The Jury EXPERT
The Art and Science of Litigation Advocacy
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NOTE FROM THE EDITOR
Rita R. Handrich

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NOTE FROM THE EDITOR

Spring, eyeglasses, recession and an unforgettable shade of pink...

Here in Texas, it's still a little chilly at night and we were pelted by hail the size of marbles in the early morning hours last week even though it's routinely in the 80s during the day. It's one of those strange situations where two things seem to occupy the same space. Like eyeglasses—at least as described in our current issue! You may remember our article on the "nerd defense". Now Austrian researchers look at what style of glasses makes you look no less attractive (i.e., not at all like a nerd) and yet more intelligent and trustworthy at the same time. We won't judge you if you read this and, like one of our trial consultant respondents, then make an immediate run to a nearby optical shop.

Another two-things-in-one-place article in this issue is one where White research participants tend to label Biracial people Black in times of scarcity/recession and yet label them White in times of prosperity. We have trial consultants telling us what they think this means and doesn't mean. And we have a lot more. Preparing expert witnesses to give effective (not to mention likable) testimony, useful litigation graphics, social power and how it influences our moral judgments, some new Road Warrior Tips for easier traveling, and a Favorite Thing.

Last but not least, please picture Pepto-Bismol in your mind. That shade of pink is tough to forget and the manufacturer says it's good for addressing "over-indulgence in food or drink". Turns out that same shade of deep and perhaps soothing pink is also used in holding cells to calm down violent and aggressive (often intoxicated) detainees. It's called "drunk tank pink" which is certainly an evocative color label although I don't remember it in my crayon box. So why does that color calm more than our digestive tracts? You can read about why in a new book out this month. We have the author, an almost-lawyer turned social psychologist, writing on some of the legally relevant aspects of how brains work and why seemingly quirky and unpredictable things make perfect sense when you know how the brain works.

It's all part of our ongoing effort to help you be effective at trial and aware of current research while simultaneously looking attractive, trustworthy and intelligent and also having a plethora of evidence-based factoids to entertain and influence others effortlessly. You're welcome.

Let me know if there are litigation advocacy related topics you'd like to see us publish and we'll see what we can do.

Rita R. Handrich, PhD
Editor, *The Jury Expert*

On Favorite Thing: Pocket

I love it when someone else finds something useful for me. Thanks Brian, I am downloading Pocket on my iPhone as I type!Frightening stuff. -Charli Morris

The text-to-speech (TTS) feature is great too. It turns all of those pages of text into "virtual" audiobooks. -Alexis Forbes

On Forensic Mental Health Evaluations: Reliability, Validity, Quality, and Other Minor Details

This is a really interesting article! Many thanks to the authors and commentators!

One shortcoming of this type of study (which is not a fault of the study, but a practical issue), is that it cannot observe some of the subtleties that can be crucial in CST and CR evaluations. For example, I find most experts believe that if a defendant can tell the roles of the various parties and understands the point of a plea negotiation, that they're competent. Usually that would be true. But too often it is not—for example, an Asperger's defendant may be able to tell facts clearly, and abstractly tell the point of a plea negotiation, but unless tested for what is actually understood of their language capacity, may be found competent when he/she is not able to understand anywhere near minimal information stated in the real-time setting of a courtroom to meaningfully assist in his/her defense. There are several analogous issues, each idiosyncratic and due to idiosyncratic issues, they may not be able to meaningfully studied in large studies such as this. In a paper I wrote with Ken Weiss on CST for MR and Borderline intellectual functioning entitled: Who Is an Expert? Competency Evaluations in Mental Retardation and Borderline Intelligence published in AAPL, we discuss what is involved to form true expertise in an area such as MR.

Another problem can be training, even among certified experts. In some states where I've been brought in to teach, I learned that experts are paid roughly $500 for a CST regardless of the size of discovery, educational and medical records, and the amount of testing/evaluation that should be done. At these rates, even if they learned enough to be certified, is it enough? I don't know anything about Hawaii's system, but if it pays a set amount, as I assume they do, these studies may be measuring whether three inadequately paid experts can agree on a finding without having the time to read all of the discovery or to afford traveling to learn some of the more complex and subtle issues in the field. Without the fiscal capacity to go to settings to take appropriate CE courses from well seasoned experts that enrich understanding over a lifetime, what agreement/reliability are we measuring?

