STEREOTYPES ABOUT VICTIMS: HOW WHAT WE THINK WE KNOW ABOUT OTHERS IMPACTS OUR LEGAL JUDGMENTS

DISSERTATION

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ABSTRACT

In three experiments, the influence of the race of victims on legal decisions is explored. Using mock jurors and fictional case summaries and transcripts, the current investigation experimentally manipulates key factors that could influence jurors’ judgments about appropriate amounts of punishment and compensation.

Experiment 1 demonstrates that victim race can impact legal decisions. Both victim race and the injury sustained by the victim were manipulated. In this first experiment, participants punished injuries more harshly when they inhibited a victim’s ability to confirm positive expectations derived from their ethnic identity.

Experiment 2 explored the distinction between civil and criminal decision-making. Victim race, injury suffered and the framing of the dependent variables were manipulated. Specifically, an attempt was made to reframe both criminal (sentencing decisions) and civil (compensation awards) judgments as either victim- (civil) or defendant- (criminal) focused decisions. The results of Experiment 2 suggested that participants actually punished injuries that were not related to positive aspects of the victim’s group identity more harshly than injuries
that were related to the abilities assumed to be positively associated with their
group. This finding represents a reversal from Experiment 1.

Experiment 3 was designed to reconcile the contradictory findings from
Experiments 1 and 2. Both focus of processing and the presence or absence of a
fairness norm were manipulated to explain why the race effect present in
Experiment 1 reversed in Experiment 2. The results from this final study suggest
that the effect of processing focus, rather than the presence or absence of a
fairness norm, is a better explanation for the race reversal effect reported in
Experiment 3.

Taken together, these studies highlight the importance of a consideration
of the ethnicity of victims in the legal system. In addition, the experiments
demonstrate that various factors in the case, including victim ethnicity and juror
processing focus can interact in interesting ways. Finally, this program of research
suggests that more research about the content of the stereotype attached to the
ethnicity of victim’s in legal proceedings is warranted.
DEDICATION

This dissertation is dedicated to the great loves of my life – my husband, Jacob Glover; my parents, Mike and Kathy Scott; and my dearest friends, Leslie, Michelle and Amy.

Without your support, guidance, love and attention, I would not be the person I am today. In addition, your constant words of encouragement and your expressions of pride in my achievements are what have driven (and enabled) me to accomplish my work.

Thank you for everything - for doing laundry when I was too tired, taking care of me when I was sick, and for providing supportive phone calls and “survival kits”. I am truly thankful to be blessed with such wonderful people in my life.
I love you all.
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Third, I’d like to acknowledge the countless hours of assistance provided by Jarad Regan, my research assistant. He went well beyond the call of duty.

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CHAPTER 1

INTRODUCTION

The social cognition tradition in social psychology focuses on how people think about other individuals and groups in their environment. A central component of the study of social cognition is stereotypes, which are summary beliefs about groups of people that link traits, feelings and behaviors to individual members of social groups. The formation and use of stereotypes is thought to result from the fundamental human tendency to categorize individuals in their environment into different groups, allowing for prediction of future behavior, and the choice of behavior toward individuals. The traits, behaviors and feelings associated with the group or category label may be called to mind spontaneously upon perceiving an individual category member. In other words, stereotypes, which contain the summary of our cultural beliefs about a group, are often automatically activated when group members are encountered or even thought about. This is coupled with a more controlled process which can reduce the impact of such stereotypes on judgments, when perceivers are motivated and able to correct for the activated stereotypes. These dual processes play important roles in decision-making contexts.

Stereotypes about group members may be particularly important when markers
that indicate group membership are visible and obvious. Categorizing people in terms of their salient group identities should occur automatically upon the perception of individuals that are clearly members of those easily identifiable groups. For instance, men and women are automatically categorized according to their gender by perceivers. Similarly, some ethnic groups are also obvious to perceivers – people can identify targets as White, Black, Asian, etc., with little or no effort or intention (Zarate & Smith, 1990).

If these easily identifiable groups also have well-learned stereotypes attached to them, it seems reasonable to argue that the content of those stereotypes will also be automatically activated in most people, most of the time. While individuals may be motivated to resist stereotyping and prejudice (Devine, Plant, Amodio, Harmon-Jones & Vance, 2002; Dunton & Fazio, 1997) the initial activation should still occur. This activation may alter a wide variety of judgments made by perceivers, and the particular area of influence on which this dissertation focuses is legal judgments.

Previous research on group identity and stereotypes in the legal system

How group identity and stereotyping processes may affect legal decisions has long been of interest to scholars of law and psychology. Many researchers have documented effects of group membership similarity between the perceiver and target. Racial leniency effects have been observed such that participants behave less punitively toward defendants of the same race as themselves (Perez, Hosch, Ponder & Trejo, 1993; Wuensch, Campbell, Kesler & Moore, 2002). This is especially true for African American jurors and defendants (Abwender & Hough, 2001; Bernard, 1979; Skolnick & Shaw, 1997; Sommers & Ellsworth, 2000), and at least one paper suggests that black
jurors are more lenient toward defendants in general (Turner, Lovell, Young & Denny, 1986).

The evidence for such similarity effects for gender identity is more mixed. For instance, one experiment produced a same sex leniency effect, whereby both men and women were more lenient toward defendants who shared their gender (ForsterLee, Horowitz, Ho, ForsterLee, & McGovern, 1999), whereas Abwender & Hough (2001) and Hyme, Foley & Pigott (1999) report that women tend to be harder on other women.

Stereotypes about the prominent characters in a trial (defendants, victims or plaintiffs, potential and actual jurors, prosecutors, and attorneys) have also been examined. Previous work has largely focused on how attorneys’ stereotypes of potential jurors may guide jury selection (Rose, 1999; Turner, Lovell, Young & Denny, 1986) how stereotypes of defendants may interact with the type of crime they are accused of to impact estimates of the likelihood of guilt or innocence (Bodenhausen & Wyer, 1985; Gordon, Bindrim, McNicholas & Walden, 1988; Oliver & Fonash, 2002), and especially in the case of rape, how stereotypes of victims can influence the extent to which they are seen as responsible for the event that occurred (Carmody & Washington, 2001; Foley & Pigott, 2000; Murray, Spadafore & McIntosh, 2005; Wyer, Bodenhausen & Gorman, 1985).

At a general level, the content of stereotypes can interact with type of task to influence judgments about task performance and expertise. For instance, Vancouver & Ilgen (1989) demonstrated that stereotypes about a potential partner interact with the type of cooperative task to be performed to influence work partner preference. Specifically, they found that men predicted their performances would be less successful, and were
more likely to choose a female work partner when they expected to complete a stereotypically feminine task (e.g. cooking a meal). Women demonstrated the same pattern of judgments and preferences when faced with completing a stereotypically male task (e.g. changing the oil in a car).

In the legal domain, Schuller, Terry & McKimmie (2001) showed that the utility of expert testimony depends on the match between the topic they testify about and their area of expertise. In this case, participants were making judgments about the appropriate amount of damages that should be awarded to a company who was suing one of their business partners. The suit alleged that the plaintiff deserved damages resulting from a price-fixing operation for which the first corporation had already been found responsible. Half the participants were told the case occurred in the cosmetics industry, while half were told it was in the automobile tire industry. Schuller et al found that participants rated female expert witnesses more credible, and that their recommendations carried more weight in the final compensation judgments, when the case was set in the cosmetic industry. The opposite was true for male expert witnesses.

In addition, what we think we know about criminal defendants as a function of their group membership can change the decisions made by mock jurors in criminal cases. Bodenhausen & Wyer (1985), for instance, presented participants with cases of transgressions and asked them to make judgments about the appropriate resolutions for the cases. In this series of experiments, the authors were primarily concerned with the effect of activating stereotypes about a transgressor on participants’ judgments of the likelihood of recidivism and their explanations for why the behavior occurred. In Experiment 1, participants made decisions about a work-related offense involving either a
White or an Arab American perpetrator. In addition, the researchers varied the type of offense that occurred. In one condition, participants read about an event that suggested lack of cooperation (presumably a stereotypical White American offense), while in another condition, the offense suggested laziness (which is included in the stereotype of Arab Americans). Because these factors were completely crossed, the design allowed the researchers to evaluate both stereotypical (Arab Americans and laziness and White Americans and non-cooperation) and non-stereotypical transgressions (Arab Americans and non-cooperation and White Americans and laziness). Experiment 2 involved a similar design, but the crimes were white collar (embezzlement) and blue collar (assault), crossed with Hispanic and White transgressors. Across these two studies, the authors found that participants were more likely to view stereotype consistent offenses as stable and dispositional, and therefore more likely to recur. This pattern of causal explanation led to harsher punishments for such offenses and a neglect of other life circumstances that normally moderate punishment judgments. This is one of the earliest experimental studies to demonstrate that the race of the transgressor can significantly change participants’ legal judgments.

In several follow-up studies, Bodenhausen demonstrated that these effects were likely to extend to other legal judgments, including guilt and innocence, appropriate punishment, and likelihood of recidivism. Bodenhausen & Lichtenstein (1987) found that participants were especially likely to use the stereotypicality of an offense in their legal judgments when the processing task was a complex one (determining guilt) rather than a simple one (making a trait inference). In this study, participants made judgments about an assault case in which the defendant was either Hispanic (a man named Carlos Ramirez,
for whom the assault was stereotypical because the stereotype of Hispanics includes elements like aggressive) or ethnically non-descript (Robert Johnson, for whom the assault would not be stereotypically relevant). In addition, the researchers manipulated participants’ processing goal (determine guilt vs. determining how aggressive the target was) and how much information participants received. The results of this experiment indicated that when participants had a relatively complex goal (like determining guilt) in mind, they saw the Hispanic defendant as more guilty of the current offense, more likely to commit assault in the future, and made harsher sentencing decisions. An analysis of participants’ memory for the facts of the case suggested the effect appears to result from a greater attention to stereotype confirming, negative information about the defendant. According to the authors, when participants face a difficult task and are provided with a convenient heuristic (in this case, the defendant’s ethnicity) they use the stereotype associated with the ethnic group as a central organizing theme when processing information about the case and making judgments about it.

Finally, Bodenhausen (1990) extended these findings to cases of academic misconduct on a college campus. In an experiment on the effects of circadian rhythms on stereotyping, he found participants who made judgments at non-optimal times of the day in terms of their motivation and ability to process (i.e. afternoon and evening for “morning people” and morning and afternoon for “night owls”) were more likely to show stereotype congruency effects. That is, when participants were less motivated or less able to process information carefully, they were more likely to find an African American student guilty of a drug-related offense, an Hispanic student guilty of an aggression-related offense, and a student athlete guilty of a cheating offense, as compared to
ethnically non-descript control defendants.

These studies suggest stereotype content – what we actually believe about members of social groups – can impact legal decisions in important ways. However, nearly all of the empirical evidence to date has focused on how stereotypes about the defendant can interact with type of offense committed. There is another important possibility that has received much less attention – participants might also be influenced by stereotypes of victims in criminal cases. For instance, stereotypes about a victim could determine the “value” or “worth” participants place on them. Thus a crime in which a more “valuable” member of society is the victim may cause participants to react more strongly than a crime in which a more marginal member of society is injured. In one study of civil judgments, Goodman, Loftus, Miller & Greene (1991) found this bias might actually translate into real dollar amounts. Specifically, they showed juries awarded higher amounts of money to female survivors in wrongful death cases than they did to men who lost their wives in identical cases. This effect presumably occurs because men are assumed to be more important as “providers” than women and therefore widows are more disadvantaged, in economic terms, than widowers. In addition, and in a case that is not in any way linked to possible real correlations in earning potential, Kulka & Kessler (1978) found that attractiveness of the plaintiff led to inflated damage awards and that more attractive defendants were sentenced to less harsh punishments than less attractive ones.

One notable exception to the dearth of literature on victim effects is the study of legal decisions regarding sexual assault. Many studies have demonstrated the existence of a rape victim stereotype (see Lonsway & Fitzgerald, 1994), although endorsement of this
stereotype varies. Specifically, men seem to endorse the stereotype more than women, and Whites in general seem to endorse the stereotype less than minority group members, although at least some evidence suggests this is largely an effect of socio-economic status (see Nagel, Matsuo, McIntyre & Morrison, 2005 for a review). The rape victim stereotype contains elements reflected in two popular scales used to measure bias against rape victims, the Rape Myth Acceptance Scale (Burt, 1980) and the Attitudes Toward Rape Victims scale (Ward, 1988). Both of these scales tap perceptions some people have about rape victims, including the rape victim “asked for it”, especially if she dresses promiscuously or is sexually attractive (Kanekar & Kolsawalla, 1980; Krulewitz & Payne, 1978), the victim needed to be taught a lesson, and the victim herself is blameworthy or not credible. In fact, the Rape Myth Acceptance Scale (Burt, 1980) is specifically designed to tap “prejudicial stereotyped or false beliefs” about victims in this domain. Further, the extent to which participants accept rape myths appears to mediate attributions of guilt and responsibility attributed to victims and offenders in rape cases. People high in endorsement of this stereotypical view of rape victims tend to make more lenient punishment and guilt judgments and attribute more responsibility to the victim and less to the defendant, relative to people who do not endorse this particular set of beliefs about rape victims (Bell, Kuriloff & Lottes, 1994; Bridges & McGrail, 1989; Burt & Albin, 1981; Deitz & Byrnes, 1981; Kopper, 1996; Simonson & Subich, 1999).

While the evidence regarding stereotypes about rape victims is interesting, it is not necessarily directly applicable to the consideration of victim ethnicity in general. That is, the rape victim stereotype becomes attached to a person because they become a victim of rape. Ethnic identity, on the other hand, is something the victim is born with and is in
no way directly related to the crime being considered. Beyond the ethnic group similarity effects already discussed, there is little evidence for the impact of victim ethnicity on legal judgments. However, some studies suggest the ethnicity of child sex abuse victims does impact observer’s judgments about those types of cases. In their study of mock jurors’ reactions to child sex abuse cases, Bottoms, Davis & Epstein (2004) found the ethnic identity of the victim impacted participants’ attributions of responsibility and their sentencing decisions. In their experiment, participants read cases involving either White, Hispanic, or Black children or perpetrators. The results suggest that while participants seem to find same-race sexual abuse cases more generally plausible, respondents believed that Black and Hispanic children were more responsible for their abuse than White children and were more lenient on defendants who abuse Hispanic or Black children. Again, this suggests minority victims are somehow devalued, relative to white victims. This effect was especially strong when cross-race cases (i.e. a Black perpetrator and a Hispanic defendant) were presented. In their literature review, Bottoms et al (2004) suggest this is symptomatic of a larger disadvantage for Black and Hispanic victims, such that crime against white victims is typically more harshly punished, compared to minority victims.

