

# CAUSAL ATTRIBUTIONS IN SEXUAL ASSAULT TRIAL JUDGMENTS

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*This research examined naturally occurring causal attributions in sexual assault trial judgments and their consequence (i.e., sentence). Causal attributions were reliably identified and analyzed for how they functioned in the narrative of the judgment. Whether the attributions discursively placed the cause within (internalizing attribution) or separate from the offender (externalizing attribution), described the cause as enduring and pervasive (saturating attribution) or as occurring within a particular context (situating attribution), and described the cause as owing to something violent (e.g., a decision to be violent) or nonviolent (e.g., being drunk). Results indicated that judges frequently made causal attributions, and the function of the attribution was significantly correlated with sentence (e.g., violent attributions were associated with higher sentence).*

From the beginning, attribution researchers have recognized that the social world is integral to the attribution process. Heider (1958), for example, emphasized that psychological processes such as attribution occur within a social environment:

In dealing with the person as a member of a dyad, he [or she] cannot be described as a lone subject in an impersonal environment, but must be represented as standing in relation to and interacting with another person. (p. 1)

Consistent with this, attribution research has concentrated on explanations of human social behavior (e.g., aggression) rather than explanations of nonsocial behavior (e.g., rain) (Ross & Fletcher, 1985). Moreover, most attribution researchers believe that attributions are important mediators of an individual's social interactions. Kelley and

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Michela (1980) stated that attributions "constitute the person's understanding of the causal structure of the world and, therefore, are important determinants of his [or her] interaction with that world" (p. 460).

Yet, attribution researchers have criticized themselves for neglecting the social world or even trying to abstract attribution out of the social environment within which it occurs. This curious lack of social research may stem from the fact that attribution researchers do not often use methods that easily permit them to examine attributions within their social context. Research is typically conducted in controlled laboratory experiments in which the antecedents of causal attributions can be manipulated and subjects can be given questionnaires to assess the effect of the manipulations. Although attribution theorists and researchers generally assume that attributions directly influence or mediate behavior (cf. Harvey & Weary, 1984; Kelley & Michela, 1980), "[T]here has been little research aimed at the direct examination of the relationship" between attribution and social interaction (Harvey & Weary, 1984, p. 445). For example, in studies that measure consequences of an attribution, the attribution itself "usually goes unmeasured" (Kelley & Michela, 1980, p. 480). Instead, research has focused on antecedents either as the object of study or as a means of studying the consequences of (unmeasured) attributions (Kelley & Michela, 1980).

Moreover, the research paradigms typically do not preserve the attributer's own responsibility and interest in the subject matter (Edwards & Potter, 1993) or involve real social consequences. Instead, the research method has typically removed responsibility or interest by preventing subjects from engaging in "the common conversational practice of choosing their own description of an event or disputing a given description" (Antaki, 1985, p. 214). Yet, in one study, when subjects expected their attributions to have social consequences (i.e., they expected to have to justify their attributions), they made fewer attributions to personality or dispositional causes and were "more sensitive to situational determinants" than subjects who had no such expectation (Tetlock, 1985, p. 227).

Given these concerns, many researchers and reviewers have pointed to the need for improved research paradigms that would preserve the richness of the social world (Antaki, 1985; Edwards & Potter, 1993; Harvey & Weary, 1984; Kelley & Michela, 1980; Parker, 1989; Schneider, 1991). Increasingly, there has been a call for research that examines naturally occurring attributions within a communicative or interactive context (Antaki, 1985; Edwards & Potter, 1993; Kelley & Michela, 1980; Parker, 1989; Ross & Fletcher, 1985; Schneider, 1991). For example,

If attribution theory requires, by its very nature, a detailed analysis of the common person's causal categories, it also requires understanding of

the natural context in which the process occurs. (Kelley & Michela, 1980, pp. 490-491)

Even though somewhat more naturalistic research now exists (e.g., Adelswärd, Aronsson, & Linell, 1988; Carroll, 1978; Coates & Wade, 1994; Linell, Alemyr, & Jönsson, 1992; Potter & Halliday, 1990; Potter & Reicher, 1987; Watson, 1983; Wetherell & Potter, 1988; Wowk, 1984), it is still largely true that "we have virtually no knowledge of the conditions governing [attribution] usage and natural occurrence" (Kelley & Michela, 1980, p. 494). Harvey and Weary (1984) echoed these comments:

