

Racial Bias in Juridic Judgment at Private and Public Levels

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Mock jurors (college students and prospective jurors) made individual decisions regarding liability and damages (before and after deliberation) in response to a case of sexual harassment. There were no significant differences in damage awards from college students and prospective jurors. There was evidence of racial bias among White mock jurors against plaintiffs who accused a Black supervisor of sexual harassment: Lower damages were recommended for plaintiffs who accepted an offer to meet for drinks in a Black supervisor's room than for plaintiffs who accepted the same offer from a White supervisor. There was also evidence of racial bias among White mock jurors against Black plaintiffs: Lower damages were recommended for Black plaintiffs than for White plaintiffs. These effects were present in the individual judgments of college students and prospective jurors. However, these forms of racial bias did not carry over into the decisions made by juries comprised of college students or prospective jurors. Subtle racial biases operating primarily at a subconscious level may get washed out in the complex task of coming to agreement on an appropriate award. The effects of manipulated variables on damage awards probably are overestimated in general in mock juror studies that do not examine group verdicts.

Public opinion surveys paint a rosier picture of the attitudes of Whites toward Blacks than in the past (Schuman, Steeh, Bobo, & Krysan, 1997). Nevertheless, discrimination against Blacks still prevails in many facets of life that have a negative impact on quality of life (Sidanius & Pratto, 1999), and a substantial proportion of Whites still may be opposed to full racial equality (Schuman et al., 1997).

The form of racism has changed (Dovidio, 2001; Dovidio & Gaertner, 2004; Gaertner & Dovidio, 1986; Kinder & Sears, 1981; McConahay, 1986; Sears & Henry, 2003). Racism in contemporary American society involves a disinclination among Whites to engage in obvious acts of discrimination against Blacks. When discrimination against Blacks occurs, Whites need to be able to justify it on grounds other than just race.

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Some research has suggested that racial discrimination against Black defendants continues to be a problem for the American criminal justice system (Bedau, 1997; Nickerson, Mayo, & Smith, 1986; Sidanius & Pratto, 1999). However, with a decrease in the old-fashioned form of racism in American society, we expect that most discrimination against Blacks in the American criminal justice system must exist beneath the surface. Because it has become unacceptable to make negative statements about minority group members on the basis of group membership, even in homogeneous majority group settings, it seems likely that a public buffer frequently would exist in American juries against the direct influence of racial bias.

Most laboratory studies that have found evidence of racial bias have studied the judgments of individual mock jurors without looking at what happens when they become part of an interacting group of jurors (Field, 1979; Hymes, Leinhart, Rowe, & Rodgers, 1993; Johnson, Whitestone, Jackson, & Gatto, 1995; Knight, Giuliano, & Sanchez-Ross, 2001; Skolnick & Shaw, 1997; Ugwuegbu, 1979; Wuensch, Campbell, Kesler, & Moore, 2002). The current study examines discrimination against Black plaintiffs in a simulated civil trial. After participants indicated individual judgments regarding defendant liability and plaintiff compensation, they were placed in groups of interacting mock jurors (college students or prospective jurors) and were required to return a group verdict. This design permits the comparison of private judgments with public decisions.

Civil trials, which involve the claims of an alleged victim against an individual or corporate defendant, can evoke a bias against the plaintiff among jurors (Hans & Lofquist, 1992; Lupfer, Cohen, Bernard, Smalley, & Schippmann, 1985). When huge sums of money are requested by plaintiffs for their alleged injuries, jurors naturally consider the possibility that the case might be at least partially motivated by greed. This places a heavy burden of proof on the plaintiff: Jurors will be particularly sensitive to any evidence suggesting that it was the plaintiff, rather than the defendant, who caused the event that resulted in injury.

The hypothesis that is tested in the current study is that bias against the plaintiff in civil trials may be more pronounced when the plaintiff is Black. Under these circumstances, White jurors may be more inclined to attribute the event in question to the plaintiff's ignorance or carelessness, rather than to defendant misbehavior. However, we consider it very probable that this type of bias will consist primarily of subconscious associations that would not be expressed publicly during jury deliberations (Devine, 1989; Dovidio, Kawakami, Johnson, Johnson, & Howard, 1997; Greenwald & Banaji, 1995; Kawakami & Dovidio, 2001; Wittenbrink, Judd, & Park, 1997). Therefore, we might see evidence of racial bias at a private level, but not at a public level in the verdicts decided upon by a group of individuals acting collectively as a jury.