These effects also extend to sexual harassment cases. Wiener, Winter, Rogers & Arnot (2004) demonstrated that sexual harassment complainants are evaluated differently depending on what particular stereotype of women is primed by the case at hand. Specifically, when complainants were characterized as more aggressive, hostile attitudes toward women are activated. These attitudes include the stereotype that women are aggressive and must be “kept in their place,” and led to men finding less evidence of
harassment when they thought about a case of harassment involving the aggressive female. While women found more evidence for sexual misconduct overall, when participants considered a submissive complainant (who activates more benevolent attitudes toward women, including they should be sheltered and protected) there were no gender differences with regard to findings of misconduct. Finally, when women but not men, read about a submissive complainant they were more likely to find evidence for sex-based discrimination in a target case. These results imply the activation of specific stereotype content can change legal judgments depending on how it relates to the case or judgment being made.

Stereotypes about ethnic groups are extremely prevalent and, as mentioned previously, may be automatically activated when people perceive members of easily identifiable ethnic groups. This activated stereotype may color people’s judgments about the target, especially when perceivers are unaware they are using such stereotypes, or are unconcerned about the biasing impact they may have.

Victims in criminal cases, while important, are not the focus of the trial. Victims may testify about the impact the crime had on their lives, especially during the sentencing phases of the trial. However, in criminal cases the focus of the proceedings is definitely on the defendant or perpetrator. While civil cases seem more overtly victim-focused, participants are still making judgments that largely impact the defendant – how responsible they are, how much money they should pay, etc. The legal system as a whole, then, is really structured to focus jurors’ attention on the defendant, rather than the victim. As a consequence, when people process information about the defendant in a case, any stereotypes associated with the defendant’s ethnic identity are likely to be
activated. However, because processing is focused on the defendant in these cases, potential jurors may be more likely to realize such stereotypes were activated and, if properly motivated, may take steps to attempt to remove their impact from their judgments.

If stereotypes are automatically activated, people should be aware of the stereotypes attached to the ethnic identity of both the defendant and the victim. However, because their processing is not focused on the victim, they may be less likely to realize such stereotypes were activated. In the absence of a process that inhibits their application, stereotypes known about the victim’s ethnic group are likely to be applied to the victim. This should translate into the ethnic identity of the victim causing an impact on legal judgments, and ethnic identity and stereotyping effects may be more impactful for victims than for defendants in a legal context.

Although previous studies have suggested stereotypes about particular kinds of defendants or victims can impact legal decisions, the empirical evidence is scant. When group membership is believed to be directly relevant to the crime at hand, participants seem willing to consider stereotype relevant information. In fact, it may be that potential jurors are more swayed by stereotypes about the victim in a court case than about the defendant, yet few studies have investigated the impact of the ethnic identity of the victim on legal decisions. This dissertation extends this literature by examining how the racial identity of victims in a legal case can interact with the specific injuries they suffer to drive sentencing and compensation judgments. Because injuries are independent of the crime committed and the victim’s propensity for being involved in the incident, these studies represent a unique contribution to the study of victims and stereotypes.
I focus on racial stereotypes for two reasons. First, as described above, most previous research has been conducted using stereotypes about racial groups. This generally occurs because racial identities are important factors in our society, are easily recognizable and are fairly easy to manipulate in a relatively subtle way in an experimental context. Second, and more importantly, the ultimate goal of most social psychological research on stereotyping is to eliminate the biases stereotypes (especially racial stereotypes) can cause. This goal requires an understanding of how stereotypes impact a variety of judgments and behaviors, and is particularly important in a legal setting. These studies will contribute to a more complete understanding of how stereotypes about victims can impact judgments in a legal setting.

With these goals in mind, the current set of studies was conducted to provide an initial exploration of the impact of victim ethnicity on legal judgments. As will be described in the next three chapters, different versions of fictional case materials were created and presented to participants who served as mock jurors in these experiments. A variety of judgments were investigated, including sentencing and compensation decisions, estimates of impact on the victim’s quality of life and earning potential and the emotions evoked by the case materials. Experiment 1 demonstrates the basic effect of interest, that is, a victim’s ethnic identity can impact legal judgments made by students serving as mock jurors in a case. More specifically, it shows that students differentially assign compensation to Asian and African Americans, depending on the type of injury they suffered. Studies 2 and 3 are designed to investigate when and why this effect occurred and to answer follow-up questions surrounding the relative sensitivity of different measures and whether such effects are mostly process-
information is initially processed) or correction-based (occurring at a later stage of judgment when participants attempt to correct for biases they believe were introduced into their evaluation processes). These three studies represent a starting point for the study of victim race effects in the legal system and provide initial documentation that such factors can impact legal decisions in meaningful ways.
CHAPTER 2

EXPERIMENT 1

In this specific series of studies, I focus on two ethnic groups common in American society – African Americans and Asian Americans. These two groups are especially useful for the current studies for at least two reasons. First, both groups are highly visible in society and most students have a clearly defined stereotype of each. For instance, the African American stereotype includes athletically gifted, aggressive, hostile, criminal and having “rhythm”. The Asian American stereotype includes the traits quiet, intelligent (especially good at math), passive, humble and sneaky. These stereotypes are particularly useful for the current investigation because the stereotypes of Asian and African Americans are complementary to one another on at least two dimensions – athletic and intellectual ability. Stereotypes about these two groups suggest Asians are more intellectually (and less athletically) capable, while the opposite is true for blacks – we assume they are more skilled at athletics but may have intellectual deficits. The complementary nature of these stereotypes makes Asian and African Americans the ideal stimuli for a package of studies to investigate how stereotypes about a victim can interact with the injuries they suffer to influence legal decisions.
Methods

Design: For the initial study, a 2 (Ethnicity: Asian American/African American) X 2 (Injury suffered: Intellectual/Athletic) completely crossed, between-subjects design was used to investigate the basic effect of interest.

Hypotheses: In this research, the injury suffered by the victim should have implications for a positive aspect of the stereotype about the ethnic group in question (intelligence for Asian Americans and athleticism for African Americans). Based on Bodenhausen’s work, which demonstrated that a match between the stereotype of the defendant and the crime committed increased the severity of punishment decisions, a match between the stereotype attached to the victim’s group and the injury suffered should serve to make judgments more extreme. In this case, ethnic identity should interact with the particular type of injury suffered to influence participants to compensate victims with the highest monetary awards when the injury is related to the positive stereotype attached to the victim’s group. That is, participants should award the highest compensation amounts when they read about an African American who is injured in a way that makes them less athletically capable or when they read about an Asian American who receives an injury that makes them less intellectually capable. Similar effects should also occur for punishment of the defendant in this case – participants should punish defendants more when Asians suffer an intellectual injury or when African Americans suffer an athletic injury.

Participants: Participants were 85 Introductory Psychology students who completed the experiment as one of several options to obtain class credit. Participants were all run in the same laboratory, a room equipped with several computers. Participants
completed the experiment at individual computers with partitions between them, in
groups ranging in size from one to five.

**Procedures:** All experiments were conducted with a program called Media Lab, a
software package that is designed to easily present experimental stimuli via computer. In
addition, this program records the data and produces an output file. A wide range of
materials can be used in Media Lab studies, including PowerPoint, Word and HTML
documents.

In this experiment, participants were first asked to read a case summary which
consisted of a short summary paragraph describing a hit-and-run incident. This incident
was fictional and created solely for the purpose of this experiment. The paragraph
described a college student who was hit by an automobile as he was walking home from
campus. Following Bodenhausen & Wyer (1985), along with a host of other researchers,
etnicity of the victim was manipulated using only the name of the victim (Tyrone
Washington or Joe Yakamura). The entire scenario was identical in all four conditions
save for the references to character names and the last sentence of the story, which
described the injuries suffered by the defendant. In the intellectual injury condition, the
hit-and run-resulted in head injuries which decreased the victim’s critical thinking skills,
especially their ability to do math. In the athletic injury condition, the victim suffered two
broken legs which resulted in a permanent limp, and the inability of the victim to
participate in athletic activities. After reading the hit-and-run scenario, participants
completed a variety of dependent measures, and were debriefed and thanked for their
time. (See Appendix A for the actual materials used in Studies 1 and 2.)

**Dependent Measures:** Participants completed a wide variety of measures,
including manipulation checks, the primary dependent measures (punishment and compensation judgments) and other secondary measures. (Appendix C provides the details for dependent measures used in all three studies.)

**Sentencing decisions.** Participants were first asked to make sentencing decisions. Two 7-point Likert scale items were used to determine how much participants would punish the defendant in this case. First, to tap how severely participants intended to punish the victim, they were asked how much jail time they would assign on a 7-point Likert scale labeled from 1 (minimum amount allowable by law) to 7 (maximum amount allowable by law). Next, participants were asked to indicate “exactly how many years the defendant should spend in prison,” and made responses on a scale labeled from 1 to 13 years, increasing in 2 year increments. Finally, participants were asked how much this particular defendant deserved to be punished, relative to other criminals who commit similar offenses. The response scale for this dependent measure ranged from 1 (much less than others) to 7 (much more than others) and the midpoint read “about the same as others”.

**Compensation judgments.** The two compensation decisions paralleled the sentencing scales almost identically. For relative compensation decisions, participants first read a definition of the measure. Specifically, participants read, “…in a civil court, juries assign money to plaintiffs to compensate them for the injuries the defendant caused” and participants then indicated how much money they intended to award the victim using same 7-point scaled provided for the relative sentencing decisions measure (i.e. endpoints anchored at minimum and maximum amount allowable by law). Then, participants were asked to indicate “exactly how much money” they would award the
victim if the defendant was found responsible, using a 7-point scale labeled from $10,000 to $70,000 in $10,000 increments.

**Future Effects.** Participants were next asked to evaluate the impact this injury would have on the victim’s future earning potential and quality of life. For these dependent measures, a 7-point scale was used ranging from 1 (will earn much less/will live a much worse life as a result of this accident) to 7 (will earn much more/will live a much better life as a result of this accident). The midpoint of this scale (4) was labeled “Their life will not be affected by this accident by this injury at all” or “Will not affect how much they earn at all”.

**Victim Worth.** Because we expected participants might place different values upon different victims to start with, we asked participants to estimate how likely it is the victim would have been a valuable member of society, had the accident not happened. This Likert Scale was labeled from 1 (not at all likely) to 5 (very likely).

**Felt Emotions.** To explore the role of emotions as potential mediators of these effects or to rule out mood effects as alternative explanations for our findings, several mood indices were included in this experiment. Specifically, respondents were asked to indicate how much they felt angry, sad, outraged, and frightened while reading the scenario. Participants made their responses on a 5-point Likert scale labeled from 1 (not at all) to 5 (very).

**Manipulation checks.** Finally, several questions were included to ensure that participants received our manipulation and that the different injuries were equivalently serious (as pretesting indicated they were). The manipulation checks were presented to participants as a memory test, given at the very end of the experiment, following all
stimuli materials and dependent measures. First, participants were asked, in an open-ended manner, what the race of the victim was. In addition, each participant received a follow up question asking, “If you can’t remember but you had to guess about the race of the victim, what would you guess?” They made a response to one of two versions of the question which counterbalanced the order of presentation of the following ethnicities: Hispanic, African American, White, Native American and Asian. A similar set of questions were asked about the injuries suffered by the victim; participants were first asked to free recall and then received a question with one of two ordered sets of multiple response options, including serious internal injuries, massive concussion, contusions and scrapes, two broken legs, and severe bruising. To ensure that participants realized the specific impact the injuries had on the victim’s life, participants were also asked, “What consequences did this injury have for the victim’s life?” and asked to choose from among the following response options: facial scarring, speech difficulties, intellectual difficulties, could no longer participate in sports, could no longer live on his own. Finally, to assess whether the two injuries were perceived to be equally serious, respondents indicated how serious the victim’s injuries were, on a 5-point Likert scale ranging from 1(not at all) to 5(very).

**Results**

The results of this experiment were analyzed using general linear modeling. Unless otherwise indicated, all analyses were conducted using race of the victim and injury type as fixed factors. Results for manipulation checks are discussed below, followed by the primary dependent variables (compensatory awards and punishment
judgments), and finally, the secondary dependent variables.

**Manipulation Checks.** As intended, the main effect of injury on seriousness was nonsignificant (F\(_{1, 84}\) = .043, p = ns), suggesting participants in the intellectual and athletic conditions rated the injuries as equally serious. There were also no main effects for race or interactions between the variables. In addition, only two of the participants failed to recall the injury of the victim, and all but one participant correctly recalled the consequences of this injury for the victim.

Recall for race of the victim was somewhat poorer – 14 participants incorrectly answered this question. However, because the race was not explicitly mentioned but only implied by the name of the victim, at least some of these participants may have deliberately provided an incorrect racial identification in an attempt to appear unbiased. Analyzing the data without these participants did not change the results of the experiment; therefore all further results reported here include all 85 participants.

**Compensation variables.** The predicted pattern of effects on compensation judgments was observed in this experiment. As Figure 2.1 below illustrates, a significant race X injury interaction was detected on the relative compensation measure (F\(_{1, 84}\) = 5.39, p = .02).
When the injury suffered was athletic, participants endorsed levels of compensation closer to the maximum amount for African American victims as compared to Asian American victims. However, the reverse occurred for intellectual injuries – higher levels of compensation were awarded to Asian American victims than to African American. Simple effects analyses were conducted separately for each injury, using race as the fixed factor. These tests indicated the difference was significant in the athletic injury condition ($F_{1, 37} = 5.79$, $p = .02$). That is, participants compensated an African American more than an Asian American when the victim suffered an athletic injury. However, this was not true in the intellectual injury condition where the simple effects analysis indicated the mean difference between the Asian American and African American was not statistically significant ($F_{1, 44} = .518$, $p = .48$). However, the direction of the race effect in this injury condition was opposite to that in the athletic injury case.