Work is needed on such topics as . . . how attribution unfolds in dyads, close relationships, groups, and other complex social systems, how to understand and measure naturalistic attributions such as those presented in accounts and archival records. (p. 454)

A related concern voiced by critics within the attribution literature is that many of the current methodologies, research findings, and theories may not be readily applicable to causal analyses in naturalistic settings (Harvey & Weary, 1984; Nisbett & Ross, 1980). Carroll and Payne (1977a, 1977b; Carroll, 1978) conducted more experimental and naturalistic studies on attributions concerning parole. In one study, Carroll and Payne (1977a) found that although attributional information was important to both students and parole experts, the two groups differed in the decisions they made from that information (e.g., in assessing risk of reoffending and suitable prison term). From this study, the authors concluded that more naturalistic situations and measures were needed to better understand the role of attributions in parole board decisions.

To study attributions as they occur in everyday life, researchers will inevitably have to examine *language* (Antaki, 1985; Harvey & Weary, 1984; Schneider, 1991). For it is in language that these attributions are manifested. Schneider (1991), for example, concluded:

Social psychology devotes too little attention to communication, an obviously important social mechanism that links cognitive processes and social behavior. (p. 554)

Studying the exact phrasing of an attribution is important for an adequate understanding of the attribution process. Ross and Fletcher (1985) commented:

Grammatical differences do not reflect random whims of language usage: rather they are valid indicators of an underlying psychological reality. (p. 96)

Attributions are made *to* someone in language (Hilton, 1990), and variations in phrasing will create diverse interpretations of events. Edwards and Potter (1993) noted:

This sort of description accomplishes important "interactional work." . . . It is precisely the work of such descriptive words to classify actions so as to make various judgments and understandings (interpretations) relevant. (pp. 89-90)

In brief, it appears that more research on naturalistic attributions is needed. In particular, we need studies that examine actual attributions (not assumed or inferred) as they occur in natural environments and natural language, and the social consequences of those attributions. The present study found these possibilities in the study of legal judgments in sexual assault cases.

### LANGUAGE AND THE LAW

Language is central to the law. Through language, legal professionals accomplish tasks such as gathering statements, questioning witnesses, making arguments, and giving reasons for a judgment. The language used in legal judgments is particularly important because it expresses the state of the law and affects future law by forming part of the common law that will guide decisions in the future.

The words used to describe acts in legal settings not only represent what happened, they also create versions of what happened. For example, the words *baby* versus *fetus* are crucial in abortion cases (Danet, 1980). Describing an act as a "slap" implies that the actor had a negative motive, whereas describing the same act as a "tap" implies a friendlier motive (Danet, 1980). Similarly, describing the same physical act as "sexual intercourse" is very different from describing it as "rape." In court, one version may be that a crime was committed (e.g., rape), whereas another version may be that some noncriminal event (e.g., sexual intercourse) occurred. The meaning-giving, reality-creating power of discourse means that texts cannot be taken as neutral descriptions of events. Nor can the effects of the language used be assumed to end with the description. Instead, descriptions or texts "so position the interpreter through their cues" that he or she brings information and biases into the interpretation of text (Fairclough, 1989, p. 85). In the taking up of these descriptions, "[T]hey become 'real' as they are spoken and reproduced in language" (Parker, 1992, p. 90).

Given these properties, sexual assault trial judgments are particularly appropriate data for the study of naturally occurring attributions and their social consequences. That is, these attributions naturally occur as part of the everyday legal process of giving reasons for a court decision. Moreover, the attributions made in these judgments have significant social consequences for the accused, the complainant(s), law, and society in general.<sup>1</sup>

## ATTRIBUTIONS WITHIN DESCRIPTIONS OF SEXUAL ASSAULT<sup>2</sup>

At the end of a trial, part of a judge's task involves making a causal attribution about a convicted offender's responsibility for the act in question. For example, in addition to the judge or jury deciding whether an accused is guilty or innocent, the judge frequently also decides *why* an accused did something. To examine these causal attributions, Coates and Wade (1994) conducted a study in which we reliably identified causal attributions that were psychological in nature, a process we called *psychologizing*.

Coates and Wade (1994) found that legal professionals and witnesses frequently attributed these violent acts to psychological causes:

*Alcohol abuse:* "It's something, however, that arose out of release of inhibition obviously due to gross consumption of alcohol."

*Biological or sexual drives:* "There is no doubt on the evidence those offences occurred because he was unable to control his sexual impulses."

