

RACE, AGE AND JURY DECISIONS IN A CIVIL RAPE TRIAL

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The present study assessed jury decisions in a civil rape trial. The age and race of the plaintiff was varied through computer generated photographs. Mock jurors were from two distinct populations, university students and jury eligible citizens. Participants completed a demographic questionnaire, the Legal Attitudes Questionnaire, and the Universal Orientation Scale; viewed a photo of the plaintiff while listening to the case on audiotape; made individual and group assessments of responsibility of the plaintiff and defendant; and awarded monetary damages. Hypotheses that mock jurors would attribute less responsibility and award more damages to the white plaintiff than the black plaintiff were supported for the university students, but jury eligible participants reacted in the opposite direction. Similar findings occurred with regard to predictions for personality measures; they were supported for university students but not for jury eligible mock jurors. Our research indicates the necessity of reevaluating these instruments on a nonacademic population so that they will be more generalizable to civil trials.

Recent trials such as those involving Rodney King and O.J. Simpson have elicited renewed attention to racial discrimination within the criminal justice system. While research in this area has a long history, often involving conflicting results and conclusions, research on racial factors within the civil justice system is surprisingly lacking. The present study examined race and age within the context of a premises liability case to allow comparison of the findings with those of earlier studies varying these factors in simulated criminal trials.

Mock jury research has shown that black, poor, and uneducated defendants are judged more harshly than other defendants (1-3). The race of the victim also affects judgments—blacks who victimize whites are treated more harshly and blacks who victimize blacks are treated less harshly than

other defendants (3, 4). In addition, mock jurors tend to judge defendants more harshly when the victim is the same race as the juror (3). Similar results are obtained in actual trials (5-7).

Jury instructions enhance the external validity of mock jury studies and reduce situational ambiguity by outlining for jurors exactly what is expected of them. Reduced situational ambiguity, in turn, reduces the effect of individual differences such as prejudice (8) and discriminatory behavior (9). Thus, the final jury instructions read to jurors in Florida civil cases—"You are not to be swayed from the performance of your duty by prejudice, sympathy, or any other sentiment, for or against, any party"—is used to reduce the likelihood that individual prejudicial attitudes will play a significant role in juror deliberations and the final verdict.

The present study varied the race of the victim via photographs of a white or black woman. Photographs were exclusively of females since the simulated case involved sexual assault. Because the majority of participants would be white, we predicted that juries who viewed the photograph of the white woman would assign a lower percentage of fault and award higher monetary damages to her than juries who viewed the photograph of the black woman. In addition, we hypothesized that black respondents would award more monetary damages and attribute less responsibility to the black victim than the white victim. Likewise, we predicted that white respondents would award more monetary damages and less responsibility to the white victim.

This study also varied the age of the victim. Because age is an increasingly important factor in our aging society, we were interested in determining whether mock jurors' decisions are impacted by age-related biases. We utilized two distinct populations of mock jurors, university students and jury eligible citizens, to allow for comparisons to be made across these diverse groups. We hypothesized that university students would identify with the younger woman and award her more monetary damages and attribute less responsibility to her than would the jury eligible respondents.

UNIVERSAL ORIENTATION SCALE

Most research on differential treatment of defendants and victims based on race has focused on determining whether the mock jurors were prejudiced. The Universal Orientation Scale was developed to measure non-prejudice. "Non-prejudice is defined as a universal orientation in interpersonal relations whereby the actors selectively attend to the similarities between the self and other rather than the differences between the self and the other" (10). The Universal Orientation Scale measures respondents' views of other people which are inclusive rather than exclusive. Because there are no items which directly refer to race or ethnicity, it has the added advantage of not being transparent, as are many measures of prejudice.

Research on the Universal Orientation Scale (UOS) has found that students who have a universal orientation view themselves as more similar to other students, minority and non-minority alike, while persons with a low universal orientation view themselves as more different from other students, especially minority students (10). In other research on universal orientation (10), persons with a high universal orientation expressed no discrimination in choice of work partners based on ethnicity and found people who were members of minority groups to be more representative of humankind and more attractive than did those who were lowest on universal orientation (10). Based on this research, it was hypothesized that people who have a high universal orientation would be less likely than those with a low universal orientation to discriminate on the basis of race when attributing fault and awarding monetary damages to the plaintiff.