Method

Participants

Four hundred and six mock jurors participated in the study: 220 college students and 186 prospective jurors. College students participated as an option for extra credit toward their grades in a psychology course. The age range for college students was 17 to 52 years with a median age of 23 years.

Prospective jurors were selected randomly from a list of jurors by a market research firm and were screened for jury eligibility during a telephone interview. Prospective jurors were paid for their participation. The age range for prospective jurors was 18 to 84 years, with a median age of 48 years. Most of the mock jurors were White (71%), followed by Blacks (16%), and Hispanics (4%).

Stimulus Cases

Participants were exposed to one of eight versions of the case. Different versions of the case were created by presenting computer-generated photographs of either a Black or a White supervisor and either a Black or a White plaintiff. In addition, the case involved either a male supervisor and a female plaintiff, or a female supervisor and a male plaintiff.

Within each version of the case, the incident alleged by the plaintiff was identical. According to the plaintiff, the incident occurred in the supervisor's hotel room during an out-of-town business trip. The supervisor invited the plaintiff to the room for drinks and then coerced the plaintiff into sexual activity. The supervisor indicated that failure to comply would jeopardize the plaintiff's job. The plaintiff resisted strongly at first, but eventually gave in out of fear that the supervisor would have him or her fired.

The plaintiff waged a complaint with the company upon return to work after the trip. The company fired the plaintiff as a result of the complaint. There were two defendants in this case: the supervisor and the company. Mock jurors apportioned responsibility to the plaintiff, the supervisor, and the company.

Procedure

Mock jurors were tested in groups of 5 to 10. They attended to an audiotaped presentation of the facts of the case and a standard set of jury instructions. The case was presented by two experienced attorneys: One presented the plaintiff's case, and the other presented the defendant's case.

The jury instructions (standard jury instructions in the state in which the research was conducted) were presented by a psychologist with extensive

experience in jury decision making. The dependent variables—liability and damages—were assessed following the jury instructions. Liability was assessed by requiring mock jurors to distribute responsibility to the plaintiff and the defendants. A percentage was assigned to each, with the stipulation that the percentages had to total 100%. Damages were assessed by requiring mock jurors to decide on an appropriate figure in response to the plaintiff's request for \$1 million.

After each mock juror had decided liability and damages, the group was required to deliberate to reach a consensus regarding the apportionment of liability and the appropriate damage award. Following deliberation, individual decisions regarding liability and damages were assessed again.

Results

Repeated-measures ANOVA was conducted on two dependent variables separately: plaintiff fault (percentage of responsibility attributed to the plaintiff) and plaintiff compensation (amount of compensation recommended for the plaintiff). Each was assessed before and after deliberation from individual mock jurors, and each jury was required to deliberate to a consensus regarding both liability and damages.

The analyses presented first will be those conducted on the judgments of individual mock jurors with race of victim, race of defendant, and type of mock juror (college student or prospective juror) as independent variables. The analyses were conducted first on data only from White mock jurors to assess racial bias at the private level. Then, those results will be compared to the results of the same analysis on data from all participants, including those from other ethnic groups.

In the analyses conducted on the amount of compensation mock jurors recommended for the plaintiff, actual damages given were corrected first for extreme skewness with a log transformation. The relevant means from both analyses are shown in Table 1. The means that are shown were pooled across type of mock juror. There were no main effects for type of mock juror on plaintiff fault, $F(1, 280) = 1.22, ns$; or plaintiff compensation, $F(1, 278) = 1.96, ns$.