*Psychopathology:* The offender "is a victim of . . . his own inadequate personality."

*Lack of control:* "He didn't intend to hurt them; things just got out of hand."

*Character:* "This incident was an isolated one, entirely out of character."

*Dysfunctional family upbringing:* "It stems from his own background."

*Stress or trauma:* "He (. . .) has sought to relieve his stress and anxiety by inflicting stress upon others."

*Emotional state:* The assault was "a single act of lack of control over his emotions."

Note that these explanations placed the cause of the violent actions within the offender's hypothetical psychology or psychological history. We noted that psychologizing also seemed to place the cause of the violence outside of the offender's control and, in doing so, seemed to mitigate or obfuscate the offender's responsibility for his or her violent behavior.

Upon further examination of these attributions, I felt that the naturally occurring attributions Coates and Wade (1994) had studied did not easily fit the traditional attributional distinctions of disposition versus situation or internal versus external. Instead, judges frequently described what would normally be thought of as an internal trait as if it were an external force impelling the offender, for example, a single act of lack of control over his emotions.

This aspect of attributions has also been noticed by Weiner (1979). He pointed out that the categorization of a cause as internal or external can change:

For example, health might be perceived as an internal ("I am a sickly person") or an external ("The 'flu bug' got me") cause of failure. (p. 6)

Thus, in naturally occurring attributions in language, the *function* of the attribution (e.g., internal vs. external) depends on the exact phrasing of the attribution. It is, as Ross and Fletcher (1985) pointed out, the "micro" aspects of language that create meaning.

Others who have examined naturally occurring attributions have also noticed that traits, dispositions, and other states normally thought of as internal to an individual are frequently described as if they were external to the person (e.g., Jenkins, 1990; White, 1989-1990). Thus, distinguishing between internal and external causal attributions on the basis of whether the attribution was literally, physically, or spatially outside the person did not sufficiently capture the data.

Family therapist Michael White (1989-1990) moved away from literal, physical definitions of attributions to language-based (discursive) ones. That is, he defined attributions according to whether they cast the person as the source of action (an internalizing attribution) or as a passive object upon which other causes or forces are acting (an externalizing attribution). In this article, White's (1989-1990) terms *internalizing* and *externalizing* will be used to describe attributions that function discursively to create the cause of the assault as internal or external to the offender. For example, "I am a sickly person" internalizes the cause of the sickness and describes the cause as an internal quality of the person. In contrast, "The 'flu bug' got me" externalizes the cause of the sickness and describes the cause as a force external to the person.

I also extrapolated White's (1989-1990) related concepts of *saturated* descriptions, which depict the cause as all encompassing or enduring (e.g., pedophilia), and *situated* descriptions, which present the cause as contextualized or particularized (e.g., being drunk). The distinction between saturating and situating attributions is similar to the distinction made by Heider (1958) and elaborated by Weiner and colleagues (Weiner, 1979; Weiner, Graham, & Chandler, 1982; Weiner, Heckhausen, Meyer, & Cook, 1972) between *stable* and *variant* (fluctuating) causes. However, my definitions and methods of measurement differ from those used by Weiner and colleagues; without examining the actual attributions collected by Weiner and colleagues, it is not possible to know how much the two sets of terms overlap or differ.

Finally, I noted that the language of the judgment could function to create the cause as due to *violent* or *nonviolent* causes or motives. This distinction was made on the basis of previous research on legal judgments (Bavelas, Chovil, & Coates, 1997; Coates, Bavelas, & Gibson, 1994) in which we found that sexual assaults were most frequently described as erotic, romantic, or affectionate acts and infrequently described as violent.

In this research, analysts examined the externalizing/internalizing, situating/saturating, and violent/nonviolent explanations of sexual assault that judges cited or provided in their trial judgments. The analysts also examined the consequence of accepting these explana-

tions; namely, the sentence given to the offender. I propose that the expressed attributions highlight certain motives and causes and, in doing so, make certain understandings and consequences more likely. For example, if a judge saw an offender's violent behavior as owing to a temporary loss of inhibition because of alcohol consumption, he or she would be more likely to see this offender as a better candidate for rehabilitation and would not regard the offender as a danger to society. After all, it was not his fault, it was the alcohol's fault. Therefore, these attributions should be correlated with a lower sentence than attributions that emphasized the offender's responsibility.

