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Credibility in the Courtroom: How Likeable should an Expert Witness be?

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Abstract

This study sought to investigate the relation between expert witness likeability and juror judgments of credibility and sentencing. Two actors playing expert witnesses were trained to present themselves as high and low in likeability in a standard testimony scenario involving capital trial sentencing. The effects of extraversion and gender in mock jurors in attending to expert testimony were also examined. The dependent variables were the perceptions of the witnesses' credibility and agreement with testimony and the participants were 210 psychology undergraduates. Likeability of expert witnesses was found to be significantly related to judgments of trustworthiness of the experts, but not related to confidence or knowledge of the experts or to the mock juror sentencing decisions. Women participants rated high likeable experts as more credible than low likeable experts; men did not. For men jurors, agreement with testimony increased as extraversion increased. However, for women jurors, agreement with testimony decreased as extraversion increased. The results suggest that likeability can be an important element of source credibility, and that attorneys and trial consultants now have an empirical foundation for addressing likeability as part of witness preparation.
 Key Words: Expert Credibility; Likeability; Gender; Extraversion; Jury Decision Making

Credibility in the Courtroom: How Likeable should an Expert Witness be?

A growing literature on expert testimony[1, 2] has described a need for study of the behavioral components associated with effective testimony. The aim of the present paper was to investigate one component, expert witness likeability, utilizing a theoretically-derived framework for credibility. We begin by reviewing source credibility and the literature about perceiver variables related to source likeability.

Source Credibility

The topic of source credibility has been substantially discussed in the psychological literature. McCroskey and colleagues[3, 4] established much of the conceptual and empirical groundwork on source credibility. In their 1981 discussion of the state of source credibility theory and research, McCroskey and Young identified eight factor-analytically supported components of credibility: sociability, size, extraversion, composure, competence, time, weight, and character[4]. They concluded that these eight components could be collapsed into two overarching domains of credibility: competence and character. These domains are similar to more recent conceptions of credibility of knowledge and trustworthiness reported by Brodsky in the context of expert witness credibility[1].

Griffin and colleagues have identified four empirically supported domains of courtroom credibility: trustworthiness, knowledge, confidence, and likeability[5]. The components of credibility in the courtroom may be more specific than the components of general credibility as conceptualized by McCroskey and colleagues due to the specific dynamics involved in courtroom testimony. Existing research has already demonstrated the significant and curvilinear relation of expert witness confidence to credibility[6].

Medium levels of witness confidence proved to be rated as most credible, followed by high and then low levels of confidence. In this report we seek to examine the relation between expert witness likeability and mock juror judgments of credibility and sentencing.

Extraversion as a Moderator of Perceived Likeability

Juror characteristics (e.g., gender, personality) are potentially useful in understanding perceptions of witnesses. Juror extraversion is one such construct possibly linked to perceptions of likeability of expert witnesses. A positive link between extraversion and likeability has been established[7, 8, 9, 10, 11, 12]. Most of this research has been in the context of judges' ratings of likeability of introverted or extraverted target persons. Extraverts have been found to be rated as more likeable than introverted counterparts[7, 10]. Oltmanns and colleagues found that in a rating of thin slice behaviors, extraversion was positively related to ratings of likeability[10].

The relation between extraversion and likeability has been shown to be different between genders[11, 12]. In 1986, Riggio and Friedman used three different measures of extraversion: one measure from the Personality Research Form, one measure from the Eysenck Personality Inventory, and one subscale of the Self-Monitoring Scale[12]. The intercorrelations (computed separately for females and males) of these scales were all statistically significant and were all related to perceived likeability. The extraverted males tended to display outwardly focused and fluid expressive behavior, and were in turn judged more likeable than were males who scored low on expressiveness and extraversion. Females who displayed more facial expressiveness drew more favorable initial impressions as rated by others. Riggio's 1984 study found that the most frequently

chosen females in a mock video-dating service (that is, most likeable) were those who were less extraverted and expressive than their counterparts[11]. The collective drawback of these studies is that the extraversion-likeability link has been limited to the same person, rather than looking at how extraversion on part of the perceiver influences perceived likeability of others.

