is unwelcome. By unwelcome the law means that (a) the employee did not solicit the behavior, and (b) the employee regarded the conduct as undesirable and offensive.

Sexual harassment is “unwelcome... verbal or physical conduct of a sexual nature...” Because sexual attraction may play a role in the day-to-day social exchange between employees, the distinction between invited, uninvited-but-welcome, offensive-but-tolerated, and flatly rejected sexual advances may be difficult to discern. However, this distinction is essential because sexual conduct becomes unlawful only when it is unwelcome.

The Supreme Court has stated that the proper inquiry focuses on the “welcomeness” of the conduct rather than the “voluntariness” of the victim’s participation. (i.e., Did the employee by his/her conduct indicate that the alleged sexual advances were unwelcome, not whether his/her actual participation was voluntary?) Giving in to sexual conduct in the workplace may not mean that the individual welcomes the conduct.

3. The conduct must be a term or condition of employment. This would include:
   - If the behavior is a “requirement” of the job
   - If, in order to appropriately perform his/her job, the individual must work near or with the person performing the offensive behavior
   - If, in order to appropriately perform his/her job, the individual must work in a place where the offensive conduct is present. It also includes situations away from the work site if the employee’s presence is expected or required.

The basic point to remember is that sexual harassment is unwelcome, unsolicited, or undesired attention of a sexual nature. It should be remembered that “unwelcome” is determined by the person at whom the behavior is directed and/or by third parties- not by one’s intent.

**Instructions**...

Now we will distribute packets containing the materials you will need to participate in this research study. Please do not remove any materials from your packet until you are instructed to do so.

(Distribute packets)

(Case information is likely to be on top of packet)
Please remove the white “Response Sheet” from your packet. Please do not write your name on this sheet. The first 7 items on this sheet ask for demographic information, that is, your age, gender, race, and work history. We are asking for this information so that we
can see if, for example, males and females or older versus younger individuals view situations differently. You will not be identified by name at any time in this study. Please indicate your gender – if you are male, circle male; if you are female, circle female. (pause)
Write in your age. (pause)
Write in your ethnicity. (pause)
Indicate if you have been employed in a business, industry, or organization. (pause)
Please answer questions 5, 6, and 7, which ask you to indicate if you believe you have ever been sexually harassed in your place of work. (pause)
After completing the 7 background items, please place the white sheet on your desk and look up. (pause)

Has everyone completed the background items?
(When everyone has completed the background items . . .)

Our research today is focusing on perceptions of sexual harassment. You will now evaluate a summary of an incident of alleged sexual harassment. At this time, please remove the white sheet with the facts of the case from your envelope. This is a white sheet that says, “Case A, B, C, etc.” at the top. Please carefully read the facts of the incident, and then answer the questions on the Response Sheet about the case, i.e., items #8-#22. When you have finished, please place all the materials back in the envelope.

What questions do you have at this time? (pause) You may begin.

(Leave overhead of 3 key dimensions of SH up on screen)

(Wait until most have finished, but no longer than 8 minutes... then ask) Is there anyone who has not finished reading the case and answering the questions?
(If there is ....) Please take just a minute more and try to finish this part of the study.

We’re now going to ask you to serve as a jury to make a decision on the case you just read. Like a jury, you will be asked to discuss the case you just read and come to a group conclusion of whether or not it constitutes sexual harassment. But first, we are going to give you some guidelines on how to reach a consensus as if you were actual members of a jury...having to make a verdict.

Consensus Guidelines: (Put up overhead transparency – leave up for jury task)

1) View initial agreement as suspect. Explore the reasons underlying apparent agreements; make sure people have arrived at similar solutions for either the same basic reason or for complementary reasons before accepting it as the jury’s decision.

2) Avoid arguing for your own point of view. Present your position as clearly and logically as possible, but consider seriously the reactions of the group in any subsequent presentations of the same point.
3) Avoid “win-lose” situations. Discard the notion that someone must win and someone must lose in the discussion.

4) Avoid changing your mind only in order to avoid conflict and to reach agreement and harmony.

5) Avoid conflict-reducing techniques such as majority vote, averaging, bargaining, coin flipping, and the like. Treat differences of opinion as an indication of an incomplete sharing of relevant information. Use additional information sharing to resolve conflicts.

6) View differences of opinion as both natural and helpful rather than as a hindrance to decision making. If another juror has a different opinion, try to understand why he or she holds that opinion.

7) Work to produce the solution that is most acceptable to every member of your group.