## METHOD

### DATABASE

The database consisted of 70 British Columbia sexual assault trial judgments available through Quicklaw for the years 1986 (when Quicklaw began) to 1994. Quicklaw is an on-line database of Canadian legal judgments, containing all judgments delivered in written form or later transcribed. The cases were selected using the following procedure. First, all judgments that contained the terms *sexual* and *assault* anywhere in the text were identified. Then duplicates and cases where the charge was other than sexual assault were eliminated. Appeal cases and other judgments that focused on issues of law rather than the assault itself (e.g., voir dire) were also eliminated. All of the sexual assault trial judgments finally selected contained (a) a description of the assault and (b) the judge's reasons and decision. Some of the judgments contained the judge's reasons for finding an accused guilty or acquitting him,<sup>3</sup> some of the judgments consisted of the judge's reasons for giving a jail sentence (or not), and some judgments included both of these. Of the 84 selected cases, 14 were found not guilty and not sentenced and were, therefore, excluded from analysis, final  $n = 70$ .

### ANALYSES

#### Developing the Systems of Analysis

This was an inductive study that did not use a priori scoring or coding systems to examine the narrative of the trial court judgments. My goal was to learn from the cases themselves and not force a system onto the data. Using an inductive method of analysis incurs a risk that any findings or patterns might be the result of overfitting the data (i.e., finding patterns that were unique to the cases used to develop the systems of analyses). To prevent this, the method of analysis was

developed on a randomly selected subsample of 12 judgments, preserving the remaining sample for cross validation. This design is an analogue of statistical cross validation (see McNemar, 1969, p. 208). That is, it permits a test of whether the systems of analyses developed were particular only to the subsample or if they were applicable to the sample as a whole (i.e., poor interjudge reliability would indicate overfitting). Accordingly, 12 cases were randomly selected from the larger sample of 84 cases, with the constraint that the offender either had pleaded guilty or was found guilty. The remainder of this article refers to analyses of the full set of 70 guilty cases.

### **Analysis of Causal Attributions**

First, two independent analysts located all sections of the judgment where causal attributions of any kind occurred. The analysts first read the whole judgment and then reread the case to identify causal attributions. We used written rules of analysis and a decision tree to help us decide whether a particular statement within the judgment was a causal attribution. The reliability of this and other measures is reported below.

It is important to note that descriptions that only characterized an act in a particular way (e.g., as romantic, erotic, or affectionate, such as "He had intercourse with her" or "He fondled her breasts") were not included as causal attributions. Although such characterizations might imply a causal motive (e.g., sexual desire), studies had already been done on this vocabulary (Bavelas et al., 1997; Coates et al., 1994), and it was not necessary to repeat this analysis. Only statements that went beyond characterizing the offense and clearly implied a cause were included for analysis (e.g., "The sexual assaults occurred from your arousal").

Next, the two analysts assessed all causal explanations according to how they portrayed the cause in the narrative of the judgment. The analysts assessed each causal attribution for the *function* it was serving within its context. That is, rather than treating attributions as isolated units of speech, analysts considered the function that the attribution was serving within the larger narrative of the judgment.<sup>4</sup> Thus, the analysts did *not* do a content analysis for keywords; they examined how the attribution was functioning in the judgment. The analysts began by deciding whether each attribution was a situating or saturating explanation.

Situating explanations limited the cause of the sexual assault to a particular time, place, or situation. Frequently, the explanation included (a) limiting the cause of the behavior in a particular way (e.g., the accused "has been affected throughout the course of these proceedings by the possibility of . . . having his entire life disrupted by *basically a single act of lack of control over his emotions*"), (b) casting the

behavior as discrete (e.g., the accused "acted outrageously on *this one single occasion*"), and (c) restricting the cause to a particular situation (e.g., "He found himself in the company of children and *gave way to circumstances which presented themselves in that particular situation*").

Saturating descriptions functioned to cast the cause of the sexual assault as something enduring, pervasive, or permeating. These causal explanations suggested that the cause of the assault had existed and would always exist, in every place, and in every situation. The cause was described without a beginning, middle, or end (e.g., "His immorality led him to commit these acts"). These saturating descriptions cast the cause as always being present and functioned to create an offender who was always on the verge of offending. For example, the attribution "He cannot control his pedophilia" depicts the offender (or more accurately "his pedophilia") as out of control, as having the potential to assault a child at any time. Statements about the accused's life or character tended to be saturating descriptions.