Studies of extraversion on the part of the perceiver have implications for the present study: extraverted and introverted jurors may potentially perceive witnesses as differentially likeable and credible. For instance, Nass and Lee investigated computer-synthesized speech and personality[13]. This two-part study looked at participants (extraverts or introverts) who heard a synthesized voice (extraverted or introverted) on a book-buying Web site. It was found that participants accurately assessed personality cues in the synthesized voice and showed similarity-attraction in their evaluation of the computer voice, the book reviews, and the reviewer. The second part of the study added personality of the text to the previous design (e.g., "It is guaranteed to be in very excellent condition!" versus "It is in like-new condition."), and the findings replicated those in part one. The authors concluded that to maximize liking and trust, a computer personality should be created to be consistent with the user and with the content being presented. The results of this study suggest that an interaction between extraversion and likeability may exist between the personality of the juror and that of the expert witness.

Extraverted people, compared with their introverted counterparts, have been found to rate the likeability of target persons differently[14]. Extraverted college students, compared with introverted college students, rated target persons described by unfavorable traits as less likable and target persons described by favorable traits as more likable. The

differences in social responsiveness between the extraverts and the introverts could be explained by two mechanisms. First, extraverts have a stronger need for stimulation and are thus more likely than the introverts to interact with other persons[15]. Second, as a result of this interaction, the extravert learns to be more responsive to the positive and/or negative reinforcement potential of other persons[14].

Gender, Extraversion, and Perceptions of Likeability

Gender appears to be another pertinent juror trait. There are gender differences in extraversion, such that women generally show higher levels of extraversion than men16, [16, 17, 18, 19, 20]. This finding is consistent across a variety of different personality measures including the NEO Five-Factor Personality Inventory[16, 20], the Eysenck Personality Questionnaire[19], and items from the International Personality Item Pool[18]. The finding that women are more extraverted than men has been found in both adolescents and adults and seems to be stable across the lifespan[16, 20]. From a meta-analytic perspective, Feingold examined the norms from 13 personality inventories that included 36 independent normative samples[17]. Feingold found that females tended to display higher levels of gregariousness (a facet of extraversion) than males in 19 of the 36 samples (Cohen's *d* ranging from .09 to .76). Given the gender differences in extraversion, part of our objective was to study how juror gender impacts perceptions.

No studies could be located examining gender differences in perceptions of source likeability. Thus, the present study may address a new area for investigation. However, females have rated child witnesses as more credible than males[21, 22]. If this pattern holds with adults, gender may influence juror perceptions of expert witness credibility.

The Present Study

Credibility research has shown expert witness confidence to be a key factor associated with witness credibility and decision making[6]. The present research seeks to further understand associations between Brodsky's components of credibility[1] as they relate to each other, juror personality, and decision making. The degree of witness likeability may have influence over jurors' decisions, especially jurors who are highly extraverted. The scant literature on gender differences in perceptions of likeability raises the question of whether this juror characteristic is worthy of sustained empirical attention.

Hypotheses

1. Manipulated expert likeability will show a linear association with overall credibility, as well as with credibility subscales of perceived confidence, trust and knowledge.

2. Manipulated expert likeability will show a linear association with mock juror ratings of sentencing recommendations in that higher likeability will be associated with higher agreement with expert witness conclusions.

3. Juror extraversion will moderate juror perceptions of expert witness credibility and sentencing decisions.

4. Juror gender will moderate juror perceptions of expert witness credibility and sentencing decisions.

Method

Procedure

Two actors were trained and then videotaped demonstrating high and low levels of expert likeability. Rehearsal feedback was given to shape successful manipulation of

the likeability variable. Pilot studies sought to ensure successful manipulation of likeability, clarity of procedures, and avoidance of participant knowledge of the hypotheses. For the primary data collection, participants were apprised of their rights as research participants and then watched a randomly assigned condition of testimony. They then completed the questionnaire packet outlined below.

Defining Likeability

Expert witness likeability may be defined as the degree to which an expert is friendly, respectful, kind, well-mannered, and pleasant[5]. However, in order to empirically assess the effect of expert likeability, we sought to define it behaviorally. Drawing on literature from a variety of sources, we identified the following list of verbal and nonverbal components associated with high likeability: Smiling[23]; use "we" or "us" in reference to groups[24]; demonstration of less control[24]; physical attractiveness[25]; deferential speech- considerate disagreement as opposed to aggressive, defiant contradiction[26]; verbal responses conveying low arrogance such as acknowledging limited certainty of findings or potential to error[27]; "informal speech" such as use of an individual's name and less technical jargon[28]; direct eye gaze[29]; and absence of lying[30] (lying was negatively associated with likeability).