All of this comments are meant as critiques helpful to study the field, but these are not critiques of the present well-done study and the hard/good work of the researchers. The fact that a study can't include all desirable subtleties does not criticize the study at all, it just shows the complexity of the human mind and the field. In sum, this is a good and important study. -Mark Siegert

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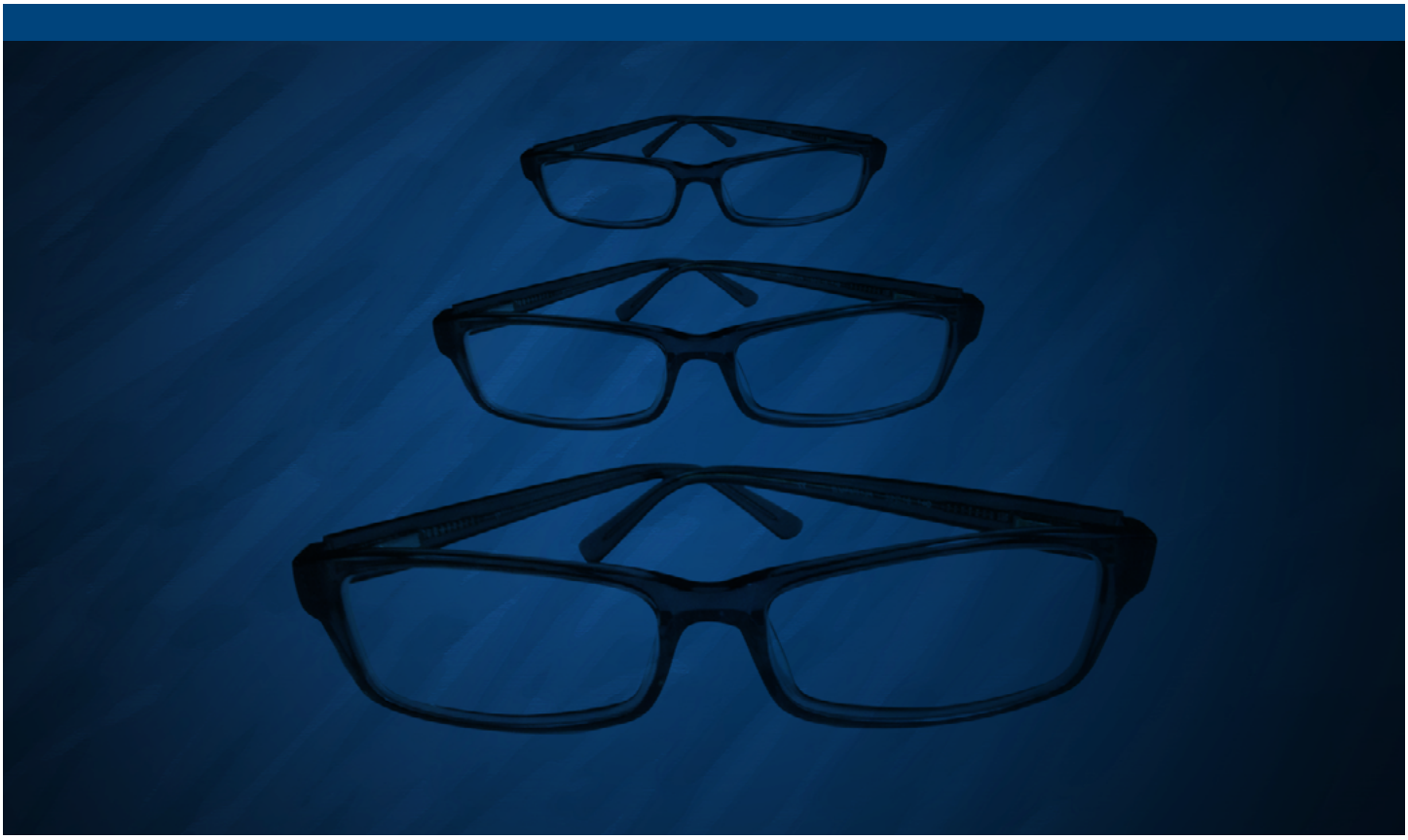

The Glasses Stereotype, Revisited

by Michael Forster, Gernot Gerger, and Helmut Leder

Don't miss our trial consultant responses at the end of this article: Elaine Lewis and Michelle Ramos-Burkhart.