Next, the analysts decided whether the attributions served internalizing or externalizing functions. Causal attributions that were internalizing focused on the person as a freely choosing individual. They frequently described the cause of the offender's behavior as a choice (e.g., "He got drunk" or "He was out to attack"). In these internalizing descriptions, the judge often presented the offender as acting upon the world; he was given causal agency. Alternatively, internalizing descriptions also described the offender *as* something (e.g., "You are a pedophile" or "He is a rapist"). In either case, the attributions tightly connected the offender with the cause and placed the cause inside him as a person.

In contrast, causal attributions that served externalizing functions depicted the cause of the behavior as something that was external to the person's free choice. The cause was cast as something acting upon the offender and was typically psychological (e.g., "*His pedophilia made him . . .*" or "From time to time . . . [the accused] becomes depressed . . . and in five occasions *has reacted to that* by committing sexual assaults"). In these descriptions, the offender himself was *not* given causal agency. Instead, the personified cause of the behavior impelled the offender to commit the crime, for example, forces outside of the offender, such as stressors, or forces ordinarily thought of as residing within the offender but described in the judgment as a force separate from the offender, such as uncontrolled sexual impulses. Frequently, these descriptions explicitly constructed the cause of the behavior as being separate from the offender's agency or control (e.g., "It was a single instance of *failing to control his sexual impulses*"). Here, sexual impulses are presented as constantly trying to force the offender to assault someone, and the offender is presented as vigilantly and valiantly fighting against the impulses.

Table 1  
*Combinations of Attribution Functions*

	Situating		Saturating	
	Nonviolent	Violent	Nonviolent	Violent
Internalizing	The person chose to do this in a particular context for nonviolent reasons.	The person chose to do this in a particular context for violent reasons.	This is a pervasively nonviolent person.	This is a pervasively violent person.
Externalizing	Something nonviolent forced this person to do this in a particular context.	Something violent forced this person to do this in a particular context.	Pervasive nonviolent tendencies caused this person's behavior.	Pervasive violent tendencies caused this person's behavior.

Finally, analysts decided whether the causal attributions were either violent or nonviolent. This measure was used to assess whether the cause of the assault was seen as a decision or tendency of the offender to engage in a violent act or tend to engage in some other kind of act (e.g., to get drunk, to have sex, and so on). Causal attributions that described the cause of the assault as stemming from violence were scored as violent (e.g., a decision to be violent, a violent nature). All descriptions that cast the cause of the offense as something other than a decision or tendency to be violent were scored as nonviolent (e.g., perverted fantasies, sexual drive, cognitive deficiency, mood or emotion, stress, character).

Thus, every identified causal attribution received three scores: situating or saturating, internalizing or externalizing, and violent or nonviolent. The result was eight different combinations of causal attribution functions (see Table 1).

## Reliability

In this type of study, which included the analysis of a large amount of data, an article can include only a few examples from the database. One reason for establishing reliability is to reassure readers that the researcher has clearly defined the phenomenon in question and that other analysts can also see the same thing. Interjudge reliability was established at three levels of analysis: identifying the causal attributions, classifying the functions of the attributions as situating or saturating, and classifying the function of the attribution as internalizing or externalizing.

After a short training period, a second, independent analyst scored approximately 10% of the data for causal attributions. We obtained

good interjudge reliability for locating the causal attributions in the sexual assault trial judgments (88%).

Next, reliability was established on 18% of the data for classifying the function of causal attributions as either situating or saturating. The independent analyst was given judgments in which the primary analyst had located the causal attributions. The second analyst then independently decided whether the attribution was functioning to cast the cause of the offense as limited to a particular time or circumstance (situating attribution) or as pervasive and enduring (saturating attribution). The interjudge reliability for determining whether the suggested cause of the assault was situating or saturating was high (98%).

Finally, reliability for judging whether the causal attribution of the offense was internalizing or externalizing was established for approximately 18% of the cases. Once again, interjudge reliability was high (95%).

Because analysts had to make independent judgments of the nature and function of phrases as they occurred locally, it is even more remarkable that they had high independent agreement. Perhaps this kind of analysis is not as idiosyncratic and subjective as its critics suggest.

Having established that an independent analyst agreed on the functions of these causal attributions, the primary analyst did most of the remaining analyses alone, including the violent/nonviolent attributions (which were sufficiently noninferential as to not require interjudge reliability).