The same pattern occurred when participants were asked to indicate how much
money they would award victims in actual dollars (significant race X injury interaction: (F1, 84 = 8.14, p < .01). Participants awarded significantly more compensation to victims injured in ways that implicated the positive stereotype associated with their group, compared to victims whose injuries did not affect the positive attributes associated with their ethnicity.

![Graph showing compensation amounts for intellectual and athletic injuries for Asian and African American victims.](image)

**Figure 2.2.** Actual dollar amounts awarded to victims.

Again, simple effects analyses indicated this race effect was significant for the athletic injury (F1, 37 = 6.47, p = .02), such that when the victim suffered an athletic injury African Americans were compensated more than Asian Americans. For the actual dollar amount measure, the intellectual injury simple effect reached marginal significance (F1, 44 = 2.15, p = .15), and in the opposite direction. That is, when participants made judgments about intellectual injuries, they tended to compensate Asian Americans more than African Americans.
Sentencing decisions. Contrary to the hypotheses, no significant differences were observed on either the relative or actual prison time judgments. This is puzzling, especially considering the relative sentencing dependent variable was administered using the same scale as the compensation judgments described above – despite the fact that participants were asked to make sentencing decisions ranging from 1 (minimum amount allowable by law) to 7 (maximum amount allowable by law), no statistically significant interaction between the ethnicity of the victim and the type of injury suffered was found. This suggests compensation judgments may be more sensitive to the hypothesized victim race effects than punishment-related judgments.

There was one significant main effect for race on participants’ ratings of how much the defendant deserved to be punished, relative to other criminals who commit similar crimes. Specifically, participants tended to believe defendants who struck African American victims deserved to be punished slightly more than average criminals, when compared to participants who made judgment about Asian American victims (African American mean = 4.33, Asian American mean = 4.08; F1, 84 = 5.24, p = .025).

Felt Emotions. The anger and outrage measures provide one possible indication of what could be driving the compensation effects. Because these two dependent measures were highly correlated (Pearson r = .80, p < .01) they were averaged together to create a composite variable. For this anger/outrage measure, a marginally significant 2-way interaction was found (F1, 81 = 3.78, p < .06), such that participants who read about an intellectual injury reported more anger and outrage when the victim was an Asian American, while participants who read about an athletic injury reported feeling more anger and outrage when the victim was an African American.
As Figure 2.3 illustrates, the interaction seems to be driven by a sharp and statistically significant increase in reports of anger and outrage when an African American victim suffers an athletic injury, as compared to an intellectual one (F_{1,44} = 4.87, p = .03). This pattern of effects mirrors the findings from the compensation measure, and suggests that a mediational analysis would be appropriate.

Following Baron & Kenny (1986) several regressions were conducted to determine whether participants’ ratings of outrage and anger explained the variation in their compensation judgments, depending on the condition to which they were assigned. For mediation to be present, both the independent variable being mediated and the mediator must be independently related to the dependent variable. The two-way interactions on the compensation and self reported anger/outrage measure demonstrates that this condition for mediation was met.

Next, for full mediation to occur, the influence of the independent variable (i.e.
condition) must be carried to the dependent variable (compensation) through the proposed mediator (self reported feelings of anger/outrage). To investigate this possibility, another regression was conducted predicting compensation from both anger/outrage and the main and interaction effects of condition. For full mediation to occur, the interaction effect of race and injury must become non-significant when participants’ reports of anger/outrage are added to the prediction equation.

For the actual compensation measure, the addition of self reported anger/outrage to a regression predicting compensation from the main and interaction effects of race and injury did not reduce the predictive value of the condition interaction (without mediator Beta = .532, p < .01; with mediator Beta = .432; p < .03). That is, the anger/outrage variable did not completely mediate the impact of condition on compensation. In addition, a Sobel test, designed to assess whether the regression weight of the predictor variable drops significantly when the mediator is added to the regression, was nonsignificant (z = 1.498, ns).

For the relative compensation measure, the addition of reported anger/outrage to the prediction equation did cause the impact of condition on compensation to become non significant (without mediator Beta = .437, p < .03; with mediator Beta = .289, ns), indicating that mediation is present. However, the Sobel test for mediation is nonsignificant (z = 1.25, ns), suggesting that, at best the mediation is partial, or perhaps that the independent variable influences self reported feelings of anger/outrage and compensation jointly, but that self reported anger/outrage doesn’t necessarily mediate the impact of condition.

In an effort to be more certain of the mediating potential of reported feelings of
anger/outrage, another mediational analysis was conducted. In this analysis, compensation and condition are used to predict anger/outrage ratings. If this regression also shows mediation, it suggests that the anger/outrage measures are interchangeable as potential mediators, and that both are probably related to the independent variable in similar ways but that neither mediates the impact of the other.

The second analysis did indeed suggest that compensation can “mediate” the impact of condition on reported anger/outrage as well as anger/outrage mediated the impact of condition did on compensation. The impact of condition on reported anger/outrage (Beta = .368, p = .05) decreased to nonsignificance (Beta = .191, ns) when compensation judgments were added as a potential mediator. Taken together, these results suggest that the independent variables (race and injury) impact both reported feelings of anger/outrage and compensation in similar ways; that is, both anger/outrage ratings and compensation judgments can be seen as outcome variables, influenced by the combination of race of the victim and the injuries he suffered.

A significant main effect of injury was also detected for participants’ ratings of sadness (F1, 84 = 4.05, p = .05), such that participants reported more sadness when they read about the athletic injury. As Figure 2.4 demonstrates, although there is no significant interaction with race, it appears participants tend to feel particularly sad when they read about an African American who suffers an athletic injury.
No significant main effects were found for reports of fear felt while reading the scenario.

**Future Effects**: A significant two-way interaction was found on the earning potential question ($F_{1, 81} = 5.13$, $p < .03$), but it is in the opposite direction of what was hypothesized. Specifically, when participants considered an intellectual injury, they reported the earning potential of African American victims was harmed more than the earning potential of Asian American victims. However, when participants considered athletic injuries, they rated the Asian American victim’s future earning potential as worse than the African American victim. (See Figure 2.5 for a visual representation of this interaction).
A simple effects analysis indicated the race effect was marginally significant in both the intellectual ($F_{1,44} = 3.61, p = .06$) and the athletic ($F_{1,37} = 2.96, p = .18$) injury conditions. That is, for both injuries, participants felt earning potential was harmed more when victims suffered injuries that did not imply the positive traits associated with the victim’s ethnic group.

The original hypothesis was that participants would perceive more financial detriments due to injuries which reduce a victim’s ability to fulfill a positive stereotype about their group, and this perception would drive participants’ compensation awards and potentially their punishment judgments. That is, because participants might believe Asians are more likely to make a living with their intellectual skills, while African Americans may be more associated with jobs like professional athlete, I expected the race effect might be driven by participants’ naïve theories about occupational success. However, because this measure shows the exact opposite of the pattern that would
produce such judgments, it does not seem to be a likely mediator of the obtained victim race effects.

No significant differences were found for the quality of life variable. The overall mean (across all participants) on this measure was 3.17, suggesting that participants thought all victims would live a slightly worse life than if the accident had not happened, regardless of the type of injury suffered.

**Victim Worth.** A marginally significant main effect for injury was observed on the victim worth variable ($F_{1, 84} = 3.39, p = .07$), such that participants estimated it was more likely victims who suffered intellectual injuries would have been productive members of society if the accident had not happened.

**Conclusions**

In Experiment 1, the basic effect of interest was demonstrated. As hypothesized, participants compensated victims more when the injury they suffered had implications for a positive characteristic associated with the stereotype of their racial group. Therefore, for athletic injuries, African American victims received higher compensation awards than Asian Americans, but when participants read about intellectual injuries, the reverse was found. Although no effects were found for self-reported estimates of victim worth, these findings suggest causing a target to have deficits in a trait or characteristic that is 1) valued by society and 2) believed to be associated with the target’s group membership, will lead to increased compensation judgments. Finally, it appears some of these effects are stronger for the athletic injury than for the intellectual injury.

The punishment variables did not show similar effects. Although punishment is
more indirectly related to victim characteristics than compensation, when one considers the parallel structure of the punishment and compensation dependent measures and the fact that the anger/outrage judgments followed the expected pattern, the null results are unexpected.

The earning potential measure suggests participants are not responding to perceived changes in the earning power of the victims as a result of their injury. Further, the key compensation findings seem to be associated with higher levels of anger and outrage, which may explain how victim ethnicity influences judgments. However, the mediational analyses conducted with self reported feelings of anger/outrage did not indicate that the race effect on compensation judgments can be explained by increased levels of those emotions. While participants seem to report more anger and outrage when they read about victims who are injured in ways that prevent them from fulfilling the positive stereotype attached to their group, these reported emotions seem to be correlated with, but not responsible for, increased compensation levels – they co-occur with increased compensation but do not seem to drive them. In addition, the fact that anger and outrage are more closely associated with compensation judgments than punishment judgments presents a theoretical puzzle because past research has suggested that anger and outrage are better explanations for punishment variables, as opposed to compensation ones (Schkade, Kahneman & Sunstein, 2000).

One possible explanation is the scenario at hand was highly victim-focused. The materials only discuss the victim in this case, and the defendant is not often mentioned. If this focus induces a stronger consideration of the victim and his consequences, it would make sense to find the pattern more strongly for compensation measures than for
punishment variables. Perhaps the compensation variables in this experiment were more sensitive to issues regarding the victim, and therefore the predicted race effect appeared for compensation variables, but not for punishment measures.

These outstanding questions of why punishment variables are not sensitive to this stereotyping and emotion effect and what other variables might be associated with it, led to the design of Experiment 2, which is reported in the next chapter of this dissertation.
CHAPTER 3

EXPERIMENT 2

Experiment 2 was designed to test the hypothesis that the compensation measures in Experiment 1 were more sensitive to characteristics of the victim and his consequences because compensation is generally more explicitly victim-focused, as compared to punishment of the defendant. One strategy to answer this question is to attempt to force the same kind of focus (i.e. victim/civil or defendant/criminal) by manipulating an instructional frame or set presented to participants prior to the judgment task. This was exactly the intention of Experiment 2 – to elicit either victim (civil) focus or defendant (criminal) focus for both types of judgments, based on which instructional frame participants received.

Crossing frame with type of dependent variable allows the exploration of two key questions. First, were the effects obtained on the compensation measures in Experiment 1 because those were the only measures that were victim-focused? Second, can either kind of measure (sentencing or compensation) be reframed to reflect either the influence of evaluation of the victim or the influence of evaluation of the defendant? Addressing this issue would be an interesting and unique contribution to the study of legal judgments, and might also have important practical implications with regard to jury instructions and the presentation of closing statements.
Design. Experiment 2 employed a 2(DV frame: Civil/Victim or Criminal/Defendant) x 2 (Race of victim: Black or Asian) x 2 (Injury of victim: Athletic vs. Intellectual) between-subjects design. The race of the victim and the injuries they suffered were manipulated exactly as in Experiment 1 – in fact the stimulus materials that described the hit-and-run accident (which can be found in Appendix A) were identical to the materials used in the first experiment.

The framing manipulation was accomplished via two instructional paragraphs inserted before the dependent measures. Specifically, in the civil (victim-focused) framing condition, before making the sentencing judgments, participants read:

*Criminal cases are brought against the defendant by the state. The state prosecutes criminal violations because the law says that it is not fair to impinge on the rights of others with illegal actions. If a defendant is found guilty of a criminal violation, they are punished with jail time. Typically, sentences reflect how much this particular act affected the lives of other people.*

Before making compensation judgments, participants in the civil framing condition read:

*Often, victims also bring civil cases against defendants. These cases are intended to restore justice by compensating the victim for their injuries and the impact the crime had on their life. Civil judgments require criminals to pay money to those who are impacted by their crime in order to "balance the scales" by assigning monetary value to the impact the crime had on the victim.*

In contrast, in the alternative framing condition, the judgments were framed in a defendant-focused, criminal manner. Before making their sentencing judgments, participants in this condition read:

*Criminal cases are brought against the defendant by the state. The state prosecutes criminal violations because the law says that criminals should be punished. If a defendant is found guilty of a criminal violation, they are punished with jail time. Typically, sentences reflect how much this particular act committed by this particular criminal deserves punishment.*

Before participants in the criminal framing condition responded to the compensation
measures, they read this frame:

*Often, victims also bring civil cases against defendants. These cases are intended to restore justice by punishing the defendants for the impact they had on their victim's life. Civil judgments require criminals to pay money to those who are impacted by their crime in order to "balance the scales" by assigning further monetary punishment to the defendant.*

Respondents received only one type of frame; thus if they were randomly assigned to the civil framing condition, both the compensation and the sentencing items were framed civilly. Similarly, participants who were randomly assigned to the criminal framing condition read only the criminal framings of the two types of dependent variables. The actual rating scales remained constant between conditions.

*Hypotheses:* In the victim-focus/civil frame condition, the results from the compensation effects from Experiment 1 should replicate across both types of variables. If the victim-focused nature of the compensation measures was indeed driving the stronger effects on the compensation variables, then participants should respond in much the same way, regardless of the actual type of judgment they make in Experiment 2. In other words, in the victim-focus condition, participants should both punish and compensate more for injuries that are relevant to the positive aspects of the stereotype of the victim – when Asians suffer an intellectual injury or when African Americans suffer an athletic injury. For the defendant-focus/criminal frame condition, it is harder to make a clear prediction. The original prediction from Experiment 1 was a similar, but weaker interaction pattern. However, given the null results found in Experiment 1, it is also possible there will be no race effect on the defendant-focused/criminally framed dependent measures.
Participants: Participants were 220 Introductory Psychology Students who completed the experiment as one of several options to obtain class credit. The same laboratory space was used in Experiment 2 as in Experiment 1.

Procedures. The procedures for this experiment were identical to those for Experiment 1 – MediaLab was again used to present participants with the same crime scenario and race of the defendant was again manipulated using stereotypically ethnic names. The same injuries were used and defendant vs. victim judgment frame was manipulated as previously described.