Is there nothing as helpful as a good stereotype? Stereotypes due to race, gender, age, or general facial appearance shape our evaluations of others. These—often too simple—conclusions about the personality and character of people can influence a broad range of opinions and judgments, including whether we believe they are capable of the offense for which they are accused. Likewise, in a juridical context, eyewitness memory errors can sometimes lead to wrongful convictions with severe consequences for the (wrongly) convicted. Faces play a crucial role in the perception of others and communication with them. Facial appearance may, therefore, potentially influence stereotypical evaluations and memory errors. Even simple changes to a face, such as wearing different types of eyeglasses or removing them, might influence how someone is perceived, and even whether someone is recognized. In this article we present some recent experimental findings showing how simple changes in facial appearance, owing to the use of glasses, influence facial perception, recognition, and evaluation.

Stereotypes

"Let any one of you who is without *stereotypes* be the first to throw a stone at her." (Paraphrased from The Bible: John 8:7 New International Version.) We all use stereotypical evaluations on a daily basis, including when judging people. Stereotypes are overgeneralizations carrying a kernel of truth. They can, nevertheless, be wrong in many particular cases. Why do we rely on stereotypes at all if they are so error-prone? (See for example Gigerenzer, Todd, & The ABC Research Group, 2001; Kahneman, 2011 for two excellent books on this topic.) The paradoxical reason we rely on stereotypes is that they help us. Why? Because, stereotypes, simple heuristics ("that make us smart", Gigerenzer et al., 2001), or rules of thumb, help us make quick, economical decisions in the complex environments we inhabit. But there is more. These first impressions have a strong effect on our final decision: we are inclined to be consistent in our decisions and are rather reluctant to change them (Tavris & Aronson, 2007). They can, however, be revised during a subsequent and more detailed conscious analysis. What makes the difference is an awareness of our errors and oversimplifications.

Several stereotypical or automatic evaluations of people are

based on facial appearance. One prominent example is the so-called "baby face" stereotype. People with babyish facial features (large eyes, thin eyebrows, large head, curved face) tend to be evaluated as less mature, more innocent, but also as less responsible (Zebrowitz & Montepare, 1992). In the defendant, these features are beneficial, but they are detrimental to the witness. High competence, on the other hand, is associated with an angular jaw and close eyes and eyebrows (Olivola & Todorov, 2010).

Another example of stereotypes arising from facial appearance is the "glasses stereotype". Individuals who are wearing glasses tend to be seen as more intelligent (e.g., Brown, Henriquez, & Groscup, 2008; Hellström & Tekle, 1994), but less attractive (Hasart & Hutchinson, 1993; Lundberg & Sheehan, 1994). In a modified and more modern version one would also call it the "*nerd stereotype*".

Not only do these stereotypes influence our everyday evaluation, they also influence our evaluations of individuals when this evaluation is especially important, as in court. From research on the effect of attractiveness on juror decisions we know that defendant attractiveness reduces the harshness of the sentence (Efran, 1974; Leventhal & Krate, 1977; Smith & Hed, 1979, but see also Sigall & Ostrove, 1975, for other evidence). In addition, people that appear intelligent receive fewer guilty verdicts (Brown et al., 2008, also published in an adapted version in The Jury Expert, 23, pp. 1-12). Because wearing glasses decreases apparent attractiveness and increases apparent intelligence, glasses may be a mixed blessing in court.

One crucial factor that has been neglected so far in research on eyeglasses is the type of glasses worn. With the large variety of types of eyeglasses, and especially with the trend of either wearing rimless glasses or glasses with quite thick and peculiar rims, the glasses stereotype may depend on the type of glasses. Therefore, an important aim of our study was to explore whether the changes in style over the years affect the glasses stereotype.

Face Recognition

A second important issue, especially for legal practice, is remembering faces. The problem of recognizing faces and also falsely recognizing faces is a major issue in face perception research. Its results have strong implications for legal practice (e.g., mistaking someone for the culprit). The high prevalence of wrongful convictions due to incorrect identifications even inspired founding the Innocence Project. This non-profit organization is committed to exonerate wrongfully convicted individuals by applying DNA testing. By far, most of the wrongful convictions were due to incorrect identification by eyewitnesses.

Face perception researchers are well aware of the problem of wrongful convictions mainly due to errors in face perception and face memory (see Bruce, 2011; or Lindsay, Mansour, Bertrand, Kalmet, & Melsom, 2011, for overviews on this topic). There has already been considerable progress in developing better systems to generate composite faces for mug shots (Bruce, 2011). Nonetheless, eyewitness identification is still flawed. Besides various factors influencing the accuracy of eyewitness identification (Lindsay et al., 2011), wearing glasses might interfere with a successful identification of an individual. The fact that a considerable percentage of the population in Western countries is wearing glasses makes it worth taking a look on the perception of faces with glasses.