AUTHORITARIANISM

Authoritarianism is one of the most frequently measured juror characteristics. Although most researchers have found authoritarianism to be positively correlated with punitiveness toward the defendant (11, 12), this finding is not consistently observed (13). Mitchell and Byrne (14) found that if authoritarian jurors were similar to the defendant, they were biased in his favor. In addition, Kassin and Wrightsman (11) found authoritarian

jurors to be less punitive toward the defendant when the defendant was an authority figure or when the crime pertained to obedience to authority.

Authoritarianism has also been shown to be related to negative views of rape victims (15). Because authoritarians tend to respond with personal hostility toward lower status persons (16), it is not surprising that a relationship exists between authoritarianism and negative attitudes toward rape victims. If rape victims are perceived as low status, it follows that they will be derogated by jurors who are high in authoritarianism.

We hypothesized that jurors high in legal authoritarianism would hold the plaintiff more responsible for the rape than those low in authoritarianism. This finding was predicted based on the authority figure status of the defendant (the apartment owner/manager) and the relative difference in the plaintiff's and defendant's status.

METHOD

Participants

Eighty-seven mock jurors were students in Introductory Psychology at a midsize university in the southeast who volunteered as one option for obtaining course credit. The participants varied in age from 17 to 47 ($M = 19.8$). Most participants were white ($n=54$), although some were black ($n=13$), Hispanic ($n=7$), Asian ($n=7$), and other ($n=5$). The remaining mock jurors ($N=103$) were jury eligible residents of the same state who had been recruited by a professional recruiting firm and paid for participation as mock jurors in various counties. These participants varied in age from 19 to 84 ($M=47.8$), with the ages evenly distributed across the range. Most participants were white ($n=82$), although some were black ($n=17$), Hispanic ($n=3$) and other ($n=1$).

Design

The study was a 2 (race of stimulus person: black or white) by 2 (age of stimulus person: old or young) between-subject factorial design. Predictor variables were Legal Attitudes, Universal Orientation, and participant demographics. Dependent measures were percentage of responsibility attributed to the plaintiff (stimulus person), percentage of responsibility

attributed to the defendant, and monetary damages awarded to the plaintiff. These measures were made individually before and after group deliberations on the same measures. The same dependent measures of liability and damages also were made by each jury as a group.

Procedure

Participants came to a conference room in groups of five to ten, were informed about the study, and signed a consent form. Participants then filled out the demographic questionnaire, Legal Attitudes Scale, the Universal Orientation Scale, and additional questionnaires for another study. The experimenter then showed participants a photograph (one of four, randomly assigned) of the stimulus person. Next, mock jurors listened to a taped description of the case, delivered in narrative fashion by an attorney with considerable experience in premises liability cases, followed by standard jury instructions. The case presentation lasted approximately 10 minutes, was identical for all juries, and involved a rape victim/plaintiff who sued the owner/manager of the apartment complex where she was raped. The presentation included all factual information necessary for jurors to make liability and damages decisions. Each participant was asked to indicate the amount of responsibility that the plaintiff and defendant had for the sexual assault (total responsibility for both parties equaled 100 percent). Participants also were asked to determine what monetary damages the plaintiff should be awarded.

Next, participants were asked to form a jury, select a foreperson, deliberate and come to a consensus concerning the same questions. After a verdict was reached, participants were asked to indicate, again, their individual opinions about the responsibility of the plaintiff and defendant, and the monetary award due to the plaintiff.

Stimulus Person

Using a photograph of a young white woman, a graphic artist computer-generated four photographs: a young white woman, an old white woman, a young black woman, and an old black woman. The photographs

were identical except for slight adjustment in the lips and noses of the black women to make them more authentic and the aging of the features for the older women.

Measures

Demographic Variables. All mock jurors completed a brief demographic questionnaire that measured age, gender, education, political orientation, ethnicity, marital status, number of children, employment status, student status, occupation, spouse's occupation (if applicable), and crime victimization.

Legal Authoritarianism. All participants completed the Legal Attitudes Questionnaire (LAQ) developed by Boehm (16). The form used was a revised version of the original scale (17-19). The internal reliability estimates (Cronbach's alpha) of the measure were reported to be .71 for one study and .83 for a second study (18).