Plaintiff Responsibility

The race of defendant main effect on plaintiff fault was significant, $F(1, 280) = 7.74, p = .006$. White mock jurors attributed more fault to the plaintiff when the defendant was Black. This effect interacted with time of assessment, before or after deliberation, $F(1, 280) = 3.38, p = .067$. The

Table 1

Effects of Race of Plaintiff and Race of Defendant on Judgments of Plaintiff Fault and Compensation

	Plaintiff fault (% of responsibility)				Plaintiff compensation (log damage awards)			
	Before deliberations		After deliberations		Before deliberations		After deliberations	
	Black defendant	White defendant	Black defendant	White defendant	Black defendant	White defendant	Black defendant	White defendant
Black plaintiff	25.3	17.5	21.4	12.4	10.01	11.55	10.47	12.20
White plaintiff	16.2	18.5	17.2	14.5	11.82	11.73	11.87	12.55

effect was stronger after deliberation, $F(1, 287) = 21.32, p < .0001$; than before deliberation, $F(1, 288) = 2.02, p = .157$. After deliberation, White mock jurors attributed 19.4% of the responsibility to the plaintiff when the defendant was Black, compared to 13.1% to the plaintiff when the defendant was White. The effect of race of victim was not significant, $F(1, 280) = 2.73, p = .099$. There was an interaction of this weak effect with time of assessment, before or after deliberation, $F(1, 280) = 3.34, p = .069$. The effect was not significant before, $F(1, 287) = 2.48, p = .117$; or after deliberation, $F(1, 286) = 0.01, ns$. The tendency to attribute more fault to Black plaintiffs (20.8%) than to White plaintiffs (17.4%) before deliberation vanished during deliberation.

There was a significant interaction between race of victim and type of mock juror, $F(1, 280) = 9.36, p = .002$. This interaction reveals a tendency among White prospective jurors, but not White college students, to place more blame on Black plaintiffs than on White plaintiffs. Prospective jurors showed this bias before deliberation, $F(1, 134) = 7.19, p = .008$; and after deliberation, $F(1, 134) = 7.15, p = .008$. Before deliberation, prospective jurors assigned 25.1% of the responsibility to the Black plaintiff, compared to 16.6% to the White plaintiff. After deliberation, prospective jurors assigned 19.5% of the responsibility to the Black plaintiff, compared to 13.7% to the White plaintiff. There was a general decrease in plaintiff responsibility during deliberation, $F(1, 288) = 14.59, p = .0002$.

Amidst this change, a bias against Black plaintiffs among White prospective jurors remained. This type of bias was not found with White college students. There was no difference before deliberation, $F(1, 151) = 0.20, ns$; while a difference in the opposite direction was found after deliberation, $F(1, 150) = 8.35, p = .004$. Following deliberations, college students attributed 17.8% of the responsibility to the White plaintiff, compared to 12.9% to the Black plaintiff. There was also a significant interaction between race of victim and race of defendant, $F(1, 280) = 7.14, p = .008$. The pattern of this interaction is shown in Table 1. The interaction is clearest after deliberation, $F(1, 285) = 6.70, p = .010$. White mock jurors showed a tendency to place more blame on the Black plaintiff when the defendant was Black, but did not show this distinction as strongly with the White plaintiff.

The interactions between race of victim and race of defendant, $F(1, 394) = 5.98, p = .015$, and between race of victim and type of mock juror, $F(1, 394) = 7.09, p = .008$, were still present when data from all participants, including those from other ethnic groups, were analyzed. The pattern for the interaction between race of victim and race of defendant in the data from all participants is similar to that shown in Table 1. There continued to be a main effect for race of defendant, but this effect was most prominent with the Black plaintiff.

The bias against Black plaintiffs among White prospective jurors, but not among White college students, was not present among prospective jurors from other ethnic groups. Hence, the effect is watered down when the analysis is conducted on all participants, especially after deliberations. Following deliberations, there was not much remaining of the tendency to show a bias against Black plaintiffs among all prospective jurors. They attributed 17.5% of the responsibility to the Black plaintiff, and 14.3% to the White plaintiff, $F(1, 184) = 2.85, p = .093$. College students showed the reverse tendency, attributing more responsibility to the White plaintiff (17.2%) than to the Black plaintiff (13.4%), $F(1, 214) = 7.74, p = .006$.

Plaintiff Compensation

The effects of race of victim and race of defendant on White mock jurors' judgments regarding plaintiff compensation are similar in some respects to those found with the analysis of attributions of plaintiff fault (see Table 1). The main effect for defendant race was present, with less compensation recommended when the defendant was Black, $F(1, 278) = 8.90, p = .003$. This effect did not interact with type of mock juror, $F(1, 278) = 1.33, ns$. The main effect for race of victim was stronger in this analysis than in the analysis on plaintiff compensation, with less compensation recommended for the Black plaintiff, $F(1, 278) = 8.38, p = .004$. This effect did not interact with type of mock juror, $F(1, 278) = 0.92, ns$.