To sum up, glasses potentially influence the perception of the wearers' face and evaluation of their personality traits. We performed four experiments testing whether glasses, and especially the type of glasses worn, influence perception and evaluation of the wearers face and personality traits.

Novel Experimental Evidence

We will first present experimental evidence that glasses are able to elicit stereotypes and influence evaluations of faces in terms of different traits, such as intelligence, trustworthiness, or attractiveness (Experiment 1). We will then turn to the question of how glasses change our perception of faces in terms of attention and looking behavior (Experiment 2). The last two experiments discuss the influence of glasses on our ability to discriminate (Experiment 3) and recognize faces (Experiment 4). Taken together the experiments clarify the influence of glasses on evaluation and recognition of individuals, two highly relevant factors in legal contexts.

Do Different Types of Glasses Affect HowOthers Evaluate Us?

Experiment 1 – The Glasses Stereotype Revisited

According to the glasses stereotype, the face of an individual wearing eyeglasses should be rated as less attractive but more intelligent than the same face of the same individual without glasses. To account for the current trend in glasses, we included two different types of glasses, full-rim glasses having thick peculiar rims and also rimless glasses, having no rim at all.

Seventy-six participants (students as well as members of the general population) rated the 78 images of faces comprising 26 images of faces without glasses, 26 images of faces with full-rim glasses, and 26 images of faces with rimless glasses on a computer screen and rated the images on six dimensions: successfulness, intelligence, trustworthiness, attractiveness, likability, and cooperativeness.

The results show that faces without glasses were seen more attractive and more likeable than faces with full-rim glasses. Faces with rimless glasses did not differ from faces without glasses in their attractiveness or likability rating. Regarding the ratings of successfulness, and intelligence, the results show that individuals wearing glasses (both rimless and full-rim) were rated as more successful and more intelligent than individuals not wearing glasses. Regarding trustworthiness, individuals with rimless glasses were rated as significantly more trustworthy than faces without glasses. Ratings of cooperativeness did not differ between the face versions.

These results show us that glasses influence various kinds of evaluations of a person. This may be due to the prominence of glasses in the face. In a second experiment we therefore tested whether glasses attract attention, and whether the eye region receives longer looks when the individual is wearing glasses.

Experiment 2 – Face Perception

In general, the eye region is a central and very informative part of the human face. Where people look at gives us important information about their current focus of attention and intentions (Bayliss & Tipper, 2006). Not surprisingly, thus, several studies have shown that the eye region is also the region most looked at in a human face (e.g. Bindemann, Scheepers, & Burton, 2009). Glasses, especially their rims change the appearance of this region. Therefore, they may also be in the center of our attention.

To assess the distribution of the eye movements we used an eye tracker. In short, an eye tracker allows measuring what is of interest for an individual in an image (where they look) and of how much interest it is (how long they look).

Twenty undergraduate students viewed 26 faces in all three versions (no glasses, full-rim glasses, rimless glasses), resulting in 78 images. In order to attend to the faces, the participants rated them on attractiveness and distinctiveness, defined as the peculiarity of a face, ranging from "ordinary" faces to faces that would "pop out" in a crowd of people.

Indeed, the eye region was looked at longer than the rest of the face, but this depended on whether the model was wearing glasses. Both types of glasses attracted longer looks to the eye region. For the full rim glasses we expected to find longer looks due to the prominence of the glasses rims. Interestingly, rimless glasses, which are by design by far less peculiar, influenced looking behavior to the same extent as full-rim glasses, probably because even slight changes in the eye region suffice to attract longer looks.

Thus, glasses significantly influence our looking behavior. This leads us to the question of whether glasses influence our ability to discriminate (Experiment 3) and recognize (Experiment 4) faces.

Experiment 3 – Discrimination of Faces

In legal contexts discriminating and recognizing faces is crucial, especially, in the case of eyewitness testimony. Therefore, studying the effects of recognition of people with and without glasses can help both assess and improve the accuracy of eyewitness testimony and identification in line-ups.

In Experiment 3, we studied the speed in discriminating two faces. These were either presented next to each other (so-called simultaneous matching) or presented one after another (sequential matching). This allowed us to measure whether glasses, which add a feature to the eye region, impair perceiving a face and matching it to another face.