We concentrated our efforts on variables most reflective of likeability that could also be readily manipulated in the context of testimony. Therefore, we operationally defined likeability according to degree of smiling, use of "we" or "us" in reference to groups, absence of responses of arrogance, and good quality of eye gaze. The following criteria were used in manipulated conditions of high and low likeability:

High Likeability. Consistent use of "we" or "us" when discussing members of the scientific community or humanity as a whole, moderate levels of smiling, modest statements and conclusions (e.g., "relatively certain" or "we do not know everything there is to know in psychology"), consistent eye contact with lawyer and jury, and informal speech (i.e., low technical jargon and use of surnames of parties in the courtroom).

Low Likeability. No use of "we" or "us", no smiling, excessive statements of certainty of conclusions, inconsistent eye contact, highly technical jargon and frequent formal references (e.g., "the client", "the defendant").

Pilot Study

Results of the pilot data showed general support for successful manipulations. Four conditions (low and high likeability with two different expert witnesses) were assessed to ensure a) differential ratings between conditions, and b) equity in perceived likeability between actors. Results of an ANOVA (n = 44) showed that the overall model was significant, $F(3,41) = 20.53$, $p < .001$. LSD Post-hoc analyses indicated that the manipulation was successful, as each low likeability condition was significantly lower than each high likeability condition, $p < .001$. When comparisons were made by actor, neither the low conditions (*p* = .46) nor the high conditions (*p* = .71) were significantly different from one another in likeability ratings. All but one participant indicated that the instructions were clear: one person failed to answer this question. In addition, mock juror ratings of other witness characteristics were collected to confirm the manipulation of likeability. Adjectives conceptually linked to likeability were selected based on a list adapted from earlier work[31]. Results showed appropriate correlations of mock juror

ratings of likeability with other constructs as follows: charm ($r = .73$, $p < .001$),

friendliness ($r = .73$, $p < .001$), and conceit ($r = -.71$, $p < .001$).

Participants

Participants in the study proper were 225 introductory psychology students from a

large public southeastern university. The stimulus materials involved expert testimony

about dangerousness in a capital murder sentencing simulation. In accordance with

Witherspoon death-qualification criteria[32], those who reported an absolute inability to

assign the death penalty were excluded from data analysis in order to pursue

verisimilitude. A total of 210 participants satisfied death-qualification criteria based on

responses to a 10-point Likert item, with higher values denoting increased support for the

death penalty.

Of the 210 participants, the mean age was 19.06 years of age ($SD = 2.09$). There

were 59 males, 149 females, and two participants failed to identify their gender. A total

of 97 participants viewed the low likeability condition and 113 viewed the high

likeability condition. Participants reported their religion as Christian (typically Southern

Baptist) (n = 114), Catholic (n = 41), Protestant (n = 31), Jewish (n = 3), Agnostic (n =

5), Atheist (n = 3), other (n = 12), and one person chose not to identify religion. Only 4

participants had previously served on a jury so this variable was not analyzed.

Materials

Demographics. Participants completed a demographic form inquiring about age,

sex, ethnicity, religious orientation, attitudes toward the death penalty (10 point-likert

scale), and previous experience serving on a jury.

Manipulated Likeability. Two levels (low and high) of likeability were manipulated with a scenario based on the Krauss and Sales scripts depicting a state-hired expert witness testifying under direct and cross examination about the recidivism potential of a convicted murderer[33]. The only different content between the testimonies were the manipulated verbal and non-verbal likeability behaviors defined earlier. These conditions were presented in videotaped format.

Two male actors of similar age and credentials were used in the videotaped scenarios. Both actors were tall, bearded, male professors at a major university. All scripts held psychologist credentials constant. They included status as a licensed clinical psychologist, an established private psychotherapy practice, 14 years of experience in psycho-legal evaluations (more than 100 risk prediction assessments), and testifying in over 50 cases.

Expert Credibility. The Witness Credibility Scale[5] was used to assess credibility. The scale consists of twenty bi-polar adjectives on a 10-point Likert scale, in which higher values denote increasing agreement with the adjectives. Each of the four subscales is comprised of five items. Alpha coefficients have been reported for each subscale as follows: confidence (.88), likeability (.86), trustworthiness (.93), knowledge (.86), and overall credibility (.95). The likeability subscale was eliminated from analyses in order to avoid conceptual overlap between the independent variables of behavioral likeability and criterion measure of credibility.