Dependent Measures. Most of the dependent measures used in Experiment 2 were identical to those used in Experiment 1. Where changes were made they are discussed below. The dependent measures section in Chapter 2 provides more detailed descriptions of these dependent variables that were constant in both studies.

Compensatory Judgments. Again, two types of compensation measures were administered, relative and actual dollar amounts. The actual dollar amount question was rescaled so the midpoint represented the mean response across the entire sample from Experiment 1 ($60,000). See Table 3.1 for the actual dollar amounts attached to each point.

Sentencing Decisions. Participants again made relative sentencing decisions, actual sentencing decisions (see Table 3.1), and indicated how much the defendant should be punished, relative to other criminals who committed similar crimes.
Table 3.1: Scale values for actual years of punishment and amounts of compensation.

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<th>Actual $</th>
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<td>$15,000 (approp. for a less serious offense)</td>
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<td>$105,000 (approp. for a more serious offense)</td>
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Table 3.1: Scale values for actual years of punishment and amounts of compensation.

**Manipulation and awareness checks.** Although the recall and seriousness questions from Experiment 1 remained the same, in Experiment 2, one additional manipulation check was added to probe the extent to which participants were aware of the impact of the seriousness of the injury on their judgments. In this experiment, participants were directly asked: “To what extent did the consequences of the incident for the victim determine the amount of punishment you assigned?” They made responses to this question on a 5-point Likert scale ranging from 1 (did not determine at all) to 5 (completely determined).

**Future Effects, Victim Worth and Felt Emotion.** The dependent measures for these three variables were identical to those used in Experiment 1.

**Results**

All results were again analyzed using general linear modeling. Unless otherwise noted, all univariate analyses were conducted with victim race (African/Asian American), victim injury (Athletic/Intellectual) and dependent variable framing (Civil/Victim and
Criminal/Defendant) as fixed factors. In this second experiment, the framing manipulation did change the way participants responded to the dependent variables, though not necessarily in the predicted manner. All significant results for each type of variable are discussed in the following sections.

**Manipulation Checks.** In Experiment 2, there was a main effect for injury such that participants rated the athletic injury as significantly more serious ($F_{1, 219} = 6.51 \ p < .02$, athletic mean = 3.43) than the intellectual injury (mean = 3.73). This result was both unpredicted and unexpected. Further, there was a significant 2-way interaction between frame and race present ($F_{1, 219} = 5.86 \ p < .02$). Participants in the criminal framing condition considered the injuries significantly more serious when they read about an Asian American victim, as compared to participants in the civil framing condition and in both of the African American victim conditions.

Recall for the consequences of the injury was good for participants in Experiment 2. Only 7 of the 220 participants failed to recall the injury of the victim and only 4 participants incorrectly identified the consequences of the injury for the victim. However, recall on the victim race variable was significantly worse in Experiment 2 than in Experiment 1, with only 143 (65%) of participants correctly recalling the race of the victim. Of those who misreported race, the vast majority (59) participants reported the race as white. This suggests participants may again have been careful to avoid appearing racist, since no ethnic identity information was directly provided in the passage. In total, only 8% failed to report the correct race and chose a race other than white as their answer. As in Experiment 1, analyzing the data without these participants did not change the results of the experiment, therefore all further results include all 220 participants.
Compensation variables. No significant effects were found for the amount of money awarded to the victim, and only a framing main effect was present on the relative civil amount judgments. In this case, respondents endorsed values that were closer to the “maximum amount allowable by law” when the dependent measures were framed in a civil/victim-focused manner (civil mean = 5.28, criminal mean = 4.87). The predicted three-way interaction for the compensation variables did not occur.

Sentencing decisions. On the relative sentencing measure, a 7-point scale labeled from 1(minimum amount allowable by law) to 7(maximum amount allowable by law), there was a significant main effect for the frame of the dependent variable ($F_{1, 219} = 5.32$, $p < .03$), such that participants in the criminal/defendant framing condition punished the defendant significantly more than participants in the civil/victim framing condition (criminal mean = 4.70, civil mean = 4.16). However, this main effect was qualified by a marginally significant 3-way interaction ($F_{1, 219} = 2.97$, $p < .09$). In Experiment 2, participants in the civil framing condition showed the opposite effect from the one reported for compensation judgments in Experiment 1. As Figure 3.1 illustrates, when participants in the civil framing condition read about an intellectual injury, they punished the defendant more when the victim was African American, rather than Asian American. By contrast, participants in the criminal framing condition replicated the race effect finding from Experiment 1 on the intellectual injury. That is, participants in the intellectual injury condition who made sentencing decisions framed in a criminal manner punished more when the victim was an Asian American, compared to an African American victim.
While the criminal frame seemed to elicit more harsh decisions about the athletic injury, the two way interaction between injury and race was not present in the athletic condition. This explains why the 3-way interaction was only marginally significant. This seems to be due to elevated seriousness ratings for the athletic injury, as the manipulation checks indicated participants in the athletic injury condition rated the outcome as significantly more serious, thereby truncating any race effect in the athletic injury conditions.

As Figure 3.1 above illustrates, much of the action, in terms of differences in means, is in the civil framing of the sentencing judgments made for intellectual injuries. However, participants made sentencing decisions that were exactly opposite of the predictions made based on Experiment 1. That is, participants punished defendants more
when African Americans (not Asians) were injured in an intellectual way. This was
completely unexpected because the civil frame was designed to exaggerate the effect
found in Experiment 1; it was expected participants would act more harshly in their
sentencing decisions when the dependent measures were framed in a victim-focused
manner and Asians were injured in an intellectual way. Instead, punishment judgments
were harsher when there was an African-American victim in this framing condition. The
other compensation and sentencing measures trended in this direction in the civil framing
condition as well, although none of the interactions were significant in those cases.

A significant main effect of injury was also found on the variable that asked
participants how much the current defendant should be punished relative to other
defendants (F₁, 219 = 8.45, p < .01). Like the seriousness manipulation check, participants
seemed to believe the athletic injury was more blameworthy, with ratings closer to the
“more than others” end of the scale for athletic (mean = 4.26) as compared to intellectual
injuries (mean = 4.08).

**Future Effects.** Unlike Experiment 1, participants in Experiment 2 did appear to
alter their judgments of the victim’s quality of life based on our experimental
manipulations, as is evidenced by a significant main effect of injury (F₁, 219 = 8.45, p
< .01). On a scale ranging from 1 (will live a much worse life) to 7 (will live a much
better life) participants indicated the decline in quality of life would be greater for victims
suffering athletic injuries (mean = 2.86) as compared to victims whose intellectual
abilities were impaired (mean = 3.33). However, this main effect was qualified by a
significant race X injury X frame interaction, as is shown in Figure 3.2.
Figure 3.2. Quality of life evaluations by race, injury and framing. Note: lower numbers indicate victims will live a “much worse life than if the accident hadn’t happened”

Again, there was not much variability in the athletic injury condition. However, as Figure 3.2 indicates, when participants were in the civil framing condition, they tended to show an effect similar to the compensation judgments discussed earlier. That is, when participants thought about an intellectual injury and received instructions that framed the decision task as more victim-oriented, they reported the African American victim’s quality of life would be more negatively affected. However, when participants read about an athletic injury and evaluated the victim’s quality of life with a civil focus, they reported that the Asian American was more disadvantaged. A simple effects analysis revealed this effect was strongest for the intellectual injuries in the civil framing condition, as only participants in this cell showed a marginally significant race effect ($F_{1, 53} = 3.20, p < .08$). None of the other simple main effects in this analysis were significant.

None of the independent variables had a significant effect on the estimations of
future earning potential made by participants in Experiment 2.

**Felt Emotions.** As in Experiment 1, the anger and outrage ratings were examined to determine if they should be combined into one indicator. However, in this case the correlation was below .61 and univariate analyses were, therefore, conducted separately for each variable. No significant effects were found for the anger measure.

The outrage measure was related to the primary dependent variable. In Experiment 1, participants were both more outraged/angered and compensated the victim more when the injuries had implications for positive aspects of the stereotype about the victim’s group. In Experiment 2, there was also a two-way interaction between race and injury ($F_{1, 219} = 3.83, p = .05$). As Figure 3.3 suggests, participants appear to punish the defendant more in cases in which they also felt the most outrage – in Experiment 2, this was in the counter-stereotypical conditions. That is, participants report feeling the most outrage when Asians are injured in an athletic way or African Americans are injured in an intellectual way.
However, this 2-way interaction was actually qualified by a significant 3-way interaction which suggests this pattern of results differs depending on whether the dependent measures are framed in a victim/civil manner or in a defendant/criminal manner ($F_{1,210} = 5.80, p < .02$).

As the Figure 3.4 suggests, the 2-way interaction described earlier is most apparent in the civil/victim-focus framing condition, such that participants in this condition feel most outrage when Asians are injured in an athletic way and African Americans are injured in an intellectual way. In the criminal framing condition, however, participants report more outrage if the victim is injured in an athletic way, regardless of their race.
An interesting pattern occurred for the fear ratings which was not found in Experiment 1. A significant 2-way interaction between race of the victim and framing of the dependent measures was found ($F_{1,219} = 10.69$, $p < .01$). As Figure 3.5 illustrates, participants in the Asian American conditions seem to report most fear when they were in the criminal framing condition, while participants who read about African American victims were more fearful when they were in the civil framing condition.
It is difficult to know what to make of this finding in isolation. It was not observed in the first experiment and does not seem to be related to the other dependent variables of interest.

**Conclusions**

The results of Experiment 2 confirmed the importance of victim-focus in legal decisions. However, these results seem to run contrary to findings of Experiment 1 – that is, in this second experiment, injuries not related to positive aspects of the stereotype attached to a victim’s group seemed to cause harsher sentencing judgments in the civil framing condition, especially for Asian victims. While the civil frame was designed to exaggerate the main finding in Experiment 1, it did not – indeed, it seemed to increase sentencing and compensation for counter-stereotypic injuries.

Across Experiments 1 and 2, it appears feelings of outrage are associated with the
primary dependent variables of interest. In Experiment 1, both outrage and compensation show the race effect predicted at the outset of the investigation, while in Experiment 2, outrage shares the race reversal pattern with sentencing decisions. However, both the mediational analyses in Experiment 1 and the fact that reported outrage is associated with a different variable in Experiment 2 (punishment decisions) suggest that these self-reported emotions serve as an outcome variable rather than a potential explanation for the mechanism by which the combination of race and injury impact key dependent variables of interest. Similarly, at least one of the future effects indicators follows the same pattern as one of the key measures in both studies (earning potential in Experiment 1 and quality of life in Experiment 2), suggesting that they too are correlated with the key measures of interest. Finally, the lack of findings on victim worth items, along with the interaction reversal are surprising and worthy of further investigation.

When the civil and criminal frames included in Experiment 2 were revisited in light of the findings from this experiment, it appears the wording might have inadvertently inculcated a norm of fairness in the civil framing condition, more than in the criminal framing condition. The civil framing condition explicitly stated the law says “it is not fair” to impinge on the rights of others and this is what the defendant is being punished for. However, in the criminal framing condition, the statement only suggests the law says “criminals should be punished”. This difference might have caused participants in the civil framing condition to be particularly conscious of ascertaining a fair outcome, and their interpretation of fairness might include an evaluation of the defendant that does not take victim race into account. Thus, if a fairness norm is activated, participants might make an effort to discount or correct for the impact of the victim’s race on their
judgments, leading to the reversal described in Experiment 2. This careful processing should lead to decreased stereotyping of the victim since increased individuation and information about the target generally reduces our reliance on stereotypes (see Macrae, Milne & Bodenhausen, 1994).

Based on this re-analysis of the frames used in Experiment 2 there are two specific hypotheses to test.

*Victim-focus:* If victim-focus did explain the effects in Experiment 1, then those results should replicate in a condition in which there is victim-focus, but no fairness norm activation. The originally predicted interaction should be obtained – participants in this condition should assign harsher sentences and compensate more for stereotypic injuries when there is a victim-focus but no fairness norm.

*Fairness norm:* If the framing manipulation in Experiment 2 had the unintentional effect of activating a fairness norm in participants, and that is a sufficient condition for stereotype discounting, another pattern of results should emerge. Specifically, the reversal from Experiment 2 should replicate in a condition where the fairness norm is activated, regardless of focus. However, if fairness alone is only a necessary (but not sufficient) cause for the reversal, the Experiment 2 results should only replicate in a victim-focus, fairness norm condition.

Experiment 3 was designed to test these hypotheses by explicitly manipulating the presence or absence of a fairness norm and a victim versus defendant-focus before participants make their judgments. In addition, these conditions are fully crossed in order to test the hypotheses outlined above. Thus, Experiment 3 pitted victim-focus against the fairness norm to uncover which hypothesis better explains the results from Experiment 2.
CHAPTER 4

EXPERIMENT 3

Experiment 3 is designed to resolve the conflicting results from Experiments 1 and 2. It appears that in the intellectual injury condition, Experiment 1 revealed a race effect on the compensation, anger/outrage and quality of life measures while Experiment 2 demonstrated a reversal of that effect, at least for the sentencing decisions in the civil framing condition. In an effort to resolve this discrepancy in findings, Experiment 3 employed manipulations that address the potential explanations discussed in the conclusion of Chapter 2.

Along with the manipulation issues discussed in Chapter 2, the race effect reversal might also result from the fact that there are negative associations with both groups as part of the stereotypes investigated. Because the stereotype of Asian Americans is they are not good at sports and part of the African American stereotype is they are not smart, injuries suffered in those domains are the equivalent of “kicking someone while they’re down”. That is, the race effect reversal might have occurred because decreasing the ability of a person who is already impaired is worse than decreasing the ability of a person who is gifted in a domain. While it is not necessarily clear why this effect would occur in Experiment 2 and not in Experiment 1, additional dependent measures were added in the third experiment to gauge whether this might be happening.

The additional manipulations and dependent measures required certain changes in
the design, which will now be discussed.