Twenty undergraduate psychology students looked at 180 pairs of faces, which were shown next to each other in one block and shown one after the other in another block. Participants decided as quickly as possible whether the two images portrayed the same person. Because we were interested in the effect of matching faces with and without glasses, one in each pair always lacked glasses. The pairs showed either the same face in two different versions or different faces.

When both faces were presented simultaneously, wearing full-rim glasses led to a longer reaction time in matching two different faces. This means that full-rim glasses impeded discrimination of faces when two different faces were shown, rimless glasses, however, did not produce this effect. For comparisons of the same face (i.e. the same individual) with and without glasses, we found that comparisons of faces without glasses in both images were quickest. This, however, is not surprising as the two images were not only of the same individual, but were also exactly identical themselves. To conclude: Faces with full-rim glasses compared to faces without glasses slowed simultaneous matching, but did not influence accuracy of the matching. This suggests that we can reliably match two faces even when an individual is wearing glasses in one image, but it takes some more time to do so.

When both faces were presented sequentially, no such effects were found. The only result was that when exactly the same image (e.g. no glasses, short break, no glasses) was shown reaction times were—not surprisingly—fastest. This shows that when faces had to be recognized shortly after the initial presentation, glasses did not impede this task.

To conclude, only full-rim glasses seem to impede the speed of face identification: they slow down recognizing someone. But they do not seem to reduce the accuracy of face identification. However, in a typical eyewitness situation, witnesses have to identify face, where the time span of seeing and recognizing is much longer than in the previous experiment. Thus, in Experiment 4 we measured whether wearing glasses influences long-term recognition of faces.

Experiment 4 – Recognition of Faces

In the first part of Experiment 4 (Experiment 4A), we tested how glasses affect recognition of faces in general. In the second part of Experiment 4 (Experiment 4B), we tested whether adding glasses to a face hinders recognition—all faces were first presented without glasses and then again with glasses. These experiments consisted of a learning phase and a test phase. Importantly, when they originally saw the faces they were subsequently asked to recognize, they were unaware of the future importance of the face. This resembles the situation of eyewitnesses.

In Experiment 4A, 24 undergraduate psychology students first rated images of faces without glasses, with full-rim glasses, and with rimless glasses on distinctiveness (learning phase). Experiment 4B differed in that only faces without glasses were rated during the learning phase by 24 different undergraduate psychology students. After the learning phase a distractor task was administered, aiming to prevent participants from actively rehearsing the previously seen faces. In the test phase of Experiment 4A, the previously seen faces were presented in combination with the same amount of new faces. As we also wanted to test whether adding glasses to faces hinders recognition, in the test phase of Experiment 4B, two-thirds of the previously seen faces were presented with glasses together with the same amount of new faces. In both experiments, participants indicated for each faces whether it has been presented in the learning phase or not.

The results show that recognition was highest when two identical images were shown during learning and test phase. In Experiment 4A, rimless glasses slightly affected recognition: faces with rimless glasses were more likely to be falsely evaluated as previously seen (false positives) compared to faces without glasses. However, adding glasses to the face in Experiment 4B did not influence recognition rates. Taken together, this means that wearing glasses does not seem to affect face recognition dramatically. Rimless glasses, however, lead to the effect of confusing some faces. This could be due to reduced distinctiveness of faces with rimless glasses (Leder & Bruce, 1998), as also distinctiveness ratings throughout our experiments suggest.

Conclusion

In four experiments we studied how eyeglasses impact perception and impressions of faces. We could show that glasses (a) foster stereotypical evaluations, but (b) they depend on the type of glasses worn. Furthermore, glasses attract attention to the eye region and impede a quick discrimination and recognition of faces. However, it seems they do not impede the accuracy of face identification.

In our first experiment, testing stereotypical evaluations, we found that faces with full-rim glasses are evaluated as less attractive and more intelligent than faces without glasses. This confirms the glasses stereotype. Interestingly, faces with rimless glasses are not evaluated as less attractive, but as more intelligent and also as more trustworthy than faces without glasses. This means that wearing rimless glasses increases the chances of someone being regarded as more intelligent and trustworthy—which may be beneficial in court—without having the downside of getting evaluated as less attractive—which would not be beneficial in court. Being evaluated as more intelligent or trustworthy, of course, does not mean that one is indeed more intelligent or trustworthy. However, drawing on findings from first impressions and the tendency to confirm these, one might have a head start with rimless glasses.