Sentencing Recommendation. Ten-point Likert items were used for mock jurors' ratings of likelihood of assigning the death penalty and likelihood of assigning life without parole. Because the expert provided testimony suggesting that the convicted

criminal poses a continuing danger to society, higher values reflected agreement with the observed testimony. Thus, higher likelihood of assigning the death penalty reflected agreement with testimony, while life without parole did not.

Juror Extraversion. Extraversion was assessed with Goldberg's Five-Factor Items[34, 35]. The scale is comprised of 50 statements, each of which is rated on a five-point likert scale. Each of the Five-Factor Model domains, namely neuroticism, extraversion, openness, agreeableness, and conscientiousness, is assessed with 10 items from this scale. Reliabilities of the domains using Cronbach's alpha have been reported: neuroticism (.86), extraversion (.87), openness (.84), agreeableness (.82), and conscientiousness (.79)[34, 35]. Extraversion was the only subscale of interest in the present study.

<div align="center">Results</div>

Effects of Expert Witness Likeability

Independent samples *T*-tests were used to assess the impact of expert likeability on dependent measures. Hypothesis one was that expert likeability impacted juror perceptions of credibility in a linear manner. This hypothesis was supported. Results showed that highly likeable witnesses ($M = 120.12$, $SD = 20.61$) were rated higher in overall credibility than low likeability counterparts ($M = 112. 11$, $SD = 21.54$), $t(205) = -2.74$, $p = .007$. The impact of likeability on perceptions of credibility is clarified when examining differences in subscales. Highly likeable experts ($M = 37.60$, $SD = 8.41$) were rated as more trustworthy than low likeability counterparts ($M = 29.79$, $SD = 10.14$), $t(206) = -6.06$, $p < .001$. There were no significant main effects of expert likeability on juror perceptions of knowledge, $t(207) = -.72$, $p = $ ns, or confidence, $t(206) = .14$, $p = $ ns.

Hypothesis two predicted that expert likeability would directly impact juror sentencing decisions. This hypothesis was not supported. Independent Samples T-tests showed no significant main effect of expert likeability on assignment of the death penalty, $t(208) = -.88$, $p = $ ns, nor on the likelihood of assigning life without parole, $t(208) = .72$, $p = $ ns.

Moderation Analyses

Custom General Linear Modeling (GLM) was used for all moderation analyses. All continuous predictor variables were standardized. Participant support for the death penalty was included as a covariate in all moderation models in order to obtain the most comprehensive predictive model of dependent measures. Thus, each predictive model featured support for the death penalty, likeability conditions, juror gender, and juror extraversion. All two- and three-way interaction terms were included in moderation analyses in order to clarify any main effects of moderators. One model was run for each dependent measure: Total expert witness credibility, likelihood of assigning the death penalty, and likelihood of assigning life without parole.

The overall model predicting total credibility was significant, $F(8, 192) = 2.03$, $p = .05$ (Adjusted $R^2 = .04$). No significant main effects emerged; however, there was a significant two-way interaction between level of likeability and juror gender, $F(1, 192) = 5.22$, $p = .02$. While men showed stable ratings of expert credibility, women rated high likeability witnesses as more credible than low likeability witnesses. Figure 1 depicts this moderation.

The overall model predicting likelihood of assigning the death penalty was significant, $F(8, 195) = 6.19$, $p < .001$ (Adjusted $R^2 = .17$). The only significant main

effect that emerged was support for the death penalty, $F(1, 195) = 39.05$, $p < .001$. A significant two-way interaction between juror gender and extraversion was found, $F(1, 195) = 5.11$, $p = .03$. For male jurors, likelihood of assigning the death penalty increased as extraversion increased. However, for female jurors, the likelihood of assigning the death penalty decreased as extraversion increased. Figure 2 depicts this interaction. Also, a significant trend emerged for the three-way interaction between level of behavioral likeability, juror gender, and juror extraversion, $F(1, 195) = 3.54$, $p = .06$. At low levels of juror extraversion, women consistently showed a higher chance of assigning the death penalty than male counterparts based on low likeability testimony. However, at high levels of juror extraversion, men were more likely than women to assign the death penalty based on low likeability testimony. This pattern evened out with high likeability testimony.