*Design.* Experiment 3 employed a 2 (Race of victim: Black or Asian) x 2 (Processing focus: Defendant or Victim) x 2 (Fairness Norm: Present or Absent) between-subjects design. The injury in Experiment 3 was always intellectual because the race effect reversal pattern in Experiment 2 occurred only in the intellectual injury condition. In addition, the seriousness of the athletic injury varied between the two studies, and this reduced design made administration, analysis and explanation simpler. The race of the victim in this case was once again manipulated using the name of the victim (either Tyrone Washington or Joe Yakamura).

In order to study the effects of processing focus more thoroughly, a much more detailed version of the case description was created. The actual materials are provided in Appendix B; they basically consist of the case summary expanded into a trial transcript format including information from both the prosecution and the defense. The length and depth of this material was designed to allow for participants to selectively attend to prosecution/victim information or defense/defendant information.

To manipulate processing focus, participants were instructed to be especially attentive to information about either the defendant or the victim. This instruction was provided both at the beginning of the experiment, before participants read the case materials and again at the end, before they completed the dependent variables. This processing focus was completely crossed with the presence or absence of a fairness norm in the instructions as well, resulting in four different instructional paragraphs that depended on the condition to which the participant was randomly assigned. Specifically, when defendant-focus and no fairness norm were present, participants read the following
instructional frame:

In this study, you should consider the case as you would if you were a regular juror. That is, you should play close attention to the case material, take your time reading it and be sure to carefully consider the questions that you answer. *You should be especially sensitive to information about the defendant in this case – your job as a juror is to be sure that the judgments you make consider this specific defendant and what he did in this specific case.*

When participants were assigned to the fairness norm condition, however, they read:

In this study, you should consider the case as you would if you were a regular juror. That is, you should play close attention to the case material, take your time reading it and be sure to carefully consider the questions that you answer. *You should be especially sensitive to information about the defendant in this case – your job as a juror is to be sure that the judgments you make are fair to this specific defendant in this specific case. Reaching a just conclusion is the ultimate goal of the legal system and as a juror, being fair to the defendant should be your goal as well.*

Participants in the victim-focused condition read the same instructions, but the word “victim” was substituted for the word defendant. These instructions were reiterated just before participants completed the dependent measures. Specifically, participants in the

*fairness norm present condition read:*

*Now, we’d like you to answer some questions about the case you just read about. Please keep in mind that your primary concern is being fair in deciding what the defendant deserves in this case.*

The victim-focus condition for the fairness condition was again identical, save for the substitution of victim for defendant. However, the victim and defendant-focused versions of the no fairness norm condition were slightly different. Specifically, participants who were focused on the defendant in the no fairness norm condition read:

*Now, we’d like you to answer some questions about the case you just read about. Please keep in mind that your primary concern is what the defendant did in this case.*

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The victim-focus condition was similar but not identical:

Now, we’d like you to answer some questions about the case you just read about. Please keep in mind that your primary concern is what happened to the victim in this case.

Finally, one additional change was made in Experiment 3. To ensure it was absolutely clear the defendant was guilty and the main task of the participant was to judge what an appropriate outcome would be, an additional juror instruction was added. At the end of the transcript, participants read, “…because Roger [the defendant] admitted his guilt in this case, your primary focus should be on deciding what should be done about it.”

Hypotheses: As discussed in Chapter 3, if participants were responding to the unintentional inculcation of a fairness norm in Experiment 2, and that accounted for the race effect reversal (presumably due to stereotype discounting) obtained, the pattern of results from Experiment 2 should replicate in the fairness norm conditions in Experiment 3. That is, the race effect reversal pattern should be found, whereby injuries that are not related to the positive group stereotype are punished and compensated at higher levels than in the no fairness norm condition. However, in the no fairness norm condition, the original race effect (i.e. harsher punishment or more compensation when an Asian American, rather than an African American suffers intellectual injuries) should replicate.

It is also possible the civil frame itself in Experiment 2 was enough to set the stereotype discounting process into motion. That is, the civil frame may have instituted more careful and elaborate processing about the victim in general, leading participants to detect the possible influence of stereotyping and attempt to correct for it. If this is the
case, and if focus alone is a sufficient condition for this effect, we may see the original, stereotype consistent pattern in the victim-focus condition, but the stereotype reversal pattern in the defendant-focus condition. Finally, it is also possible the effects of the two conditions are both necessary, but neither sufficient, for the reversal to occur. If this is the case, and the effects of the two factors are additive, the race effect reversal may only be present in the victim-focus, fairness condition.

Participants: Participants were 219 Introductory Psychology Students who completed the experiment as one of several options to obtain class credit. The same laboratory space and setup was used in Experiment 3 as in Experiments 1 and 2.

Procedures. The procedures for Experiment 3 were very similar to those in the first two experiments. Media lab was once again used to administer the experiment. However, because the case materials were much longer and processing focus was of interest, the court case information was presented slightly differently. Specifically, to facilitate the recording of reading and processing time for different kinds of information, the transcript was presented as a series of .html files, each of which represented one computer screen participants read. Generally, these screens followed natural breaks, and each file presented information from only one witness. Because the length of testimony varied between witnesses, the number of screens or files necessary to present the information for each individual witness varied from two to seven (See Appendix B for the actual materials used). Despite this between-witness variability in number of screens, participants received the same total amount of victim and defendant-focused information. Once participants read all of the materials, they completed the dependent measures, read a debriefing, and were thanked for their time and left.
Dependent Measures. To maintain consistency, the dependent measures used in Experiment 3 were generally similar to those used in the previous two studies. However, some dependent variables were removed and additional ones were added1.

Sentencing Decisions and Compensation Judgments. Because the interesting results in the first two studies seemed to occur most reliably on the relative measures of compensation and sentencing decisions, only that format was used for Experiment 3. Therefore, participants were simply asked “How much prison time would you recommend?” and “How much money would you award the victim to compensate for his injuries?” Responses to both of these questions were made on scales ranging from 1 (minimum amount allowable by law) to 7 (maximum amount allowable by law). This format seems intuitively easier for participants to use and the interpretation of the labels attached to the scales should be more consistent from participant to participant. In addition, responses to the two dependent measures should be comparably scaled.

Future Effects. To tap the potential for stereotypically positive and negative injuries to have different implications depending on how participants think about the injury, two new dependent measures were added. Specifically, to get at the issue of participants considering the victim’s injuries in relation to their strengths or their weaknesses, two measures were generated. First, a judgment of the victim’s state before the accident was assessed. This would be the component that confirms participants made stereotype-related assumptions about the victim, especially with respect to their earning potential. In addition, this measure serves as the baseline against which to compare the

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1 Because the victim worth question did not prove to be diagnostic in either of the first two studies, it is omitted from Experiment 3.
victim’s current state (the second assessment).

These two judgments were assessed for both earning potential and quality of life. First, participants were asked, “Before this accident what would you estimate was the victim’s [earning potential/quality of life]?” Participants made responses to these two questions on a 7-point scale, ranging from 1 (below average) to 7 (above average), anchored at the midpoint (4) with “about average.” Following each initial evaluation, participants were asked, “How do you think the victim’s injury will affect their [earning potential/quality of life] in the future?” Responses to this scale depended on the effect being measured. For the earning potential measure, participants used a scale labeled from 1 (They will earn much less) to 5 (Their earning potential will not be affected) and for the quality of life measure the response scale was 1 (They will live a much worse life) to 5 (Their life will not be affected).

**Impact on victim’s life.** Another variable that might indicate whether or not participants were focused on harm to the victim in a domain where they are successful where there is a deficit might be how much participants feel the injury will impact the life of the victim. Therefore, we asked participants, “How much do you think this injury matters to the victim?” Responses were made on a scale ranging from 1 (does not matter at all) to 5 (matters a great deal).

**Felt Emotions.** As in Experiments 1 and 2, participants were asked to report how angry, outraged, sad and frightened they felt while reading about the case. All responses were made on 5-point scales ranging from 1 (not at all) to 5 (very).

**Manipulation and Awareness Checks.** At the end of the experiment, participants were again asked how serious the injuries suffered by the victim were, and provided
responses on a 5-point scale labeled from 1 (not at all) to 5 (extremely). In addition, participants were asked to recall the race of the victim (choosing one race from among one of two different response option orders) and the consequences of the injuries suffered by the victim (again, choosing one consequence from among one of two different response option orders). Since only one injury was used in Experiment 3 and the actual injury manipulation check (in which participants chose the physical injury from a list of five choices) was not informative in the first two studies, it was not used in Experiment 3. Finally, as a manipulation check for focus of processing, the time participants spent on each screen of information was recorded. Additionally, recall measures were used in this final experiment. These questions asked participants to recall parts of the case pertinent to either the defendant or the victim. Specifically participants were asked, “What was one reason the defendant provided for what happened in this case?” and “What was the victim doing when he was struck by the car?” These answers were entered into the computer by participants as open-ended responses.

Results

General linear modeling was used to conduct univariate analyses of variance, using victim race (African/Asian American), processing focus (Victim/Defendant) and fairness norm (Present/Absent) as fixed factors. Results are presented below first for the manipulation checks and key dependent variables and then for more secondary variables.

Manipulation Checks. In Experiment 3, roughly the same percentage of participants failed to correctly report the race of the victim as did so in Experiment 2 (n = 87 or 40%). Of those participants who answered incorrectly, only 21 (24%) also choose a
race other than white. Only 4 participants incorrectly recalled the consequences of the victim’s injury. As in the first two studies, excluding these participants did not make an appreciable difference; therefore all analyses include all 219 participants.

As predicted and consistent with both injuries in Experiment 1 and the intellectual injury in Experiment 2, there were no significant effects on the seriousness measure in Experiment 3.

Two composite variables were calculated to determine if there were differences in time spent reading victim or defendant-focused materials, depending on the condition to which participants were assigned. The sum of each participant’s total reading time for defense related screens was calculated, and then divided by 1000 to convert milliseconds to seconds. Similarly, participants’ total reading time for victim related screens was calculated and divided by 1000. On both of these composite variables, marginally significant 2-way interactions between focus and fairness norm presence were found (victim information: $F_{1,218} = 2.79, p < .10$; defendant information: $F_{1,218} = 2.11, p < .10$).

As Figure 4.1 shows, the pattern was virtually identical for both kinds of information – participants did not seem to spend more time reading material depending on the focus condition to which they were randomly assigned. Rather, in the victim-focus condition, participants spent more time reading both types of information when a fairness norm was invoked, compared to when the fairness norm was not activated. In the defendant-focus condition, on the other hand, the opposite occurred, such that participants spent more time reading both kinds of information when no fairness norm was invoked.
Another indicator of biased processing might be the information participants can recall about the case materials. In Experiment 3, participants were asked to recall a key piece of information about both the victim and the defendant. This recall of information was provided in an open-ended manner and was blindly coded by the experimenter (i.e. the experimenter did not know the condition attached to the provided response) as either correct or incorrect. Recall was very good across conditions for both victim and defendant information. In fact, the proportion of participants (94.5%) correctly recalling defendant-focused information (one reason the defendant provided for the accident) and victim-focused information (what the victim was doing at the time of the accident) were equal. This result is consistent with the recall data and suggests selective attention does not explain the race and race reversal effects uncovered other measures.

**Compensation judgments.** No significant effects were found for the compensation measures. The overall mean for compensation judgments was 4.99, with condition means
ranging from 4.89 to 5.18. These means showed so little variability no trends can be detected for any of the independent variables.

**Sentencing decisions.** Two 2-way interactions were found for the sentencing judgments in Experiment 3. The first significant effect was an interaction between the presence or absence of a fairness norm and processing focus ($F_{1,218} = 4.95, p = .027$). For the graphs in Experiment 3 to be helpful, it is important to keep in mind the injury suffered was always intellectual.

![Figure 4.2](image)

Figure 4.2. Sentencing decisions by focus and fairness norm (present, absent).

As Figure 4.2 suggests, participants made harsher sentencing decisions in the victim-focus condition when no fairness norm was activated, but punishments were harsher in the defendant-focus condition when participants were repeatedly instructed their focus should be on being fair to the case participant they were focused on. When
participants are victim-focused, inducing a fairness norm seems to decrease the amount of punishment assigned to the defendant. This is counter-intuitive, unless participants’ naïve conceptions of fairness might include disregarding victim-related factors.

The fact that punishment decisions in the defendant-focus condition do not seem to be affected by the fairness norm invoked suggests participants are not sensitive to the injuries of the victim when they are primarily focused on the defendant. While participants might be expected to correct for extra-legal information like ethnicity of the target (see Petty & Wegner, 1998), there was no extra-legal information in the transcript regarding the ethnicity of the defendant. Therefore, the activation of the fairness norm did not change participants’ judgments in the defendant-focused condition. If such extra-legal information had been present for the defendant, we might well have seen a similar reversal such that participants who were told to be fair to the defendant would overcorrect their judgments, just as they did with the race effect overcorrection seen in Experiment 2 for victims. It is also possible in this context, the defendant-focus simply served to distract participants from processing information about the victim. In that case, because they are so focused on the defendant, participants may not realize that they are considering the stereotypes attached to the victim’s group, and therefore make no effort to change their judgments accordingly.

More importantly, there was a significant victim race X fairness interaction ($F_{1, 218} = 3.76$, $p=.05$).

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As the figure above displays, the race effect reversal observed in the civil condition in Experiment 2 is replicated in the no fairness condition, while the original race effect seems to replicate when a fairness norm is present. A simple effects analysis indicated the race effect reversal pattern in the no fairness norm condition is marginally significant ($F_{1,110} = 2.661, p < .10$), while the original race effect in the fairness norm present condition is not significant ($F_{1,107} = .039, ns$).

Although the 2-way interaction between victim race and processing focus was only marginally significant ($F_{1,218} = 2.661, p = .104$), the pattern displayed in those means is also interesting.
As figure 4.4 illustrates, participants in the defendant-focus condition display the original race effect found in the compensation measures in Experiment 1. That is, participants who process the information with careful attention to the defendant appear to punish defendants who cause accidents in which Asian American victims suffer intellectual injuries more than when the intellectual injury happens to an African American victim. The victim-focus condition, however demonstrates the race effect reversal pattern from Experiment 2. While neither of these simple effects are significant, the trends are clear. When participants are victim-focused, they punished a defendant who harmed an African American (the stereotype of whom does not include intelligence) more harshly as compared to a case involving an Asian American victim. While the results do not follow the original hypothesis (i.e. victim-focus would induce a stronger race effect) they certainly suggest focus is an important factor for determining how
stereotypes influence participants’ evaluations of appropriate legal outcomes.