Only faces with full-rim glasses got rated as less attractive compared to faces without glasses. This could be due to perceptual factors influencing facial attractiveness, particularly facial distinctiveness. Facial distinctiveness, the difference between a single face and the mean of the population, is mostly associated with lower attractiveness evaluations (Langlois & Roggman, 1990). Throughout our studies we found that faces with full-rim glasses were generally rated higher in distinctiveness compared to faces with rimless and faces without glasses. This explains why rimless glasses do not lead to lower attractiveness, whereas full-rim glasses, which confer higher distinctiveness, do.

Regarding perception, discrimination and recognition of faces our experiments show that glasses lead to longer looks at the eye region. Furthermore, it takes longer to discriminate (or match) two faces. Nonetheless, the accuracy of discrimination and recognition of faces with full-rim glasses is comparable to faces without glasses. Rimless glasses, on the other hand, seem to render faces more likely to be confused with a different face.

For practical purposes, our findings suggest that wearing full-rim glasses do not help in concealing one's identity in short-term recognition in general, but they do slow perception. Eyewitnesses at a crime scene often only have a short glimpse at the suspect(s) – glasses in this particular case might then complicate perception and, hence, later recognition. However, whether this really is the case remains to be tested. Especially,

rimless glasses show the effect that one's face becomes more easily confused with someone else's. In court this could be beneficial or detrimental—depending on whether one is guilty or innocent.

Limitations and Caveats

For applied purposes, our experiments bear the limitation of being performed in the laboratory with mostly undergraduate college students as participants. These factors imply that generalizations to all samples and contexts should be done with caution. Concerning the participants, there is, however, no indication that other participants would evaluate faces differently to students. The limitation of being laboratory studies attenuates our findings to mere suggestions for practical application in real world contexts, as for example in court. Maybe at this point you will be wondering why we do lab experiments in the first place, when generalization to real world contexts is uncertain. The primary reason is that lab experiments allow us to control possible mediating and confounding variables which would prevent us from drawing clear-cut conclusions about our findings. Real world contexts, such as situations in court, include plenty of these confounding variables.

Nonetheless, the studied phenomena included rather basic perceptual processes (recognition, discrimination, looking behavior). These, of course, influence our behavior, whether in a laboratory or in a "real" situation, as in front of a jury. Brown et al. (2008), for instance, have shown that there is a direct connection between evaluation of faces and severity of the penalty.

Apart from the studied perceptual factors influencing the connection between wearing glasses and evaluation of faces, contextual factors also play a role. In court, one example of contextual factor is the type of crime of which one is accused. If one is accused of a crime committed mostly by highly intelligent people (white collar crimes, such as insider trading or forgery) wearing glasses might not be beneficial. For other crimes (assault, robbery, or sexual offense), conversely, looking more intelligent, more "nerdy", and therefore not corresponding to the stereotypical culprit, might help in getting milder penalties. We do not intend to advocate wearing glasses that do not match the crime of which someone is accused. Our main intention is to raise awareness about the possible influence of people's evaluations on their beliefs about whether someone is capable of a specific crime or not.

Final Remarks

To sum up, glasses affect what is—and what can be—perceived in a face. They therefore have specific effects on perception, recognition, and evaluation. On the other hand, owing to existing stereotypes glasses may also encourage drawing conclusions about personality traits of persons (trustworthiness, successfulness, likeability, or intelligence). Wearing glasses in court may therefore be a mixed blessing. Full-rim glasses lead to higher intelligence ratings, which can be beneficial in court, but to lower attractiveness, which can be detrimental in court. But, with rimless glasses one has the advantage of being evaluated as more intelligent, as well as more trustworthy, but not as less attractive. What more could one want?

This article has been adapted from: Leder, H., Forster, M., & Gerger, G. (2011). The glasses stereotype revisited: Effects of glasses on perception, recognition and impressions of faces. Swiss Journal of Psychology, 70, 211-222. doi:10.1024/1421-0185/a000059

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Gernot Gerger is a Post-Doc researcher at the Faculty of Psychology, University of Vienna, Austria. He has a research focus on empirical aesthetics. Studying aesthetic evaluations and the interplay of emotional and cognitive processes can contribute to a deeper understanding of how cognition and emotion form human attitudes and experiences. Gernot Gerger uses different research methods, for example employing psychophysiological measurements in combination with explicit measures.

Helmut Leder is Professor at the Faculty of Psychology, University of Vienna, Austria. He is Head of the Department of Basic Psychological Research and Research Methods, and Deputy Head of a Cognitive Sciences Research Platform. His own research has a focus in perceptual aesthetics, and he has published books, and many scientific papers in the areas of psychology of the arts, faces, and design appreciation.