The overall model for likelihood of assigning life without parole was significant, $F(8, 195) = 2.35$, $p = .02$ (Adjusted $R^2 = .05$). The only significant main effect was support for the death penalty, $F(1, 195) = 12.88$, $p < .001$. A significant trend emerged for the interaction between level of expert likeability and juror gender, $F(1, 195) = 3.57$, $p = .06$. Male jurors were more likely to assign life without parole in the low likeability condition when compared to the high condition. Women showed stable probability of assigning life without parole. Figure 3 shows this trend.

Discussion

The primary purpose of this study was to continue the investigation of the relation between the four components of courtroom credibility as conceptualized by Brodsky[1], which include confidence, likeability, trustworthiness, and knowledge. Prior research has

shown confidence to be a key factor associated with witness credibility and juror decision making[6]. The present study extended the line of research, finding that the likeability of the expert witness is positively associated with witness credibility. The results of the study revealed no significant main effects of witness likeability on knowledge or confidence; however, there was a main effect of likeability on trustworthiness, in which likeability was positively associated with trustworthiness. Expert witness likeability was not associated with juror decision making in this study. It may be that likeability impacts verdicts in non-death cases, but is less important in jury decisions pertaining to death sentencing. The seriousness of capital murder charges and possible sentences may well demand a greater focus by actual and mock jurors alike, so that central processing of probative content is more common and compelling than the peripheral processing in which likeability would play a role.

From a theoretical standpoint, the credibility and likeability constructs are partially clarified in the specific setting of testimony. Perceptions of likeability directly impact trust, but not juror decisions. This finding appears to be a new contribution to understanding believability of expert witnesses. Overall, likeability is a construct dependent on the influence of other individual difference factors (e.g., gender) in relation to decision making. When credibility is examined, the present results combined with those of Cramer and colleagues[6] highlight trustworthiness as a pivotal facet of expert witness credibility. Juror perceptions of both confidence and likeability have been shown to impact the trustworthiness component. Extrapolation of these findings suggests that being perceived as likeable and/or confident engenders trust. One possible implication is that trust may be a factor that influences behavioral outcomes such as decision making in

the courtroom context. In order to further understand expert witness credibility, the role of trustworthiness as a determinant of trial outcomes should be further investigated.

Gender and extraversion were shown to be important individual difference factors in jury decision making. For example, results from the model predicting overall credibility found that while men showed stable ratings of expert credibility across the conditions of expert likeability, women rated witnesses with high likeability as significantly more credible than witnesses who were not likeable. This finding may be interpreted through Tannen's conceptualization of distinctive gender communication patterns[36]. Tannen argued that men and women may differentially perceive the same verbal behavior due to different communication structures and purposes. Her theory holds that, in general, men use fact-based conversation to uphold a hierarchical social world-order to avoid failure and preserve independence. In contrast, women's communication generally serves the primary purposes of building connections, providing support, and ultimately warding off social isolation.

A 1988 survey of American adults by Kroeger and Thuesen utilizing the Myers-Briggs Type Indicator lends some support to Tannen's assertions[37]. The researchers found that roughly two-thirds of American men prefer making decisions based on logic and rational thought, and that about two-thirds of American women prefer making emotionally-based decisions. The present study found that that womens' ratings of witness credibility were significantly affected by the likeability of the witness whereas mens' ratings were not. This finding can be interpreted through the more emotional purposes of communication for the genders as presented by Tannen[36].

Apart from behavioral likeability, juror gender and extraversion interacted to predict decision outcomes. For male jurors, extraversion and agreement with testimony were positively correlated when assigning the death penalty. The opposite pattern emerged for female jurors. A three-way trend emerged between these factors and degree of expert witness likeability. Although level of behavioral likeability offers a situational explanation, there is more to the picture on gender, extraversion and subsequent decisions. Previous research shows consistent gender disparities in extraversion in that women are more extraverted than men[16, 17, 18]. Our findings begin to illuminate how such personality differences manifest in other behaviors and attitudes. From a Five-Factor perspective[38], high extraverts seek out excitement and positive emotions, engage the social world often, and are gregarious. High degrees of this trait in men appear to result in an agreeable stance toward expert testimony, at least in the backdrop of a capital murder trial. For female jurors, portions of extraversion may lead to less agreement based on the present study. Our basic two-way interaction finding only allows for speculation as to the cause of differential agreement because we did not measure traditional subcomponents of extraversion such as excitement-seeking and gregariousness. A future step in ferreting out the link between gender differences in personality and resulting agreement would be to examine how various components of extraversion may mitigate decisions by gender.