This suggests both fairness and focus moderate the race effect. Since there is no 3-way interaction present between fairness, focus and victim race, these effects appear to be additive in nature. Specifically, it seems the presence of a fairness norm exaggerates the impact of focus and race on the participants’ sentencing decisions. The combination of results discussed thus far (victim-focus increases punishment in the no-fairness condition; the marginally significant interaction between focus and race seems to explain the disparate results from Experiments 1 and 2) suggest plotting the defendant-focus, fairness and victim-focus, no fairness conditions on their own might help shed some light on how victim race really affect judgments (see Figure 4.5).

![Figure 4.5. Sentencing decisions from Experiment 3, select cells only.](image)

As Figure 4.5 illustrates, the original pattern from Experiment 1 (i.e. injuries that imply positive aspects of the stereotype are punished more harshly than injuries that do not imply those aspects) replicates in Experiment 3 when participants are reminded their
main task is to be fair and are defendant-focused. However, the race effect reversal, observed in the civil framing condition of Experiment 2, is present in the victim-focus condition when no fairness norm is made explicit for participants. This occurs for both races, but the correction effect seems stronger for African-Americans as is evidenced by the larger mean difference.

**Earning Potential/Quality of Life Judgments.** In Experiment 3, two new measures, designed to be used in conjunction with one another, served as indicators of both quality of life and earning potential. In order to determine what participants thought was the net effect of each victim’s injury on the victim’s overall quality of life and earning potential, participants’ estimates of both the victim’s pre-accident earning potential and their opinions on how the injury would affect their earning potential were assessed. The first measure, which asked participants what they thought the victim’s earning potential was before the incident, yielded a marginally significant 2-way interaction between victim race and fairness ($F_{1,218} = 2.66, p=.10$). 


As Figure 4.6 suggests, participants who made judgments without a fairness norm in mind estimate African Americans had a higher earning potential before the accident. In fact the African American, no fairness condition is the only cell to go above the average rating (4). Contrary to a priori predictions, it appears participants actually overestimated the African American victim’s previous earning potential. This might suggest participants are overcorrecting their judgments of African American’s pre-accident earning potential in an effort to appear non-prejudiced.

The second measure, which taps the future impact on the victim’s earning potential, allows us to separate the impact participants expect the accident to have from these pre-accident estimates of the earning potential. For this measure, a significant 3-way interaction was found ($F_{1,218} = 6.31, p=.01$), which is displayed graphically in Figure 4.7.
Most of the mean differences in this graph, as for other dependent measures in these studies appear to be for the African American conditions. When participants are processing the case information without a fairness goal in mind, the race effect from Experiment 1 appears to replicate in the victim-focus condition while the race effect reversal from Experiment 2 occurs in the defendant-focus condition – participants who are victim-focused estimate the impact of the accident will be higher for Asian Americans, while they estimate African American victims will be harmed more when they are in the defendant-focused condition. The 2-way interaction between processing focus and race of victim within the no fairness goal condition is marginally statistically significant ($F_{1,110} = 2.73, p = .10$). When participants process the case information with a fairness goal in mind, another marginally significant 2-way interaction is found ($F_{1,107} = 3.62, p = .06$) such that participants in the victim-focus condition feel African Americans
victims are much more disadvantaged relative to Asian American victims. Thus in the victim-focus, no fairness condition the race effect reversal from Experiment 2 is observed.

No significant effects were found for any of the independent variables on the two quality of life measures that participants completed.

Felt Emotions. No significant main effects or interactions were found in an analysis of the emotions participants reported while reading this case.

Impact on victim’s life. There was a marginally significant main effect for focus on the measure that asked participants to rate how much they think the injury matters to the victim ($F_{1,218} = 4.09, p < .03$). Surprisingly, participants in the defendant-focus condition thought the injury would matter more to victims (mean = 4.19), compared to participants in the victim-focus condition (mean = 3.90).

CONCLUSIONS

Overall, the results of Experiment 3 suggest participants’ processing focus is the best explanation for the impact of the race of the victim on legal judgments. Although the fairness norm and sensitivity to deficits could have been operating in Experiments 1 and 2, there is no evidence in Experiment 3 to conclude either of these factors, in isolation, explains the findings from the two earlier studies.

The new measures designed to tap victim impact were only moderately helpful in disentangling the effects found in the first 3 experiments. They do confirm processing focus, rather than the presence or absence of a fairness norm, is a better explanation for the observed reversal – the 2-way interactions described were found within the fairness
norm conditions. However, these results are hard to reconcile with the sentencing decisions in Experiment 3. This might suggest that although participants consider future earning potential, it is not weighted heavily when making punishment decisions. In addition, participants seem to have corrected both their pre-accident earning potential estimates and their predictions for future earning potential, suggesting participants are aware of the impact victim outcomes can have on their compensation judgments and successfully remove any influence these stereotypes might assert on their estimates of past and future earning potential.

While the absence of felt emotion and quality of life effects in this final experiment is disappointing, it is not necessarily surprising. First, there was much more uncertainty in this case and the case materials were significantly longer than in the first two experiments. Either of these two factors could have weakened the effects observed in Experiments 1 and 2, especially for more secondary variables.

In addition, the absence of recall and reading time effects suggests the processing focus on the defendant or victim has the biggest impact on the decision-making, rather than the encoding or elaboration phases. The fact that it comes at the end of the decision process probably explains why participants overcorrect, leading to a reversal of the effect rather than the absence of any effect. Note this is in contrast to Bodenhausen & Lichtenstein’s (1987) finding for the mechanism underlying the effects of stereotypes about the defendant on guilt and sentencing judgments.

Finally, these data suggest a rather startling effect of judicial instructions. Specifically, in this case, instructions to ensure participants were being fair to victims had the counter-intuitive effect of giving more influence to the meaning of stereotypes about
the victim’s ethnic group – a process that certainly doesn’t make the defendant’s outcome more just. This suggests the relationship between race and stereotypes about victims in the legal system is indeed a complex one which requires further study to pin down more precisely. In addition, there may be some existing social psychological theory that can help clarify these relationships. It is these overarching discussion and application questions that Chapter 5 will address.
CHAPTER 5

GENERAL DISCUSSION

The three experiments conducted in this line of research present an interesting first look at the impact of victim race on mock jurors’ legal judgments. In Experiment 1, the basic of effect of interest was demonstrated. As hypothesized from previous work, participants compensated victims more when the injury they suffered had implications for the positive stereotype associated with their ethnic identity. However, these effects did not translate into increased punishment of the defendant in the case. Experiment 2 was designed to explore the distinction between civil and criminal judgments and represented an attempt to manipulate the judgment frame attached to the actual dependent measures that participants completed. The results indicated that participants punished the defendant more severely in Experiment 2 when they were approaching the case with a focus on the victim (i.e. when they were in the civil/victim framing condition) and the victim was injured in a way that did not have implications for his ability to fulfill the positive stereotype attached to his group. Finally, in Experiment 3, an effort was made to resolve the conflicting results from the first two experiments. Although, the effects of victim ethnicity are not necessarily straightforward, they are present in all three experiments. The results from this entire program of research will now be discussed together, to look for general conclusions from the entire set of experiments.

Recall one explanation for the disparity in the results from Experiments 2 and 3
was that in the civil frame in Experiment 2, a fairness norm was inadvertently activated. For this reason, a manipulation of explicit fairness was introduced in Experiment 3. Figure 5.1 below displays the mean punishment ratings for intellectual injuries in the relevant conditions across all three experiments by victim race.

![Bar chart showing relative sentencing decisions for intellectual injuries across 3 experiments.](chart)

Figure 5.1. Relative sentencing decisions for intellectual injuries across 3 experiments.

While the findings from Experiment 1 replicated in the criminal frame condition in Experiment 2, the opposite pattern occurred under the civil frame in Experiment 2. If fairness norm activation was the explanation for the reversal in the civil framing condition in Experiment 2, we would expect the means from the fairness norm condition to appear similar to the means from the civil condition in Experiment 2. However, as Figure 5.1 indicates, this was not the case. In fact, the civil frame results from Experiment 2 replicated in the no fairness condition in Experiment 3.
In addition, as was suggested in the conclusions in Chapter 3, there appeared to be a strong focus on the victim in the first two experiments, and an explicit victim vs. defendant frame was introduced in Experiment 3. As Figure 5.2 below illustrates, the victim-focus condition in Experiment 3 did indeed replicate the civil frame finding in Experiment 2. In addition, the means in the defendant-focus condition in Experiment 3 do trend in the direction of the original race effect finding present in Experiment 1 and in the criminal condition in Experiment 2.

![Figure 5.2](image)

Figure 5.2. Relative sentencing decisions for intellectual injuries across 3 experiments.

Taken together, these results suggest that focus, rather than the presence or absence of a fairness norm, provides a better explanation for the results found in Experiments 1 and 2. However, the punishment decisions in Experiment 3 also suggest the relationship between the two dependent variables is a complex one. That is, it appears in some instances participants may become aware of the impact of victim race on their
decisions and may take actions to correct for it (see Petty & Wegener, 1998). In Experiment 3, this awareness appeared to be an additive effective of the processing focus and fairness manipulations. In the defendant-focus, fairness condition, when participants are very attuned to factors affecting the defendant and are attempting to be fair to him, we see the most evidence of the stereotyping effect found in Experiment 1 and in the criminal condition in Experiment 2. This suggests defendant-focus serves to distract participants from the potential effect of victim race on their judgments and causes participants to fail to correct for the bias.

In the victim-focus, no fairness conditions participants appear to be more aware of the effects of victim race on their judgments and make some effort to correct for them, which results in the race reversal effect observed in Experiment 2. The fact that this effect is not strongest in the victim-focused fairness condition reinforces the idea that focus of the processing accounts for the variation in the effects better than the presence or absence of a fairness norm.

In three experiments, the role of stereotypes about victims in legal cases has been investigated. At its core, this program of research establishes at least two things. First, stereotypes about victims can alter judgments made in a simulated legal context. Specifically, stereotypes that are relevant to the legal case at hand may either increase or decrease compensation and punishment, depending on where the decision-maker focuses their attention and how motivated and able they are to detect (and correct for) the biases. Second, these effects may not be straightforward. That is, further investigation will need to pinpoint more closely when different stereotype effects will occur and why.

The basic effect of interest at the outset of this investigation was the victim race
effect. Experiment 1 clearly demonstrated that, at least in some instances, participants will compensate injuries more when a victim suffers an injury with implications for a positive stereotype associated with their group. In this particular case, African Americans were awarded higher compensation amounts when their injury resulted in an inability to participate in athletic events. This occurred despite the fact that there was no mention of the victim being skilled at, or even interested in, sports. Similarly, Asian Americans were awarded higher compensation when they were injured in a way that made them less intellectually capable. And again, this occurred despite the fact that participants had no reason to believe (other than the stereotype, of course) this particular individual was any more (or less) smart than the average man on the street.

As all three studies demonstrate, providing participants with an ethnic identity changed the evaluation of appropriate legal sanctions when identical injuries were suffered, resulting in discrepant judgments for the same injury based solely on the victim’s race. In essence, what people think they know about an individual based on their ethnic identity significantly altered their judgments.

Clearly however, the effect of these stereotypes is not always straightforward, as is demonstrated by the reversal of the effect (in at least some conditions) in Experiments 2 and 3. Why would participants punish intellectual injuries more harshly when they are suffered by African Americans? Three possible explanations were generated from Experiment 2: the possibility that victim-focus accounts for the race reversal effect, the presence of a fairness norm in one condition generated the reversal, or participants for some reason shifted their perspective in Experiment 2 and were more concerned about deviations from a deficit, rather than strength for victims.
The Deficit Hypothesis. If the stereotype of Asian Americans is they are not athletically gifted and the stereotype of African Americans is they are not smart, then participants may see the loss of a relatively lower amount of ability as more important than the loss of a relatively higher amount of ability. This mindset has previously been demonstrated empirically. Prospect theory suggests people are inherently more sensitive to losses than gains, especially when those losses are closer to total losses (see Kahneman & Tversky, 1978 and Kahneman & Tversky, 2000). If this is true, the psychological impact of moving from some skill to very little or no skill is much higher than an equivalent reduction in ability in a domain where the victim is talented. To put it more simply, “kicking someone when they’re down” is worse than “taking someone down a notch”.

Although the deficit hypothesis was not explicitly manipulated, dependent variables intended to tap it did not suggest it was operating. There was no evidence that participants evaluated the victim’s previous earning potential or quality of life to be lower when they were injured in a skilled domain versus a deficit domain. Additionally, the overall impact of the accident, as measured by participants’ estimates of the victim’s quality of life and earning potential, did not seem to be a potential mediator or moderator of the observed effect. While this potential explanation cannot be completely ruled out, there was no evidence it was operating in Experiment 3.

The Fairness Norm Hypothesis. Similarly, it is possible a fairness norm was unintentionally implied in the civil framing condition in Experiment 2 and this norm explains the reversal pattern observed. This hypothesis is based on the idea that activating the goal of being fair to victims means removing any potential biases on participants’
judgments, including the positive bias associated with injuries that hurt a group member’s ability to be prototypical of their ethnic identity. As Mucchi-Faina, Costarelli & Romoli (2002) point out, this process may be particularly important in an inter-group context when participants feel pressure to conform to non-prejudicial social norms. Thus, in an attempt to appear non-prejudiced, participants may disregard the stereotype associated with the victim and, in fact, err in the other direction, leading to higher judgments for injuries not implied by the positive stereotype associated with the ethnic identity of the victim.

In Experiment 3, the fairness norm was explicitly manipulated through instructions presented to participants, both before they initially read the case material and before they completed the dependent variables. These instructions were intended to make participants think more carefully about the victim- or defendant- related facts of the case (depending upon the condition to which participants were randomly assigned) with an eye toward being fair to whichever party they were instructed to focus on. Although the presence or absence of a fairness norm did interact with participant focus in some interesting ways, its presence alone does not seem to be enough to explain the race effect reversal found in both Experiments 2 and 3. That is, participants in the fairness norm condition in Experiment 3 did not behave similarly to participants in the civil framing condition in Experiment 2.