References

Bayliss, A. P., & Tipper, S. P. (2006). Predictive gaze cues and personality judgments: Should eye trust you? Psychological Science, 17, 514-520. doi:10.1111/j.1467-9280.2006.01737.x

Bindemann, M., Scheepers, C., & Burton, A. M. (2009). Viewpoint and center of gravity affect eye movements to human faces. Journal of Vision, 9, 1-16. doi:10.1167/9.2.7

Brown, M. J., Henriquez, E., & Groscup, J. (2008). The effects of eyeglasses and race on juror decisions involving a violent crime. American

Journal of Forensic Psychology, 26, 25-43.

Bruce, V. (2011). Applied research in face processing. In A. Calder, G. Rhodes, M. Johnson, & J. Haxby (Eds.), Oxford Handbook of Face Perception (pp. 131-146). Oxford: Oxford University Press.

Efran, M. G. (1974). The effect of physical appearance on the judgment of guilt, interpersonal attraction, and severity of recommended punishment in a simulated jury task. Journal of Research in Personality, 8, 45-54.

Gigerenzer, G., Todd, P. M., & The ABC Research Group. (2001). Simple heuristics that make us smart. Oxford: Oxford University Press.

Hasart, J. K., & Hutchinson, K. L. (1993). The effects of eyeglasses on perceptions of interpersonal-attraction. Journal of Social Behavior and Personality, 8, 521-528.

Hellström, A., & Tekle, J. (1994). Person perception through facial photographs: Effects of glasses, hair, and beard on judgments of occupation and personal qualities. European Journal of Social Psychology, 24, 693-705. doi:10.1002/ejsp.2420240606

Kahneman, D. (2011). Thinking, fast and slow. New York, NY: Farrar, Straus, & Giroux.

Langlois, J. H., & Roggman, L. A. (1990). Attractive faces are only average. Psychological Science, 1, 115-121. doi:10.1111/j.1467-9280.1990.tb00079.x

Leder, H., & Bruce, V. (1998). Local and relational aspects of face distinctiveness. Quarterly Journal of Experimental Psychology Section a-Human Experimental Psychology, 51, 449-473.

Leventhal, G., & Krate, R. (1977). Physical attractiveness and severity of sentencing. Psychological Reports, 40, 315-318.[doi:10.2466/pr0.1977.40.1.315][11]

Lindsay, R. C. L., Mansour, J. K., Bertrand, M. I., Kalmet, N., & Melsom, E. (2011). Face recognition in eyewitness memory. In A. Calder, G. Rhodes, M. Johnson, & J. Haxby (Eds.), Oxford Handbook of Face Perception (pp. 307-328). Oxford: Oxford University Press.

Lundberg, J. K., & Sheehan, E. P. (1994). The effects of glasses and weight on perceptions of attractiveness and intelligence. Journal of Social Behavior and Personality, 9, 753-760.

Olivola, C. Y., & Todorov, A. (2010). Elected in 100 milliseconds: Appearance-based trait inferences and voting. Journal of Nonverbal Behavior, 34, 83-110. doi:10.1007/s10919-009-0082-1

Sigall, H., & Ostrove, N. (1975). Beautiful but dangerous: Effects of offender attractiveness and nature of the crime on juridic judgment. Journal of Personality and Social Psychology, 31, 410-414. doi:10.1037/h0076472

Smith, E. D., & Hed, A. (1979). Effects of offenders' age and attractiveness on sentencing by mock juries. Psychological Reports, 44, 691-694. doi:10.2466/pr0.1979.44.3.691

Tavris, C., & Aronson, E. (2007). Mistakes were made (but not by me): Why we justify foolish beliefs, bad decisions, and hurtful acts. Orlando, FL: Harcourt.

Zebrowitz, L. A., & Montepare, J. M. (1992). Impressions of babyfaced individuals across the life-span. Developmental Psychology, 28, 1143-1152. doi:10.1037/0012-1649.28.6.1143

We asked two trial consultants to respond to this paper. Elaine Lewis and Michelle Ramos-Burkhart respond below.

Elaine Lewis responds:

Elaine Lewis is President of Courtroom Communications LLC. She specializes in witness preparation, assists in framing and organizing trial issues and developing case themes and is a member of the American Society of Trial Consultants, SAG/AFTRA, and Actors Equity Association. Elaine is based in New York City but works for attorneys throughout the United States.