## RESULTS

The focus of this section is equally on attributions and sentencing. First, the data on whether and how various attributions occurred in the trial judgments is presented. Next, the correlations between kinds of attributions and the sentencing decisions will be examined.

### CAUSAL ATTRIBUTIONS

The systems of classifying the functions of the causal attributions transferred well from the subsample to the full sample. In fact, all causal attributions could be classified according to the three function scales. This provides evidence of the validity of these function scales in sexual assault trial judgments.

Fifty-three (75%) of the trial judgments in which the offender pleaded or was found guilty contained causal attributions. A total of 271 attributions occurred in these judgments.

Table 2  
*Frequency of Causal Attributions for Each Function*

	Situating		Saturating	
	Nonviolent	Violent	Nonviolent	Violent
Internalizing	28 (10%)	4 (1%)	39 (14%)	8 (3%)
Externalizing	54 (20%)	17 (6%)	102 (38%)	19 (7%)
Total	82	21	141	27

Note. Total nonviolent = 223 (82%), total violent = 48 (18%), total situating = 103 (38%), total saturating = 168 (62%), total internalizing = 79 (29%), total externalizing = 192 (71%).

Table 2 shows that, of the eight functions possible, there were attributions in every cell. The attributions, however, were not distributed equally across the cells. For example, rather than placing the cause of the offense within the offender, most attributions described the cause as external to him (192 attributions, or 71%).

Also, most of the causal attributions served a saturating function. In fact, 62% of the attributions depicted the cause as something abstracted from the assault itself (e.g., abstracted from time or other constraints).

Finally, 82% of the descriptions attributed the assault to nonviolent causes (see Table 2). This finding illustrates the difference between the legally established *fact* of violence (i.e., all of the cases involved convictions for sexual assault) and the judge's discursive *attribution* of violence. Although all of the cases in this analysis involved convictions for sexual assault or sexual offenses, only 18% were attributed to violent causes, that is, described as resulting from a decision to act violently or to an inherently violent nature. The vast majority were attributed to other, nonviolent causes, such as mood, stress, cognitive deficiency, character, sexual drive, and fantasy.

The cell with the most frequencies was for attributions that were nonviolent, saturating, and external. That is, the attributions described the cause of the assault as pervasive, not volitional, and not violent (e.g., "[X] suffers perverted fantasies," or "he is, to use [the complainant's] words, 'socially ignorant'").

The least frequent attributions were those that functioned to describe the cause as violent, contextualized, and volitional (i.e., violent, situating, internal; e.g., "He was out to attack"). Contrary to common sense, legal professionals rarely depicted convicted offenders as having chosen to engage in a violent act.

#### ATTRIBUTIONS AND SENTENCING

This section presents correlations between factors that might be considered in sentencing and the actual sentence given. There are a

number of ways to quantify the sentence given in any case (e.g., actual sentence, proportion of sentence, or proportion of determinate sentence; see Coates, 1996). This article will focus on proportion of determinate sentence because it is the best index of the judge's discretion in sentencing. Proportion of determinate sentence was calculated by taking the *Criminal Code of Canada* maximum for the offense(s) that the offender was guilty of and dividing the sentence given by that maximum. In cases where the offender was found guilty of more than one charge, the maximum sentences for each charge were added together to form the denominator. Proportion of sentence thus ranged from 0 to 1. Suspended sentences were scored as 0. This measure takes into account that (a) different crimes have different criminal code maximums, (b) a case may involve several charges, and (c) indeterminate sentences may act as outliers exerting undue influence on the correlations and should not be excluded.<sup>5</sup> Thus, proportion of determinate sentence answers the question, "Given the charge(s) and the number of crimes, how severe was the sentence imposed by the judge?"

Also, to ensure that the sentence used in this study was the maximum that the judge intended, the time served by the accused while awaiting trial was added to the sentence actually given at a 2 to 1 ratio (see Ruby, 1994). (Time spent in jail awaiting trial is considered by legal professionals to be much "harder time," so this jail time is weighted at 2 days future credit for every 1 day already spent in jail.) In this way, the sentences used in this article represent the actual incarceration period the offender would have served if no time had been spent in jail awaiting trial; otherwise, the incarceration sentencing measures would have been artificially low. Finally, using this measure will enable others to compare the findings reported in this article with any subsequent studies (e.g., across different sexualized offenses, summary or indictable convictions, or varying amount of time served).