Neither of the effects shows significant change during deliberation, depending on whether they were assessed before or after deliberation. The effect of race of defendant after deliberation, $F(1, 288) = 14.58, p = .0002$, was much stronger than the race of victim effect after deliberation, $F(1, 287) = 5.30, p = .022$. While there was a significant effect for race of victim on log awards after deliberation ($M = 11.51$ for the Black plaintiff compared to 12.25 for the White plaintiff), this effect was not strong enough to come through all the variance in actual awards, $F = 0.00, ns$ ($M = \$376,367$ for the Black plaintiff, compared to \$376,324 for the White plaintiff).

The much stronger race-of-defendant effect was evident after deliberation with both compensation variables. The mean log award when the defendant was Black was 11.20, compared to 12.42 when the defendant was White, $F(1, 288) = 14.58, p = .0002$. The corresponding mean for the actual awards recommended by individual White mock jurors after deliberation was \$297,124 when the defendant was Black, compared to \$438,416 when the defendant was White, $F(1, 288) = 6.56, p = .011$.

There was an interaction between race of victim and race of defendant on log awards, with White mock jurors recommending substantively lower

damages for the Black plaintiff who joined a Black defendant for drinks in the defendant's hotel room, $F(1, 278) = 4.32, p = .039$ (see Table 1). However, this interaction was not present when data from all participants were analyzed, $F(1, 396) = 1.35, ns$. There was also no effect for race of victim in that analysis, $F(1, 396) = 2.51, p = .114$. The main effect for race of defendant was the only one still present, $F(1, 396) = 8.51, p = .004$. This effect was weak before deliberation, $F(1, 399) = 3.31, p = .074$ ($M = 10.92$ when the defendant was Black, compared to 11.61 when the defendant was White), but became more substantial during the course of deliberation, $F(1, 402) = 14.68, p = .0001$ after deliberation ($M = 11.33$ when the defendant was Black, compared to 12.39 when the defendant was White).

While it is not apparent in the analysis of log awards, it becomes evident when actual damages recommended after deliberation are analyzed that the effect is weakened by the inclusion of mock jurors from other ethnic groups. Although the difference was still present (\$481,391 was recommended when the defendant was White, compared to \$348,034 when the defendant was Black), it was no longer significant, $F(1, 402) = 2.48, p = .116$.

Type of Case

By now, it should be clear that the most consistent finding in the analysis of the private judgments of individual mock jurors is the effect for race of defendant. Mock jurors attributed more fault to the plaintiff when the defendant was Black and recommended lower damages. The analysis that follows examines the generalizability of the race-of-defendant effect across two cases: either a case in which the plaintiff was female and the defendant was male, or a case in which the plaintiff was male and the defendant was female.

This variable is included along with race of victim, race of defendant, and mock juror gender as an independent variable in ANOVA on judgments regarding plaintiff responsibility and plaintiff compensation (log damage awards) after deliberation. The focus in these analyses is on the decisions that mock jurors made after deliberation in anticipation of upcoming analyses that would examine the verdicts of deliberating groups of mock jurors. Data from all participants were included in these analyses.

In these analyses, the race-of-defendant effect was found for plaintiff responsibility, $F(1, 386) = 31.33, p < .0001$; and plaintiff compensation, $F(1, 387) = 18.93, p < .0001$. The race-of-victim effect was found for plaintiff compensation, $F(1, 387) = 3.99, p = .047$; but not with plaintiff responsibility, $F(1, 386) = 0.03, ns$.

The mean log award for the Black plaintiff ($M = 11.52$) was less than the mean award for the White plaintiff ($M = 12.08$). There was no main effect

for type of case with either plaintiff responsibility, $F(1, 386) = 0.71$, *ns*; or plaintiff compensation, $F(1, 387) = 0.32$, *ns*. Differences between male and female mock jurors were weak but present with both plaintiff responsibility, $F(1, 386) = 3.22$, $p = .073$; and plaintiff compensation, $F(1, 387) = 3.75$, $p = .054$. As would be expected, females attributed less fault to the plaintiff than did males ($M = 15.30$ and 17.28 , respectively), and females recommended more damages than did males ($M = 12.07$ and 11.53 , respectively).