Universal Orientation Scale. All respondents completed the Universal Orientation Scale (UOS) developed by Ziller and Clark (20). The UOS measures responses to 21 items on a 5 - point Likert scale ranging from 1 (does not describe me) to 5 (describes me very well). The internal reliability coefficient (Cronbach's alpha) for the measure is reported to be .76 (10).

RESULTS

Group Decisions

A MANOVA was run with the type of mock juror (university student or jury eligible citizen), race of the plaintiff (black or white), and age of the plaintiff (old or young) as the independent variables and the group decisions on responsibility of the plaintiff and monetary award as the dependent variables.

Results reported will be limited to those which tested the hypotheses. A Hotelling's trace evaluation indicated a main effect for race of plaintiff ($F [2, 181] = 6.01, p < .003$). Follow-up univariate F tests found that race ($F [1, 186] = 5.87, p < .016$) had a significant effect on the amount of award with black plaintiffs awarding more damages than white plaintiffs.

A Hotelling's trace evaluation indicated a significant two-way interaction effect for race of the plaintiff by age of the plaintiff ($F [2, 181] = 49.46, p < .0001$). Follow-up univariate F tests showed the interaction had a significant effect on the amount of award and the responsibility of the plaintiff (see Table 1).

Table 1. Mean Amounts for Group Decisions on Award* and Responsibility of Victim Based on Race of Victim by Age of Victim**

Race of Victim	Amount of Award	
	Age of Victim	
	Old	Young
Black	\$195,732 (n=41)	\$612,791 (n=43)
White	\$381,035 (n=58)	\$225,000 (n=48)
Race of Victim	Responsibility of Victim	
	Age of Victim	
	Old	Young
Black	12.68 (n=41)	9.30 (n=43)
White	12.10 (n=58)	13.79 (n=48)

* $p < .0001$

** $p < .015$

A Hotelling's trace evaluation indicated a significant two-way interaction effect for type of mock juror by race of the plaintiff ($F [2, 181] =$

13.66, $p < .0001$). Follow-up univariate F tests showed that both interactions had a significant effect on the amount of award and the responsibility of the plaintiff (see Table 2).

Table 2. Mean Amounts for Group Decisions on Award* and Responsibility of Victim* Based on Type of Participant by Race of Victim

Race of Victim	Amount of Award	
	University Student	Jury Eligible
Black	\$304,375 (n=40)	\$504,545 (n=44)
White	\$326,595 (n=47)	\$297,457 (n=59)
	Responsibility of Victim	
Black	15.00 (n=40)	7.27 (n=44)
White	12.59 (n=47)	13.09 (n=59)

* $p < .0001$

Individual Decisions

Mock jurors from racial groups other than black or white were eliminated for a second analysis. A MANOVA was run with type of mock juror, race of plaintiff, age of plaintiff, and race of mock juror (black or white) as the independent variables and the individual pre and postdelib-

eration decisions concerning the responsibility of the plaintiff and the monetary award as the dependent variables. Individual decisions were truncated at 3.5 S.D. above and below the mean.

A Hotelling's trace evaluation indicated a significant three-way interaction effect for type of mock juror by race of plaintiff by race of mock juror ($F [4,140] = 3.83, p < .006$). Follow-up univariate F tests found the interaction had a significant effect on the amount of postdeliberations award (See Table 3).

Table 3. Mean Amounts of Postdeliberations Award* Based on Type of Participant by Race of Victim by Race of Participant

	Type of Participant	
	University Student	Jury Eligible
Black Victim		
Black Participant	\$141,667 (n=6)	\$600,000 (n=5)
White Participant	\$594,346 (n=19)	\$535,190 (n=33)
White Victim		
Black Participant	\$328,571 (n=7)	\$337,500 (n=12)
White Participant	\$173,809 (n=21)	\$250,584 (n=45)

* $p < .0001$

Universal Orientation

A MANOVA was run with type of mock juror, race of mock juror, race of plaintiff, and level of jurors' Universal Orientation (high or low) as the independent variables and the individual (truncated) pre and postdeliberations decisions on plaintiff responsibility and award as the dependent variables. A Hotelling's trace evaluation indicated a significant three-way interaction effect for race of the plaintiff by race of the mock juror by universal orientation ($F [4, 65] = 3.52, p < .011$). Follow-up univariate F tests found that the interaction had a significant effect on the predeliberation decisions for plaintiff responsibility and awards. A Hotelling's trace evaluation indicated a significant four-way interaction effect for type of mock juror by race of plaintiff by race of mock juror by universal orientation ($F [4, 65] = 3.85, p < .007$). Follow-up univariate F tests found that the interaction had a significant effect on the predeliberations awards and the postdeliberations responsibility of the plaintiff (see Table 4).