To correlate the various causal attributions with sentence, their frequencies were converted to proportions. For example, the frequency of externalizing attributions in a particular judgment was divided by the total number of causal attributions in that judgment. Table 3 shows the correlations between proportion of determinate sentence and the three attribution functions, as well as various combinations of attribution functions.

The main attribution that correlated significantly with sentence was that of violence/nonviolence. As predicted, when there was a higher proportion of nonviolent attributions in the judgment, the sentence was lower; when there were proportionately more violent attributions, the sentence was higher. Thus, when the judge ascribed a convicted assault to nonviolent causes, he or she gave a lower sentence.

The other causal attributions correlated significantly with proportion of determinate sentence only when they also occurred with a violent attribution. Internalized attributions were also associated with

Table 3  
Correlation Between Proportion of Determinate Sentence and Attribution Functions

Function	Correlation			
Situating/saturating	ns			
Internalizing/externalizing	ns			
Nonviolent/violent	-.35/.35**			
	Situating	Saturating	Internalizing	Externalizing
	Violent	Nonviolent	Violent	Nonviolent
Situating				
Saturating				
Internalizing	ns	ns		
Externalizing	ns	ns		
Nonviolent	ns	ns	ns	ns
Violent	.38**	ns	.54**	ns
	Situating		Saturating	
	Nonviolent	Violent	Nonviolent	Violent
Internalizing	ns	.46*	ns	.52**
Externalizing	ns	ns	ns	ns

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

higher sentence, again when the cause was also attributed to violence. That is, a violent cause located in a particular time and place received a higher sentence. As predicted, if the assault was seen as the result of a decision by the offender to be violent, the sentence was higher. The same finding appears when all three types of causal attributions are combined: Both situating and saturating attributions led to higher sentences, as long as they were associated with violent and internalizing attributions.

In general, most subtypes of the nonviolent attributions were not related to the sentencing measure. The large category of nonviolent attributions was significantly *negatively* related to proportion of determinate sentence (see Table 3). That is, when the judgment contained nonviolent attributions, the judges gave lower sentences.

## DISCUSSION

This study demonstrates the usefulness of examining attributions in naturally occurring environments, in naturally occurring language. First, it was found that the legal judgments were rich in attributions. It seems that judges commonly make attributions (or cite those provided by others) when passing judgment.

This study also demonstrates the value of examining the exact phrasing of naturally occurring attributions and developing measure-

ments from them, rather than asking subjects to choose between preexisting categories. For example, using literal, physical criteria to distinguish between internal and external attributions would not have captured the full richness of the data. These naturally occurring attributions frequently externalized the cause; that is, they cast mental states normally thought of as internal to a person as functionally external. These attributions exemplified the power of language to construct radically different versions of the same events. It seems likely that if the analysts had used traditional distinctions, we would have missed these (and other) constructions.

The distributions of attributions used were significant for several reasons. First, judges most frequently used attributions that were inconsistent with Canadian law. Canadian law defines sexual assault as violent *per se*, yet judges most frequently attributed convicted sexual assaults to a nonviolent cause. For example, the causes of the assaults were attributed to sexuality or alcohol. These attributions echoed our earlier findings that the sexual assaults themselves are not considered violent (Bavelas et al., 1997; Coates et al., 1994).

Moreover, judges did not ordinarily attribute the assault to an internalized choice by the offender himself. Few attributions cast the assault as volitional (i.e., the result of a decision by the offender to be violent). When they did, and when they also made a violent attribution, the sentences were higher. However, judges were more likely to separate the cause from the offender by externalizing it. The judgments described the offenders as succumbing to externalized psychological forces or to circumstances (e.g., being alone with children). That is, judges often discursively constructed the offender's psychological attributes and processes as separate from the offender himself. These externalized processes, and not the offender, were responsible for the crime.<sup>6</sup> Similarly, the judges did not ordinarily situate the cause of the assault in a particular time and place. Situated and violent attributions were associated with higher sentences, but judges tended instead to describe the cause as something more encompassing and less specific. In general, judges' attributions were, as predicted (Coates & Wade, 1994), predominantly psychologizing.

It is important to point out that the therapists from whom I adapted my attributional analyses (Jenkins, 1990; White, 1989-1990) use carefully selected attributions in therapy. They deliberately do not use externalizing attributions when working with violent clients (White, 1989-1990, p. 12). Attributions that "relieve, pacify, and excuse the perpetrator of responsibility" (Jenkins, 1990, p. 13) also limit the options available for stopping violence. For example, excusing an offender's violence because he was abused as a child presents the offender as a hapless victim of a perpetual cycle of abuse. After all, he cannot change the past.