There was also a three-way interaction between race of victim, race of defendant, and type of case on plaintiff responsibility, $F(1, 386) = 21.03$, $p < .0001$; and on plaintiff compensation, $F(1, 387) = 4.78$, $p = .03$. There was a significant interaction between race of victim and race of defendant on judgments of plaintiff responsibility, $F(1, 191) = 29.51$, $p < .0001$; and on recommended damages, $F(1, 191) = 4.17$, $p = .042$, when the plaintiff was a female.

Mock jurors attributed more fault and awarded lower damages to Black female plaintiffs when the defendant was Black. There was a weaker race-of-defendant effect for White female plaintiffs, resulting in significant main effects for race of defendant with both plaintiff responsibility, $F(1, 191) = 41.66$, $p < .0001$; and plaintiff compensation, $F(1, 191) = 11.72$, $p = .001$.

The pattern with female plaintiffs is similar to that shown in Table 1. The pattern for male plaintiffs was in some respects similar to that found for females: Male plaintiffs received lower damage awards when the defendant was Black, but the difference was very weak. When the plaintiff was a male, there were no significant main effects for race of defendant on either plaintiff responsibility, $F(1, 203) = 2.70$, $p = .10$; or plaintiff compensation, $F(1, 204) = 3.36$, $p = .07$; and the two-way interaction between race of victim and race of defendant was not found for either plaintiff responsibility, $F(1, 203) = 2.03$, $p = .16$; or plaintiff compensation, $F(1, 204) = 1.47$, *ns*.

The two-way interaction was not strong enough, even with female plaintiffs, to come through all of the variance in actual damages. In fact, ANOVA on actual damages failed to reveal a significant main effect for race of defendant with either the female plaintiff, $F(1, 93) = 1.44$, *ns*; or the male plaintiff, $F(1, 207) = 1.13$, *ns*. For the female plaintiff, mock jurors recommended an average damage award of \$342,099 when the defendant was Black, compared to \$536,228 when the defendant was White. For the male plaintiff, mock jurors recommended a mean damage award of \$352,842 when the defendant was Black, compared to \$424,039 when the defendant was White.

Jury Verdicts

To examine the effects of racial bias on jury verdicts, ANOVA was performed on the amount of responsibility that mock juries assigned to the

plaintiff and on the amount of compensation they awarded. Three independent variables were considered in these analyses: race of victim, race of defendant, and type of case (either a case in which the plaintiff was female and the defendant was male; or a case in which the plaintiff was male and the defendant was female).

Another analysis conducted with type of mock jury (i.e., juries comprised of college students, compared to juries comprised of prospective jurors) included as an independent variable shows that there were no main effects for that variable, and it was not involved in significant interactions with race of victim or race of defendant. Because these analyses were conducted at the group level, the power to identify interaction effects is weak.

There was a total of 56 mock juries, resulting in a range of 5 to 8 juries in each of the eight conditions. Nevertheless, there should be enough power to detect any substantial main effects. This expectation was confirmed in the analysis of verdicts regarding plaintiff responsibility, where a main effect for race of defendant was found, $F(1, 48) = 7.14, p = .01$. More fault was attributed to the plaintiff when the defendant was Black (20.2%) than when the defendant was White (13.2%). The race-of-defendant effect was not found in the analysis of jury awards, $F(1, 48) = 0.005, ns$. When the defendant was Black, mock juries returned a mean damage award of \$370,000. The comparable award when the defendant was White was \$372,000.

There was no main effect for race of victim or type of case in either analysis. The mock juries assigned 15.3% of the responsibility to the Black plaintiff, compared to 17.6% to the White plaintiff, $F(1, 48) = 0.36, ns$. Black plaintiffs received a mean award of \$373,000, and White plaintiffs received a mean award of \$368,000, $F(1, 48) = 0.004, ns$.

In the analysis of the percentage of responsibility that mock juries assigned to the plaintiff, there was a near significant three-way interaction between race of victim, race of defendant, and type of case, $F(1, 48) = 4.02, p = .05$. The pattern of this interaction is similar to the interaction found at the private level, but not as pronounced. When the plaintiff was a female, the most fault was attributed to her and the lowest damages were awarded when she was Black and the defendant was a Black male. This pattern was not found for male plaintiffs. When the plaintiff was a male, the most fault was attributed to him and the lowest damages were awarded when he was White and the defendant was a Black female.