The Focus Hypothesis. The final hypothesis associated with the explanations for the race effect reversal pattern found in Experiment 2 was the focus hypothesis. Specifically, this hypothesis suggested participants were acutely aware of the victim in the conditions where the reversal occurred, and as such were more likely to detect the fact
that a the race of the victim and/or the stereotype attached to that race might be influencing their judgments. This variable may be additive with other factors, but it appears to be the primary determinant of the effect in this set of studies.

It is important to note participants are actually overcorrecting for the influence of the stereotype on their judgments. That is, participants do not remove the bias of race and punish injuries equally for both victims. Rather they reverse the effect and punish and compensate non-stereotype related injuries more. This is not necessarily surprising when the correction literature is considered.

Correction for racial prejudices, driven by a desire to appear non-biased is a central tenet of Dovidio & Gaertner’s aversive racism theory (see Dovidio & Gaertner, 2000). This theory postulates all members of society learn racial prejudices early in life. However, individual members face social pressure to appear non-prejudicial and act in certain ways to meet those pressures – most especially by altering their responses to make them more socially acceptable. These corrections are made based on people’s naïve theories about how various factors are likely to affect their responses. The naïve theories reflect the individual’s own experiences as well as culturally transmitted beliefs about biases. People have naïve theories about a wide range of phenomenon in their environments and these theories guide decision-making and correction processes (Petty & Wegener, 1998).

In a review of a wide variety of work on heuristics, biases, decision-making and correction processes, Wilson & Brekke (1994) point out mental contamination, defined as “the process whereby a person has an unwanted judgment, emotion or behavior because of mental processing that is unconscious or uncontrollable,” occurs in a wide range of
domains. The model for mental contamination presented in this paper suggests awareness of the mental contaminant is the first step toward correcting for it. However, beyond awareness, people must be willing to correct the bias, understand the impact of the bias (which includes knowing both the direction and magnitude of the effect) and finally, be capable (through mental control) of correcting the bias. Failure to complete any one of these steps leads to what Wilson’s terms a “contamination” – in our case, changes in judgments based solely on the stereotype of a victim’s ethnic group.

It is easy to imagine breakdowns in this process for legal decisions. Some participants may be unmotivated to correct for the bias, even if they know about it. People who are high in racial prejudice might be one such group. Or, some people may feel the stereotype has meaning in this particular case, that it is valuable as evidence and worthy of consideration. These people would not be motivated to correct for a “bias” they feel is justified. Additionally, other work by Wilson and colleagues (see Wilson & Schooler, 1991 and Wilson et al, 1993) suggests our own introspection processes tend to be faulty. That is, people have a very hard time accurately determining the causes of their own behavior and therefore make incorrect predictions about what they are likely to do in some situations. It is easy to imagine a failure of introspection could result in an overestimate of the bias the racial stereotype might cause, resulting in lower compensation and punishment in the stereotype consistent conditions when participants are trying to correct. Similarly, participants might also be unable to predict accurately what their rating would have been in the absence of such race information. In this case, even if their correction factor is well-calibrated, they might still end up overcorrecting because they start at an initial rating that was too low.
From this series of studies, it appears the race of the victim might be expected to affect legal judgments whenever participants 1) know something about the stereotypes associated with the victim’s race 2) those stereotypes are relevant to the case at hand; and 3) they are sufficiently distracted from this knowledge to allow it to contaminate their judgments. Ironically, in Experiment 3, this condition appears to be the one in which participants are told to be fair to the defendant. Shifting their attention away from the victim seems to make participants less able to correct for the biasing influence of race of their judgments. One might argue this is the condition that most closely approximates the style of thinking jurors often rely on; in fact, simply telling participants the defendant is innocent until proven guilty (a central tenet of the American legal system) could activate such processes. If this is true, it should serve to distract participants from the victim enough to allow stereotypes about those victims to impact their legal judgments.

**Future Directions**

While this package of studies presents a good initial investigation into a relatively neglected aspect of race and stereotyping in the legal system, it is by no means conclusive in terms of how these variables might affect legal judgments. There are at least three important issues that still need follow-up to allow a more comprehensive theory about stereotypes about victims in the legal system to be constructed.

*Demonstration of correction processes.* First, an explicit demonstration of the mechanisms by which focus on the victim disrupts participants’ ability to detect the biasing impact of stereotype information about the victim is necessary. There are a number of ways to conduct such an investigation, including adding additional dependent
measures to tap the extent to which participants realize stereotype activation has occurred in difference conditions. Specifically, we might expect participants to be more able to explicitly report stereotypes might influence their (or other people’s) judgments in the victim-focus condition, as opposed to the defendant-focus condition. This could be compared to implicit stereotype activation measures to demonstrate that even though activation is consistent across conditions, explicit acknowledgment of the bias is higher in the victim-focus condition. Additionally, the finding of implicit activation in both the victim- and defendant-focused conditions would lend support to the correction explanation, in and of itself. If similar levels of activation do not lead to similar levels of compensation and punishment, some other process (presumably correction) must be interceding.

Another way to demonstrate such correction processes is to remove the ability of some participants’ to complete them. One very simple way to test this idea might be to run only the victim-focus conditions, but to apply a cognitive load to participants at the same time as they are answering the dependent measures. If correction is effortful, participants who are completing an additional task that requires cognitive resources at the same time (i.e., those participants under cognitive load) should be less able to correct. This should result in a pattern of results more similar to the original race effect found in Experiment 1 and in the criminal condition of Experiment 2.

Finally, it might be possible to demonstrate this correction by explicitly instructing participants to do what it is hypothesized they did in Experiments 2 and 3. A simple instruction to focus on the possible effects of victim race, even in the absence of a victim-focus, should result in similar effects because it should lead participants to detect
the bias and correct for it. Therefore, participants who are told to look for biases and correct for them should also replicate the effects from Experiment 1 and the civil condition in Experiment 2.

*Simulate the legal environment in a more realistic way.* In order to be taken seriously by legal scholars, it is essential to replicate these results in conditions that more closely resemble the courtroom and legal system. This also could be done in several ways. One strategy might be to attempt a survey of jury-eligible adults to see if the effects replicate in the population of interest. If the abbreviated case materials were used and the dependent measures were constrained to only those most essential for the demonstration of the effect (punishment, compensation, etc.) this could be done in a short telephone sample, at a relatively low cost.

Another strategy might be to conduct a public records search for court cases with similar circumstances. Although such an archival technique would be tedious at best, it could be conducted and might yield “real world” support for the idea that victims from some groups are advantaged or disadvantaged in some circumstances. The real difficulty in this situation would be finding enough cases similar to one another to allow some kind of quantitative analysis of the factors of interest.

Finally, running the experiment in a more realistic manner might also make the research more palatable to the legal community. Simulating the courtroom experience using a videotape of the trial might be helpful. This kind of set up might also facilitate the use of a jury decision-making paradigm which could shed light on how these effects might be moderated when participants deliberate with other “jurors” about them.

*Investigate a wider range of group identities and stereotypes.* Thus far, only
Asians and African Americans have been used as targets for assessing victim stereotyping effects. It would be helpful to investigate a wider range of social groups and stereotypes for two reasons. First, it would demonstrate that nothing inherent in the two races chosen makes participants more or less likely to use or correct for the biasing impact of race. In addition, investigating more groups will provide a more complete picture of the range of effects that might occur in the legal system. For instance, it would be relatively easy to conduct such a study for gender stereotypes – injuring females in ways that make them less able to nurture, for example, or injuring males in ways that make them less able to provide for their family.²

*Look at the consequences of this effect for potential system change.* Another important future direction for this work is to attempt to discover how certain aspects of the legal system could be changed to help eliminate biases such as these. As Experiment 3 demonstrated, telling participants to be fair to the defendant did not eliminate the effect of victim racial identity on judgments. This condition probably most closely parallels that of traditional juror instructions, and definitely did not overcome the bias in this situation. However, the victim-focus conditions do not result in ideal, unbiased outcomes either. When participants were focused on the victim, those victims who suffered injuries relevant to the stereotype associated with their group were *disadvantaged* (or at least seem to be devalued) relative to victims for whom the stereotype was not implied. In an ideal world, the victim’s race should not influence participants’ judgments about the case at all. While this goal may be very difficult to attain, it is certainly worth striving for. As

² Such an experiment was run early on in this program of research, however it was difficult to get the injuries to be equally serious. Future work in this area needs to be done to refine the scenario to allow a more complete investigation.
such, future work in this area might focus on instructions or techniques judges and attorneys could use to counteract such biases. For instance, perhaps instructions that explicitly point out the impact that victim race might have could help participants to better calibrate their judgments. Alternatively, individuating the victim, and pointing out they are not representative of the stereotype attached to their race might also attenuate these effects. All of these ideas should be empirically tested to arrive at the best solution, in terms of the type of instructions or strategies that most reduce the impact of the stereotype attached to the victim.

The three experiments in this dissertation provide a glimpse into how people are affected by information about victim race in a legal domain. Taken together the studies suggest the impact of victim race can be complex, and may depend on a variety of factors including, but certainly not limited to, the particular match between the stereotype content and the injury suffered, the type of focus participants enter the decision-making context with, and the kind of decision norms and guidelines they employ. Further work in this area should attempt to isolate the mechanisms by which these effects operate and to translate the findings into more “real world” contexts. Investigating the myriad of potential effects of victim race will be no easy task, but it promises to be informative, both respect to legal judgments and the study of stereotyping in general.


and misidentification of violent and nonviolent criminal suspects. Media Psychology, 4, 2, 137-156.


APPENDIX A

Materials for Experiments 1 and 2
Case summary for studies 1 and 2
Presented via PowerPoint
Note: Names in bold vary with condition

You will now read about a certain type of case that occurs fairly frequently on college campuses across the United States. This case is based on a victim named Jamal Washington/Joe Yakamura. Washington/Yakamura was injured when he was struck by a car.

As you read about this case it is important that you try to picture Jamal Washington/Joe Yakamura and what happened to him, just as you would if you were in the courtroom and he was sitting right in front of you.

Jamal Washington/Joe Yakamura was walking through the residential area close to his college campus one evening. He had just finished his evening class and was ready to go home and go to bed. Yakamura/Washington was about one block from home when he heard a car come around the corner in front him. The tires squealed as the driver attempted to make the turn. Suddenly, the car skipped the curb and headed right for Washington/Yakamura. He threw his arms up over his head and ducked, but the next thing he knew he was blinded by the headlights of the car heading towards him. Washington felt a hard jolt as he was slammed into the sidewalk by the car.

Athletic Injury Condition
In the incident, both of Yakamura’s/Washington’s legs were broken. After extensive therapy, he is able to live a normal life, except for the fact that he can no longer participate in any sport or athletic activity. His doctors suspect that he will never regain these skills.

The driver of the car was apprehended and charged with reckless driving and assault. The two charges are being tried together, meaning only one verdict and punishment will be assigned.

Intellectual Injury Condition
In the incident, Washington/Yakamura received a massive concussion and some contusions to his head. After extensive therapy, he is able to live a normal life, except for the fact that he did suffer a head injury that resulted in impaired critical thinking and math skills. His doctors suspect that he will never regain these skills.

The driver of the car was apprehended and charged with reckless driving and assault. The two charges are being tried together, meaning only one verdict and punishment will be assigned.

Now we’d like you to make some judgments about the scenario you just read….
APPENDIX B
Materials for Experiment 3
Transcript – Experiment 3

NOTE: Only one of the names in bold will appear in the materials, depending on the condition to which participants are randomly assigned.

Before reading the case, participants will watch a PowerPoint Slide show that gives them instructions about the experiment. This is where we will manipulate the presence or absence of a fairness norm and manipulate focus. Note: Italics highlight the differences between conditions.

Defendant-focus/No Fairness Norm Present
In this study, you should consider the case as you would if you were a regular juror. Please take your time reading the material and carefully consider the questions.

You should be especially attentive to information about the defendant in this case – your job as a juror is to be sure that the judgments you make consider this specific defendant and what happened to him in this case.

Victim-focus/No Fairness Norm Present
In this study, you should consider the case as you would if you were a regular juror. Please take your time reading the material and carefully consider the questions.

You should be especially attentive to information about the victim in this case – your job as a juror is to be sure that the judgments you make consider this specific victim and what happened to him in this case.

Defendant-focus/Fairness Norm Present
In this study, you should consider the case as you would if you were a regular juror. Please take your time reading the material and carefully consider the questions.

You should be especially attentive to information about the defendant in this case – your job as a juror is to be sure that the judgments you make are fair to this specific defendant in this case. Reaching a just conclusion is the ultimate goal of the legal system and as a juror, being fair to the defendant should be your goal as well.

Victim-focus/ Fairness Norm Present
In this study, you should consider the case as you would if you were a regular juror. Please take your time reading the material and carefully consider the questions.

You should be especially attentive to information about the victim in this case – your job as a juror is to be sure that the judgments you make are fair to this specific victim in this case. Reaching a just conclusion is the ultimate goal of the legal system and as a juror, being fair to the victim should be your goal as well.
Plaintiff’s Attorney Michaels: Good afternoon ladies and gentleman. Today you will hear evidence regarding the devastating injuries suffered by Tyrone Washington/Joe Yakamura. As he was walking home from class one evening he was struck by a car careening out of control, going left of center and nearly running him over. While Tyrone escaped with what the defendant’s counsel will call “minimal injuries” it is important to note that those injuries have resulted in some serious deficits that we will describe later. We intend to show that the defendant was willfully negligent, driving recklessly and must be held accountable for his actions. Thank you.

Defense Attorney Jordan: I’d also like to wish you a good afternoon and briefly outline the defendant’s account of what happened on the evening of November 15. Roger had just finished a double shift at work and was heading home to finally get some much-needed sleep. Although he admits that he did strike Mr. Washington/Mr. Yakamura, the defense will prove that he did not in fact intend to do so. He did not see Mr. Washington/Mr. Yakamura until it was too late and he fled from the scene of the accident because he panicked. Throughout the hearing we would like you to try to keep this in mind. Thank you.