Similarly, causal explanations that abstract the offense from the particular time and place where the offender made a choice to be violent and instead describe pervasive and nonspecific causes can only imply "you should be a different person" and not "you should act differently." Explanations that cast the offender's choice to be violent as the cause of his violent behavior not only emphasize the perpetrator's responsibility but also present the behavior as changeable—because other choices exist.

It is important to emphasize that analysts did not examine the attributions as isolated units, nor did we evaluate the veracity of these attributions (as might be appropriate in the case of an "insanity" defense). Instead, analysts concentrated on how the causal attributions functioned as part of the judgment. Nor can we infer causality in regard to sentencing. A particular attributional account could be a justification for the sentence a judge has in mind, or it could be the story itself that affects the sentence, or these two could influence each other prior to the written judgment. In any case, it is clear that the explanation the judge presents, out of all of those possible, is not a neutral act.

One social consequence of the attributions was also measured, that is, the sentence given to the offender. A clear relationship existed between the function of the attribution and sentence. Judges gave lower sentences to offenders when they attributed the cause of assault to nonviolent factors, and higher sentences to offenders when they attributed the cause to violent-situating-internalizing factors.

In contrast, most of the legal sentencing principles outlined by Ruby (1994) did not predict the sentence given by the judge (Coates, 1997). In fact, there were more violations of legal sentencing principles than there were consistencies. Some of these principles were distinctly violated, namely, those associated with breach of trust (age, familial relationship, and nonstranger status). The fact that judges gave consistently lower sentences to those who assaulted children in their family has disturbing implications for the general deterrence of a crime that society surely finds unacceptable. Criminal record, severity of act, and collateral violence were correlated as prescribed. The other factors were uncorrelated or correlated in the opposite direction to the principle.

Thus, the analysis of attributions occurring naturally in legal judgments provided a rich source of attributions. These attributions might even expand our conception of such categories as internal and external. High interjudge reliability was established for the attribution analyses, which shows that strong social psychological methods can be applied successfully to the study of naturally occurring attributions that have clear and important social consequences.

The research presented in this article represents the intersection of four domains: social psychology, discourse analysis, law, and psychotherapy. This research and the methods employed within contribute to each of these domains. First, this study demonstrated that studying

language in social psychology is intrinsically valuable. Causal attributions can be thought of as existing within language, rather than as reflections of intrapsychic processes or thought. Second, social psychological methods can be applied to analyzing discourse, be it legal or some other form of discourse, while preserving the phenomena. Third, the law can be examined as a discourse event worthy of microanalysis, and in conducting this analysis, one can show the operation of the law. Finally, this research drew from the domain of psychotherapy, and is now being applied by therapists, victim service workers, and other community members. Examination of the details of language and human interaction (rather than trying to prove an abstract theory; see Bavelas, 1991) facilitates the application of this research in the larger community. That is, conducting detailed observation of socially relevant phenomena as they occur more easily permits a researcher to take social action.

As a follow-up to this study, we (the Victoria Group) plan to examine the sociopolitical reasons for using attributions (in the legal system and society in general) that cast the cause of violent actions as outside of the perpetrator's control.

## NOTES

1. This study is part of a larger activist project investigating discursive constructions of sexual assault in Canadian courts, the media, and professional articles.

2. Under Canadian law, rape is classified under the offense of sexual assault. The crime sexual assault encompasses a wide range of violations from unwanted physical contact to rape. All of these sexualized crimes are considered to be *assaults*. They are not considered to be mere transgressions of sexual morality.

3. All offenders were male. Complainants were both male and female.

4. Part of the eloquence of language is its subtle complexity. Any given phrase may be serving many functions or doing much "local work." For this reason, in this study, researchers analyzed only the data for three main functions (although other functions were present).

5. Dangerous offenders are frequently sentenced to indeterminate or indefinite incarceration periods.

6. Shaver and colleagues (Shaver, 1985; Shaver & Drown, 1986) argued for distinguishing between causality, responsibility, and blame. It seems likely that proponents of this theory would predict that offenders who had been found guilty of assault would be perceived as responsible for their crimes (because the law requires that an accused can only be convicted if the act in question was intentionally performed by the accused). Yet, the opposite pattern occurred; that is, offenders were rarely described as being responsible for their actions.

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