The three-way interaction was not significant in the analysis of damage awards, $F(1, 48) = 2.06, p = .16$. Overall, only meager success was found in predicting the amount of responsibility that mock juries attributed to the plaintiff in this case with the three variables that were manipulated in this study, $F(7, 48) = 1.88, p = .09$. These variables did not contribute at all to a prediction of the variance in mock jury damage awards, $F(7, 48) = 0.32, ns$.

Discussion

White mock jurors in the current study showed an inclination at the private level to give lower damage awards to plaintiffs who accepted an offer to have drinks in a Black defendant's hotel room. We consider it very probable that this type of bias consists primarily of subconscious associations that typically are not expressed publicly (Devine, 1989; Dovidio et al., 1997; Greenwald & Banaji, 1995; Kawakami & Dovidio, 2001; Wittenbrink et al., 1997).

From the perspective of hindsight, many White mock jurors apparently thought that the plaintiff should have known better than to go to the Black defendant's hotel room, and they were inclined to assign a higher level of fault to the plaintiff and to award lower damages when these were the circumstances of the case. Even though less racial bias would be expected from college students (Citrin, Sears, Muste, & Wong, 2001; Firebaugh & Davis, 1988; Schuman et al., 1997), the bias against the plaintiff who went to the Black defendant's hotel room was found among college students and among prospective jurors. This is not so surprising when we recognize that racial stereotypes can operate subconsciously in individuals low and high in modern racism (Devine, 1989).

White mock jurors in the current study also showed an inclination at the private level to give lower damage awards to Black plaintiffs than to White plaintiffs. We consider it very probable that this type of bias also consists primarily of subconscious associations, with a bias against plaintiffs in general perhaps playing a nuclear role in the network of relevant associations (Hans & Lofquist, 1992; Lupfer et al., 1985). In civil trials, jurors are likely to be particularly sensitive to any evidence suggesting that it was the plaintiff rather than the defendant who caused the event that resulted in injury. With certain cases, jurors may be more inclined to attribute the event in question to the plaintiff's ignorance or carelessness, rather than to defendant misbehavior.

When a bias against Black plaintiffs operates among White jurors in civil trials, it may take the form of what Pettigrew (1979) called the *ultimate attribution error*. This results in more fault attributed to out-group members involved in a particular case than would be attributed to in-group members. In the current study, this kind of bias was evident in the private judgments of White mock jurors, but appeared to be filtered out at the public level. It is not something that White mock jurors would want to admit in the company of others, if they are aware of their bias at all.

The race-of-plaintiff effect was not strong enough to influence jury decisions in any way, while the race of defendant was present in judgments of fault, but not in recommended damage awards. These results are

interpretable from a modern racism perspective in which it is anticipated that direct forms of racial discrimination (e.g., bias against Black plaintiffs) would be less probable than indirect forms of racial bias (e.g., bias against women who agreed to go to a Black defendant's hotel room to have a drink). Racism may still occupy the 13th chair in the deliberation room (Frank, 1949), but today that chair may not get pulled up to the table as often as it did in the past.

The more subtle form of racial bias that is revealed with the race-of-defendant effect may operate consistently in trials when alleged female victims claim they were sexually assaulted or sexually harassed by Black male defendants. This implies that stereotypes regarding the sexual and aggressive proclivities of Black men may underlie this effect. Devine (1989) showed that such stereotypes may unconsciously affect the behavior of those individuals who have no particularly overt hostility toward Black men.

The race-of-defendant effect was reported in a study conducted in another Southern venue with a different kind of case (Landwehr, 1995). In that study, White college students who viewed the videotaped testimony of a White or a Black female who claimed she was raped in a White or a Black defendant's car after leaving a bar with him attributed more fault to alleged victims who left the bar with a Black man than to those who left the bar with a White man. There was no race-of-victim effect and no interaction between race of victim and race of defendant. However, there was strong evidence of the influence of extra-evidentiary impressions of the alleged victim's personality on the amount of fault attributed to her ($r = -.62, p < .0001$).