A unanimous decision is not necessary – but every member of the jury must feel his/her opinion has been heard and understood and must be willing to support the jury’s final decision.

Are there any questions on the Consensus Guidelines?

In the lower right corner of each of your packets there is a Case letter. This same case code letter should be at the top of your response sheet. You should form a jury group according to the code letter. (Point to different locations for each jury code. Try to separate the groups as much as possible so they cannot hear the other juries discussing the case)

Take out the yellow “Jury Record Sheet” and the White Case description-leave the other sheets in your packet. We now want you to serve as a jury to make a group decision. Like a jury, based on the scenario you have just read, please discuss the scenario and come to a conclusion of whether or not it constitutes sexual harassment. Remember to use the Consensus guidelines. Discuss the scenario quietly among your jury members-different juries will be discussing different cases with different facts. After 15 minutes, you should have come to a decision and fill out the yellow “Jury Record Sheet.” Each member in the jury should fill out the yellow “Jury Record Sheet” Likewise, the yellow “Jury Record Sheets” should be filled out the same as the other members in your jury such that the decision and the confidence level you choose as a jury is the same on the “Jury Record Sheet” for all individual members. Please begin discussing now.

After 5 minutes state: “The first 5 minutes are up.”
After 10 minutes state: “You have five minutes left.”
After 13 minutes state: “This is your 2-minute warning. You have 2 minutes to reach your final decision as a jury.”

After 15 minutes state: “Now record your jury’s decision and the explanation for that decision if you have not already done so. Each juror needs to write the jury decision and the reason on their own yellow Jury Record Sheet.”

(After jury decision is recorded)

Now return the Jury Record Sheet to the envelope and take out the last page of your packet, the green Individual Record Sheet. Think back to when you made your initial decision and think about your jury’s decision. Now decide one final time on your own. If you were a juror, would you find sexual harassment in this case? Also, write an explanation for your decision.

When you have completed this last individual decision and explanation, return all of your materials to your envelope and I will collect the envelopes.

(After you have collected all the materials)

We would like to thank you for your time today. Your cooperation was greatly appreciated. Since there may be other students in other classes that would like to participate in this research, we ask you not to discuss the details of the case you read today with anyone outside of this class. Thank you.
Appendix E:

Instruction Manipulation
Instructions:

Remember: The EEOC has identified three key features that should be considered in determining whether or not sexual harassment has occurred: 1.) The behavior must be sexual in nature, 2.) The behavior must be unwelcome, and 3.) The behavior must be a term or condition of employment. Therefore factors such as the intoxication status of the victim and the intoxication status of the perpetrator are irrelevant to the determination of sexual harassment in any case. An alleged victim of sexual harassment does not relinquish his/her right to be free from sexual harassment because he/she is intoxicated. Likewise the alleged perpetrator is still held accountable for his/her actions even if he/she is intoxicated. Remember that the work environment extends beyond the actual organization. Therefore, an office party is considered part of the work context.
Appendix F:

Jury Record Sheet
JURY RECORD SHEET
SEXUAL HARASSMENT STUDY

Case Code ____________

(1) Jury decision.

Does Bill Rogers’ behavior described in the scenario constitute hostile environment sexual harassment?

__________________________ (yes or no)

(2) How confident is your jury in your decision that Bill Roger’s behavior is/is not sexual harassment.

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not at all confident</td>
<td>Somewhat Confident</td>
<td>Confident</td>
<td>Very Confident</td>
<td>Completely Confident</td>
</tr>
</tbody>
</table>

(3) Describe the main reason for your decision:

________________________________________________________________________
________________________________________________________________________

(Every member of the jury needs to record the jury’s decision on their own copy of this sheet and the reason for the decision. Then return this sheet to the envelope. – Thanks)
Appendix G:

Individual Record Sheet
INDIVIDUAL RECORD SHEET
SEXUAL HARASSMENT STUDY

Case Code ____________

(1) After reviewing your initial decision and your jury’s decision, what would YOU now decide individually as a juror?

Does Bill Rogers’ behavior described in the scenario constitute hostile environment sexual harassment?

____________________ (yes or no)

(2) How confident are YOU in your decision that Bill Roger’s behavior is/is not sexual harassment.

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
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<tbody>
<tr>
<td>Not at all confident</td>
<td>Somewhat Confident</td>
<td>Confident</td>
<td>Very Confident</td>
<td>Completely Confident</td>
</tr>
</tbody>
</table>

(3) Describe the main reason for your decision:

_________________________________________________________________________________
_________________________________________________________________________________
_________________________________________________________________________________