

HARM RESULTING FROM A CRIME AND VICTIM
IDENTITY IN JUROR DECISION-MAKING

Abstract

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In the United States criminal justice system, jurors are asked to determine a defendant's guilt beyond a reasonable doubt by establishing both the action of committing a crime (*actus reus*) and the culpable mental state of the defendant (*mens rea*), that is, the defendant's intentionality. When jurors are making decisions about legal culpability, the severity of the harm that occurred nor the identity of the victim are elements that law permits jurors to consider within a specific statute. This research examined if knowledge of outcome (the severity of the harm and the identity of the victim) affected assessments of culpability: (a) Is there a *harm bias*, whereby jurors are more likely to convict a defendant accused of a crime that resulted in a greater level of harm? (b) Are jurors more likely to attribute greater intentionality to a defendant's actions when there is a greater level of harm? (c) Are jurors more likely to return a harsher sentence when a defendant's actions resulted in a greater level of harm? (d) Does the identity of the victim influence juror decisions, whereby jurors are more likely to convict a defendant accused of a crime when the victim was a child as opposed to an adult? Are jurors more likely to attribute greater intentionality to a defendant's actions when the victim was a child as opposed to an adult? (e) Are jurors more likely to recommend a harsher sentence when the victim was a child as opposed to an adult? (f) And finally, are judicial instructions directing jurors not to allow the

level of harm that occurred or the identity of the victim a sufficient remedy for a harm bias and victim identify bias, as the Courts assert? The answers to these questions provided insight into how jurors made their decisions; namely, are juror's verdict decisions, to an extent, an expression of his or her moral disapproval of the harm that occurred, in addition to being a factual assessment of the evidence presented at trial, and does the effect pervade the Courts' asserted solution of judicial instructions. Results supported the harm bias hypothesis, and indicated that jurors may view a defendant as acting with greater intentionality when harm resulting from the alleged crime was more severe. More severe harm also predicted higher likelihood of guilty determination, mediated by intentionality, and recommendations of lengthier sentences, in spite of an instructions not to allow harm to the victim to influence decision-making. Contrary to expectations, however, victim identity did not affect perceptions of intentionality, verdict decisions or recommended sentence length.