The finding that mock jurors made inferences about an alleged rape victim's personality based on what she said about her interaction with a White or Black defendant and that these inferences influenced the amount of fault they attributed to her (Landwehr, 1995) is consistent with an accumulating body of research findings that indicates that jurors consider both the alleged victim's character and the character of the defendant in their determination of damages in civil trials (Greene & Bornstein, 2003). Furthermore, impressions of the character of the victim appear to have a strong influence on the legal decisions of both male and female jurors, and sometimes can be even more pronounced among female jurors because of a stronger need for them to distance themselves psychologically from the victim.

While gender differences in the expected direction are sometimes found in studies of mock jurors' evaluations of cases of sexual assault and sexual harassment, there is a great deal of inconsistency in the size of this difference across studies, and there is usually a considerable amount of within-group variation (Bridges & McGrail, 1989; Pollard, 1992; Schutte & Hosch, 1997; Thornton, Robbins, & Johnson, 1981). We found only weak differences between male and female mock jurors in the current study.

Furthermore, because most juries are comprised of a collection of both males and females, it is obvious that whatever differences exist between males and females at the beginning of deliberation, these usually are resolved by the end of deliberation, at least at the public level. For example, in a recent study conducted on mock jurors' evaluations of the Kobe Bryant rape case (Bothwell, 2004), all 10 of the mixed-sex juries that were tested returned not-guilty verdicts. A high level of fault (more than 50%) was attributed to the alleged victim by both male and female mock jurors, and authoritarian female mock jurors were found to be particularly critical of the alleged victim.

This brings us to the last issue of why the race-of-defendant effect, still evident in the private judgments of mock jurors after deliberation, failed to carry over into the awards recommended by mock juries. The damage award recommended by White mock jurors when the defendant was Black (\$297,124) was substantially lower than the award recommended when the defendant was White (\$438,416). An attenuated difference in this direction remained when the data from mock jurors from other ethnic groups were included in the analysis: \$348,034 was recommended when the defendant was Black, compared to \$481,391 when the defendant was White.

This effect vanished completely in the awards that the mock juries returned: When the defendant was Black, mock juries returned a mean damage award of \$370,000; the comparable award when the defendant was White was \$372,000. It could be that the presence of others in the jury who were not similarly biased engaged in arguments that provided an above-average anchor when the defendant was Black and a below-average anchor when the defendant was White. However, if this is what is happening, why don't we see the same kind of anchoring in decisions with plaintiff responsibility?

Mock juries assigned more responsibility to the plaintiff when the defendant was Black (20.2%) than when the defendant was White (13.2%). After all, judgments of plaintiff responsibility are correlated strongly with recommended awards. The problem may center on an inherent unreliability of damage awards when 12 jurors with a variety of opinions are forced to come to some kind of consensus: "The assessment of damages is not a straightforward process, and jurors who are assigned this task are not infallible thinkers" (Greene & Bornstein, 2003, p. 148).

What is troublesome about jury damage awards is that two juries who are exposed to the same case can come up with awards that are drastically different: You never know what you are going to get. This is why attorneys usually are not motivated strongly to take any given case to trial. Often the prospect of a jury trial begins to receive serious consideration only after any chance for settlement has evaporated. The current data reflect the kind of enormous variability in awards that can occur across different juries

considering the same case (from \$10,000 to \$1 million). There was not any clear relation of this variance to either race of plaintiff or race of defendant, and there was also no difference in awards from juries comprised of college students compared to those comprised of prospective jurors. The variance across juries in damage awards appeared to be largely random.

Damage awards appear to be largely overdetermined, meaning that the award from each jury is based on a complex idiosyncratic combination of those facts that the individual jurors find important and the way that these facts become integrated into a gestalt as particular jurors present to others during deliberation the schemes they have used to tie certain facts together. Awards are the outcome of a complex process that involves a sequence of decisions about what happened, who is at fault, and how much it is worth. The effect of these decisions is cumulative so that the tacitly agreed-upon narrative influences the amount of responsibility that is attributed to the parties involved, which influences in turn how much money, if any, the jury decides that the plaintiff should receive. Analyses limited to the opinions of individual mock jurors that do not take into account the group dynamics on which the decisions of actual juries are based often may implicate factors that really do not make much of a difference.

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