There were limitations to the current study, including that the testimony was presented via videotape rather than live in a courtroom and that jury deliberations were not included in the study. Moreover, we only used male experts. The findings of the present investigation should be examined with female witnesses as well. In addition, our

sample was composed of primarily Caucasian undergraduate students. However, it should be noted that research has found few differences between various trial media or mock juror samples[39, 40]. Bornstein and Dunn separately concluded that using students as mock jurors in jury-simulation research is not necessarily a cause for concern. Finally, the collection of behaviors conceived of as likeable may be a weakness because the present design fails to identify which particular behaviors are related to credibility. At the same time the present study did feature a comprehensive reflection of behavioral likeability.

Implications of the present study may apply to trial consultation practice. For instance, juror gender and extraversion can be used in the jury selection process as markers for voir dire questions and questionnaire items. Furthermore, trial consultants and attorneys may seek to shape witness behaviors in witness preparation explicitly to promote trust in the expert's testimony.

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Figure 1

Two-way interaction (expert likeability by juror gender) on overall credibility
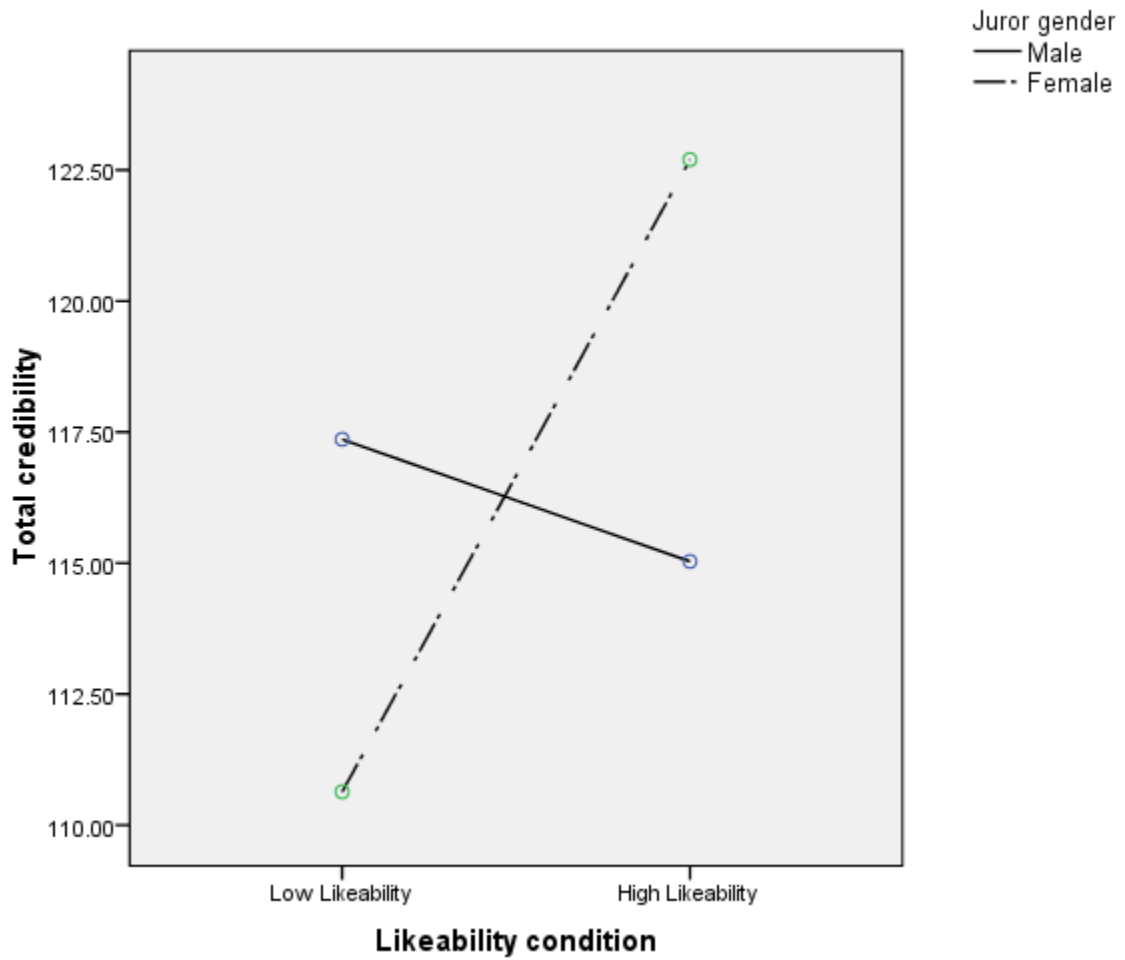
Note: For all graphs, constructs on the x-axis are categorical variables. Where gender is represented on the x-axis, gender catagories (i.e., male, female) are discrete but not increasing.