Legal Attitudes Questionnaire

A MANOVA was run with type of mock juror, race of mock juror, race of plaintiff, and level of respondents' Legal Authoritarianism (high or low) as the independent variables and the individual (truncated) predeliberations and postdeliberation decisions on plaintiff responsibility and award as the dependent variables.

A Hotelling's trace evaluation indicated a significant three-way interaction effect for type of mock juror by race of mock juror by Legal Attitudes ($F [4, 59] = 2.55, p < .048$). Follow-up univariate F tests found that the interaction had a significant effect on the predeliberations responsibility of the plaintiff (see Table 5). Black university students high in authoritarianism attributed a huge amount of responsibility to the plaintiff (63%) compared to white university students high in authoritarianism (10.3%). Even black university students low in authoritarianism attributed much more responsibility (27.7%) to the plaintiff than did white university students low in authoritarianism (8.1%). Black jury eligible citizens reacted in the reverse direction; those low in authoritarianism attributed more responsibility to the plaintiff than did those high in authoritarianism.

Table 4. Mean Amounts of Predeliberations Award* Based on Type of Participant by Race of Victim by Race of Participant by Universal Orientation

		Universal Orientation	
		Low	High
University Students			
Black Participants			
Black Victim	\$71,333 (n=3)	\$1,199,308 (n=1)	
White Victim	\$58,333 (n=3)	\$300,000 (n=2)	
White Participants			
Black Victim	\$804,481 (n=4)	\$302,667 (n=6)	
White Victim	\$339,375 (n=8)	\$320,333 (n=6)	
Jury Eligible			
Black Participants			
Black Victim	\$750,000 (n=2)	\$625,000 (n=2)	
White Victim	\$175,000 (n=4)	\$277,500 (n=4)	
White Participants			
Black Victim	\$527,272 (n=11)	\$314,286 (n=7)	
White Victim	\$690,293 (n=10)	\$365,385 (n=13)	

* p < .004

Table 5. Mean Amounts of Predeliberations Responsibility* Based on Type of Participant by Race of Participant by Legal Attitudes

	Legal Attitudes	
	Low	High
University Students		
Race of Participants		
Black	27.7 (n=3)	63.0 (n=1)
White	8.1 (n=18)	10.3 (n=11)
Jury Eligible		
Race of Participants		
Black	12.5 (n=4)	10.0 (n=2)
White	6.2 (n=19)	6.8 (n=20)

* $p < .011$

White jury eligible citizens attributed little difference in responsibility whether they were high (6.8%) or low (6.2%) in authoritarianism.

DISCUSSION

Group Decisions

Because the majority of participants were expected to be white, our first hypothesis predicted that mock juries (as a group) would be biased against a black plaintiff. Specifically, we predicted that juries would at-

tribute more responsibility to the black plaintiff and award her less damages than the white plaintiff. There were no significant main effects for the responsibility variable. Results for damages were just the opposite of what was predicted—black plaintiffs were awarded significantly more money than white plaintiffs. However, the race of the plaintiff interacted with the type of mock juror. In both instances, the university students followed the prediction, attributing more responsibility to the black plaintiff and awarding her less money than the white plaintiff. In contrast, jury eligible participants seemed to be biased in favor of the black plaintiff. Thus, it appears that only the university mock juries were more favorably predisposed toward members of the majority. Jury eligible participants demonstrated a tendency to favor the minority victim.

We also predicted that university students would be partial to the young victim. We found no support for that hypothesis. Both university students and jury eligible participants gave more monetary awards to the young black woman and the old white woman.

Individual Decisions

Analyses of the same decisions (responsibility and award) made by individual mock jurors allowed us to take into account the race of the participants. There was a three-way interaction between type of mock juror, race of mock juror, and race of victim. Black university students awarded more damages to the white plaintiff than to the black plaintiff (over twice as much), while white university students awarded 3.4 times as much in damages to the black plaintiff as the white plaintiff. Both black and white jury eligible citizens awarded more monetary damages to the black plaintiff than to the white plaintiff.