Judge Harrison: Thank you, counsel. At this point I would like to point out that the defendant has already stipulated to his guilt – that is he has admitted that he struck the defendant. As such, your job as jurors is to determine what the proper outcome in this case should be.

<NOTE>: At this point, the plaintiff’s attorney introduced a police report into evidence to document the incident. The report said that the defendant was apprehended at his home and that he was “cooperative” and never denied the incident.

The plaintiff called several other witnesses to establish that the time frame of the incident, to place the defendant at the scene and to show the damage on his car was consistent with a hit-and-run. For the purposes of this study, we’ve removed those pages and skipped to part of Washington’s/Yakamura’s testimony.

Plaintiff’s Attorney Michaels: I’d like to call Mr. Washington/Yakamura/Mr. Yakamura to the stand.

Judge Harrison: Proceed.

<NOTE> Swearing in of the witness and preliminary questions to establish his identity
are omitted.

Plaintiff’s Attorney Michaels: Hi Tyrone/Joe, can you tell us what happened on the evening of November 15?

Washington/Yakamura: Yeah. I was heading home from my evening class, and I was walking along Elm Street toward my apartment. All of a sudden, I saw a pair of headlights up ahead. They sort of drifted toward me, and then I noticed that the car was heading left of center… But by the time I realized it was going to hit me, it was too late.

Screen 5
Plaintiff’s Attorney Michaels: So you knew the car was going to hit you. What happened next?

Washington/Yakamura: Well, like I said, I couldn’t move or anything. It was all happening so fast. But the car kept coming and then it hit me. I was stunned. I don’t think I blacked out or anything but I remember that my head hurt really bad. I rolled over and I saw the car driving away. The next thing I remember is someone running out of one of the houses and yelling about calling 911. Then pretty soon after that the ambulance was there.

Screen 6
Plaintiff’s Attorney Michaels: Thanks for telling us about that night, Tyrone/Joe. Can you tell us a little about your injuries now?

Washington/Yakamura: Sure. So like I said, my head was really hurting, that’s really the only thing I remember about the ride to the hospital -- that my head was hurting and it was kind of bumpy. So we got there, I signed some forms, and they took me right into surgery. When I came to, my parents and my roommate were there.

Plaintiff’s Attorney Michaels: And how long were you in the hospital?

Washington/Yakamura: I think a total of 9 or 10 days, and then I was in rehab for 4 months.

Plaintiff’s Attorney Michaels: Thanks, Tyrone/Joe. No further questions. Your honor, I have just one final witness to call to the stand.

Screen 7
Plaintiff’s Attorney Michaels: I’d like to call Mr. Washington/Yakamura’s primary care physician, Dr. Walters to the stand.

Judge Harrison: Proceed
<NOTE> Due to time constraints, we’ve cut out all of the doctor’s testimony, except the key documentation of the injury.

Plaintiff’s Attorney Michaels: Dr. Walters, can you tell me a bit about the injuries Tyrone/Joe received?

Dr. Walters: Certainly. He suffered contusions, scrapes and blunt trauma impact to the head, resulting in a traumatic brain injury. In laymen’s terms, he hit his head very hard, which caused the brain to bruise.

Screen 8
Plaintiff’s Attorney Michaels: Thanks for translating that for us, Dr. Walters (LAUGHS). Can you tell us what consequences these injuries have for Mr. Washington/Yakamura’s life?

Dr. Walters: Well, the results of the injuries are difficult to predict only knowing the physical cause of the injuries themselves. But I have been seeing Mr. Washington/Yakamura for a while now and I’ve had the chance to observe the deficits in his particular case.

Basically, Tyrone/Joe has difficulty with critical thinking skills. This is especially true for his math skills.

Plaintiff’s Attorney Michaels: So, Mr. Washington/Yakamura will always have that impairment – he will never regain those critical thinking skills used in math?

Dr. Walters: Yes, that’s correct. It’s permanent.

<NOTE> Court now adjourns for the day.

Screen 9
Third Superior Court
Multnomah County
April 23, 1999

Judge Harrison: Defense, call your first witness.

Defense Attorney Jordan: With your permission, I’d like to call Roger, the defendant to the stand.

<NOTE> The swearing in of the witness and preliminary questions to establish his identity are omitted.
Defense Attorney Jordan: Roger, could you please give us your account of what happened on the night of November 15?

Roger: Sure. I had just worked a 16-hour shift at the plant and well, I was pretty tired. I only live a few miles from work, so I didn’t think it would be a problem to make it home. Anyway, so I clocked out and I started heading down Elm towards Hyacinth. I had only been driving for about 5 minutes or so, when I started to get really drowsy. I work long shifts all the time, so it really surprised me that it was hitting me this way. Then I remembered I had taken cold medicine on my break at work. It just must not have hit me while I was there, and then all of a sudden…

Screen 11
Defense Attorney Jordan: So you were driving home. What happened then?

Roger: Well, I was, like I said only a few miles away so I just decided to slug along. I was going down Elm when I started to drift off… I woke up really quickly though and I jerked the wheel back, but I couldn’t see where I was heading. Two of the streetlights in that area weren’t working, and I was having a hard time figuring out where the lane was. Then I heard a huge bump. I thought I might have hit a bush or something. I slowed down and started to correct again when I saw a kid lying on the road. I thought. “Hmm. That’s weird. Why’s he lying on the side of the road?” As I was driving by I realized what happened and I panicked. I took off. I mean, I knew the kid was OK because he was moving. And I know I should have stopped but…

Screen 12
Defense Attorney Jordan: Why do you think this happened?

Roger: Well. Since I have made this drive tons of times before and I routinely work these kinds of hours, the only thing I can figure is that it must have been the medication. I mean, otherwise I don’t know why I would have been so drowsy.

Defense Attorney Jordan: Anything else?

Roger: Well, the area of the road I was driving on was really poorly lit. I mean, I didn’t even see him before it happened. Like I said, it actually took me a split second to figure out what was going on. So maybe that was part of it too. But I know I am the driver, and I am responsible. And I’m sorry that this happened.

Screen 13
Defense Attorney Jordan: Have you ever driven when you felt you weren’t capable before?

Roger: No.
Defense Attorney Jordan: And, before you got into the car, did you have any indication that driving was going to be difficult?

Roger: No.

Defense Attorney Jordan: No further questions.

Screen 14
Judge Harrison: Mr. Michaels, your witness.

Plaintiff’s Attorney Michaels: Roger, you freely admit to striking Mr. Washington/Yakamura with your car, correct?

Roger: Yes.

Plaintiff’s Attorney Michaels: And you said you did notice the light was poor, didn’t you?

Roger: Yes.

Plaintiff’s Attorney Michaels: And you also testified that you knew you were tired that night and in need of sleep.

Roger: Did I say that? Yes, I guess I was.

Screen 15
Plaintiff’s Attorney Michaels: So on the night in question, you chose to drive home through what you knew to be a poorly lit area even though you were sleepy and in need of rest?

Roger: (silence)

Judge Harrison: Roger, answer the question, please.

Roger: Yes.

Plaintiff’s Attorney Michaels: No further questions for this witness.

Judge Harrison: You may step down. Defense, call your next witness.
<NOTE> The defense next called Roger’s supervisor to the stand. Again, due to time concerns, the witness’ actual statements have been removed. Roger’s boss testified that Roger was one of his best employees and that while he appeared tired on the night of question, it didn’t seem so bad that he couldn’t carry out his work duties.

Defense Attorney Jordan: Thank you your, honor. Now over the course of the last couple of days, you’ve heard testimony from many witnesses and you’ve evaluated a lot of evidence. The state would have you believe that Roger acted recklessly, that he willingly got behind the wheel of his car, knowing full well that he was not capable of driving.

My client freely admits that he did drive while he was tired. But I challenge you, ladies and gentleman, each and every one of you to think back about all the times you have driven in the past. Think about the times you left work late, or had to get up so early you weren’t even fully awake by the time you rolled out of the driveway. And while that’s certainly not a good idea, and isn’t something you planned to do, it does not mean you intended to hurt anyone.

Defense Attorney Jordan: Is Roger responsible for Mr. Washington/Yakamura’s injuries? Absolutely. Did he intend to injure Mr. Washington/Yakamura? Absolutely not. He has admitted that he made a poor judgment, and that he is very sorry for what happened.

We hope that you evaluate all of the aspects of the case, and conclude that the defendant, Roger, did not intentionally act to harm the plaintiff and the outcome in this case should reflect that fact. Thank you.

Plaintiff’s Attorney Michaels: Thank you, your honor. From the very beginning of this trial you have heard a mountain of testimony to indicate that Roger was well aware of what he was doing on the night of November 15 and he chose to do so anyway. You have heard from different witnesses, even from the defendant himself that he was physically drained from working the shift he had just finished, and yet with total disregard for the safety of others on the road, he chose to travel home over a poorly lit route anyway. And now, as a result of the head injury he sustained, Mr. Washington/Yakamura suffers from an impairment to the critical thinking skills involved in math.

Plaintiff’s Attorney Michaels: As the defense also points out, Roger is absolutely responsible for Joe’s injuries. He willfully put himself behind the wheel of a vehicle he couldn’t control, drove down a difficult road, and ran down a college student. Not only did he do that, ladies and gentleman, he also fled the scene of the crime. This demonstrates an amazing disregard for the young man he claims to feel so badly about injuring. He didn’t even know if Mr. Washington/Yakamura was alive or dead!
I too, hope that you evaluate all of the aspects of the case, and conclude that the defendant, Roger, did intentionally drive in an unacceptable state and that the outcome in this case should reflect that fact.

Screen 21
Judge Harrison: Before I dismiss you to deliberate about the case, I’d like to leave you with a few final instructions.

It is your job to consider everything you’ve heard in the last few days and to make a careful decision. Because Roger admitted his guilt in this case, your primary focus should be on deciding what should be done about it. If you have any questions, please direct them to the bailiff who will communicate them to me. I may or may not be able to answer them, but I will certainly entertain them. In addition, you may request to have any portion of the transcript reread to you at any time. Again, just let the bailiff know.

Thank you for your service.
APPENDIX C
Dependent Variables
Dependent Variables

Please answer the following questions about the case you just read about. Once you have finished a question or page, please do not look back to the scenario or your previous answers.

All 3 Exps.: If the defendant were found guilty, how much prison time would you recommend?

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Exps 1 and 2: If the defendant is convicted, how much time should he spend in prison?

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All 3 Exps.: If the defendant is found guilty, how much money would you award the victim for compensatory damages?

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If the defendant were found to be responsible, how much money would you award the victim? (Omitted in Experiment 3)

Experiment 1

$10,000  $20,000  $30,000  $40,000  $50,000  $60,000  $70,000

Experiment 2

$15,000  $30,000  $45,000  $60,000  $75,000  $90,000  $105,000

All 3 Exps.: How serious were the injuries suffered by the victim?

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Exp. 3: How much do you think this injury matters to the victim?

1 2 3 4 5
Does not matter at all Matters a great deal

Exp. 1 and 2: How do you think this victim’s injuries will impact their future earning potential?

1 2 3 4 5 6 7
They will earn much less if they hadn’t been injured Will not affect how much they earn at all They will earn much more than if they hadn’t been injured

Exp. 1 and 2: To what extent do you think the victim’s quality of life in the future will be damaged by the injuries they suffered?

1 2 3 4 5 6 7
They will live a much worse life as a result of the this injury Their life will not be affected by this injury at all They will live a much better life as a result of this injury

Exp. 3: Before this accident, what would you estimate was the victim’s earning potential?

1 2 3 4 5 6 7
Below Average About Average Above Average

Exp. 3: How do you think the victim’s injuries will affect their overall earning potential?

1 2 3 4 5
Will earn much less Will not affect

Exp. 3: Before this accident, what would you estimate was the victim’s quality of life?

1 2 3 4 5 6 7
Below Average About Average Above Average
Exp. 3: How do you think the victim’s injuries will affect their quality of life in the future?

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<tr>
<td></td>
<td>Will live much worse life</td>
<td>Will not affect</td>
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Exps. 1 and 2: **IF THIS ACCIDENT HADN’T HAPPENED**, how likely do you think it is that the victim would have been a valuable member of society?

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<tr>
<td></td>
<td>Not at all Likely</td>
<td>Extremely Likely</td>
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Exps. 1 and 2: Relative to other criminals who commit similar crimes, how much do you think this defendant deserves to be punished?

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<td></td>
<td>Much less than others</td>
<td>About the same</td>
<td>Much more than others</td>
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Exps. 1 and 2: To what extent did the consequences of the crime for the victim determined the amount of punishment you assigned?

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<tr>
<td></td>
<td>Did not determine at all</td>
<td>Completely determined</td>
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Now we’d like to know a little about the emotions that were invoked by the passage you read. As you read the passage, to what extent did you feel:

Angry:

1  2  3  4  5
Not At All Very

Sad:

1  2  3  4  5
Not At All Very

Outraged:

1  2  3  4  5
Not At All Very

Frightened?

1  2  3  4  5
Not At All Very
Finally, we’d like to test your memory for the facts of the case.

Exps. 1 and 2: What ethnicity was the victim in this case? __________

Exps. 1 and 2: If you can’t remember, but you had to guess about the ethnicity of the victim, what would you guess?

Exp. 3: What ethnicity do you think the victim was?

Response Option Order 1
Asian  Black  Hispanic  Native  White
American

Response Option Order 2
White  Native  Hispanic  Black  Asian
American

Exps. 1 and 2: What type of injury did the victim in this case suffer from? __________

Exps. 1 and 2: If you can’t remember the exact injury, but had to guess, what would you guess?

Omitted in Experiment 3
Massive  Traumatic  Contusions  Severely  Severe
Internal  Brain Injury  and scrapes  broken  bruising
Bleeding

What consequences did this injury have for the victim’s life?

Response option order 1
Facial  Speech  Intellectual  Could no longer  Couldn’t live
Scarring  difficulties  difficulties  participate in  on his own
sports

Response option order 2
Couldn’t live  Intellectual  Speech  Facial
on his own  difficulties  difficulties  Scarring
participate in
sports

Exp. 3: What was one reason the defendant provided for what happened in this case? ___

Exp. 3: What was the victim doing when he was struck by the car? __________