Figure 2

Two-way interaction (juror gender by juror extraversion) on likelihood of assigning the death penalty
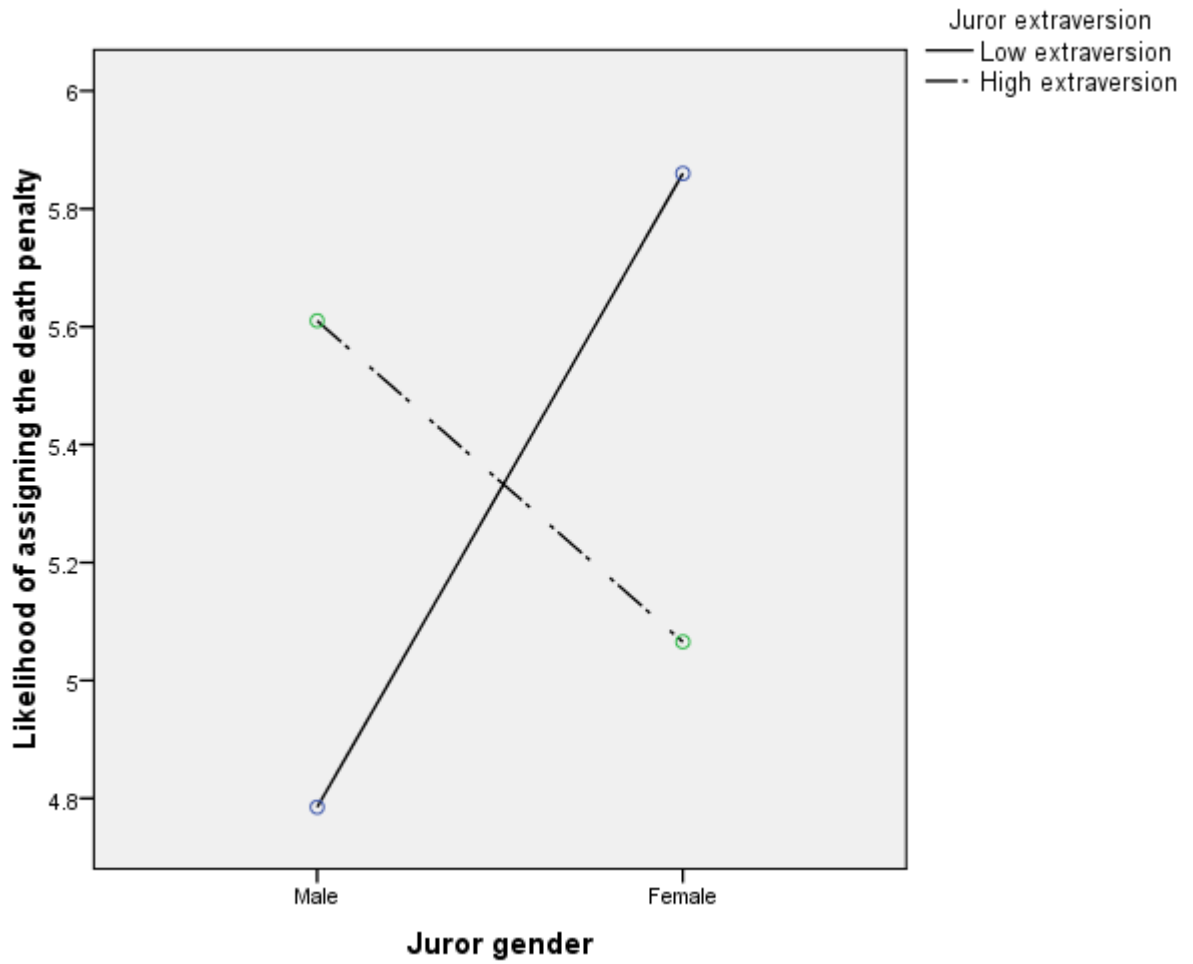
Figure 3

Two-way interaction trend (expert likeability by juror gender) on likelihood of assigning life without parole