University students, when they decided on an individual basis after deliberations, indicated that they would give more money to the plaintiff who was dissimilar to themselves. However, when they decided as a group, they actually gave more monetary damages to the white plaintiff than to the black plaintiff. Because there were many more white students

than black students, one would expect the same results for individual white university students as for juries in their group decisions. Perhaps participants were willing to give less monetary damages to the black victim while in a group, where they could attribute responsibility to the group decision and not assume it themselves. Or, perhaps the mock jurors were trying to show that they themselves were not prejudiced by making their individual decisions after deliberations biased in favor of the black plaintiff.

Universal Orientation

Our hypothesis was that persons high in universal orientation would be less likely to discriminate based on race than those low in universal orientation. Because there were so few black participants in each cell with a four-way interaction, we will limit our discussion to white participants. There was very little difference in awards given to black and white plaintiffs by high universal orientation participants from both university student and jury eligible participants. This result is supportive of the hypothesis that high universal orientation participants would not discriminate on the basis of race. In contrast, white university students who were low in universal orientation gave more than twice as much in awards to the black plaintiff than to the white plaintiff and jury eligible participants who were low in universal orientation gave more awards to the white plaintiff than to the black plaintiff.

A similar four way interaction effect on the level of responsibility of the plaintiff did not support the hypotheses. Likewise, a three-way interaction effect on responsibility and amount of awards for universal orientation by race of juror by race of plaintiff did not support the hypotheses.

Legal Authoritarianism

It was hypothesized that jurors high in legal authoritarianism would hold the plaintiff more responsible for the rape by assigning a greater percentage of fault to her. In predeliberation decisions, this hypothesis was supported, particularly for black respondents. This finding was especially apparent in university students.

Our hypothesis was based on the authority figure status of the defendant (the apartment owner/manager) and the relative difference in the status of the plaintiff and defendant, especially as status related to ability to control the situation. Another reason for the prediction was that authoritarianism has been associated with negative views of rape victims, including feelings of low empathy for the victim (15). One reason for the relationship between authoritarianism and negative attitudes toward rape victims is that high authoritarians tend to respond with personal hostility toward lower status persons (16). If rape victims are perceived as low status, it follows that they will be derogated by jurors who are high in authoritarianism.

Apparently, black respondents reacted more strongly to the case facts than white respondents. Perhaps black respondents were reacting to the larger arrest and incarceration rate of blacks. Alternatively, it is possible that black university students attributed considerable responsibility to the rape victim because black men receive disproportionately large sanctions for committing rape. (No information was given regarding the defendant's race or the race of the rapist, who was described as not a defendant in the civil case. Mock jurors did not discuss the race of either man in their deliberations, thus we do not know what race they assumed the men to be.)

Interestingly, personality characteristics had no predictive value for post deliberations decisions. Personality variables only had an impact on the initial decisions made by jurors before deliberations. By the time post-deliberation decisions were made, differences based on personality characteristics had disappeared. It appears that deliberations eliminated the impact of personality variables on decisions. Perhaps in the process of defending their positions, verbalizing their own attitudes and feelings, and arguing for their positions, jurors had to make more rational decisions. They no longer were as influenced by personal attributes as they were by the case facts. The presentation of the case facts was both compelling and believable, leading mock jurors to deliberate in a rather heated fashion.

It is noteworthy that the defendant was held almost totally at fault for the plaintiff's rape. It appears that mock jurors blamed him for starting a chain of events which culminated in a serious crime. Because it is apparent that deliberations eliminated some of the influence of personality variables, we must speculate that perhaps other studies of jury decision making, which did not involve group based deliberations, were not eliminating people's personal biases. It seems that mock jurors need to deliberate to bring the issues of the case to the surface in order to be sure that their personal values and attitudes do not impact their decisions.

One of the most interesting, yet disturbing, findings that emerged from the research is that the personality variables predicted the behavior of university students, but not that of jury eligible citizens. While these results are counter to results of a meta-analysis investigating the relationship between verdict and authoritarianism (21), it is important to note that the meta-analysis contained no studies of civil cases. Given that the present study is one of the first to examine jury decision making in a civil case, more research is needed in this arena before definitive conclusions can be drawn regarding comparisons with prior research. At a minimum, our research indicates the necessity of reevaluating personality measures on a nonacademic population so that they will be more utilitarian in civil trials. Only then will jury researchers be confident that the findings from simulated trials are applicable to the courtroom context.

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