"**Men seldom make passes** at girls who wear glasses" is a line written by Dorothy Parker and first printed in 1925. This example of a glasses stereotype, although humorous, is similar to other well known stereotypes such as Asians are smart, Jews are good in business, and the Irish drink a lot. **The Glasses Stereotype Revisited**, an extremely well written research paper by three Austrian psychologists – a psychology graduate student, a post doc faculty researcher, and a psychology professor, all from the University of Vienna, unfortunately yields little more than a confirmation of stereotypes with which we are all familiar.

The problem in researching the glasses stereotype is the need to reduce a kaleidoscope of variables to just a few for the purpose of a laboratory experiment. In our modern world, eyeglasses have become fashion items with an endless variety of choices, as well as devices to improve vision. Depending on the style selected they can make a face look better, different, or worse, by accident or design.

In checking the countless vendors of glasses on the internet one finds that glasses come in shapes that include square, rectangular, round, and geometric, in sizes large, medium, and small, and seemingly infinite variations in between. They can be rimless or they can be full rimmed, half rimmed on either top or bottom, ¾ rimmed, all in various rim thicknesses. Frames come in a variety of colors and are made in many different materials like shell, plastic, and metal.

The professionals who help individuals select eyeglasses consider many things in helping people project the image they would like. There is, first of all, face shape such as oval, square, heart shaped, and diamond. Then there are skin tone, eye color, hair color and hairstyle to look at. Correctly selected, the right color glasses can brighten a sallow skin and give a glow of health. Wearing glasses can hide bags or wrinkles under the eye and make people look younger or more awake. Glasses can enhance eye color and complement one's hair. They can soften harsh features, or give added dimension to faces that need more shape.

The glasses stereotype researchers selected three variables to test. They investigated reactions to computer images of faces with full-rimmed glasses, rimless glasses and no glasses in four separate experiments. The glasses stereotype is the subject of only the first of the four. Choosing to include rimless glasses was an attempt to include changing styles in glasses.

In the stereotype experiment, the researchers took a second look at the way people perceive individuals with and without glasses. The finding that the commonly held stereotypes still exist, such as individuals who wear glasses seen to be more intelligent but less attractive than those without, is hardly a surprise. Outside the limits of the experiment, the results may have been quite different. With all the eyeglass options available, it is not hard to make someone more attractive with glasses than without. To be fair, the writers note that stereotypes can "*be wrong in many particular cases*." They also state that "*the glasses stereotype may depend on the type of glasses*."

Rimless glasses were the only novelty in this experiment. It was found they split the difference between glasses and no glasses, taking on some of the stereotypes of each. This too seems an obvious result. Rimless glasses are meant to be as invisible as possible, yet because they don't disappear completely, the wearer has a look of no glasses and glasses at the same time.

As a specialist in witness preparation, I always consider the impact of glasses my client may be wearing, but rarely in terms of stereotype. If the glasses are hiding my witness's eyes, I might suggest they be removed since being able to see a witness's face, particularly the eyes, is one of the tests of credibility. On the other hand, if removing glasses will be a hardship or too upsetting to the witness, the glasses have to stay and we will work with the best choices available among other elements of testimony that help determine credibility.

Equally important is being certain that the glasses are not misrepresenting my client in a negative way. Each case has to be considered on its own merits. If I have a pussycat of a witness who is a truly decent man but may wear glasses that give him a mean and scary look, I might ask if there are other glasses that could be worn. There is nothing wrong with helping a witness present himself in the best way possible through the use or non-use of glasses, just as one would make sure the witness will look his best, behave respectfully, and answer questions appropriately at trial. On the other hand, using glasses as a sheep costume for the wolf in an attempt to deceive the trier of fact would be as inappropriate and unethical as tampering with evidence.

The remaining three experiments, using the same three variables, all dealt with issues of face recognition such as is called for in eyewitness reports or police line-ups. The results of these experiments also demonstrated what is already known. One obvious finding was that the reaction time in recognizing previously seen faces looking exactly the same the second time around, was faster than the recognition of faces seen previously without glasses and later with glasses. Not surprisingly another conclusion was that it is easier to remember faces that "*pop out*"

of a crowd rather than being ordinary. Given that the research generally found that reactions to faces with totally rimless glasses were more closely aligned to the reactions to faces with no glasses, rather than rimmed glasses, it is obvious rimmed glasses would stand out in a group. Unless the subject without glasses has some other striking attention-getting feature, the person wearing glasses, especially particularly distinctive glasses, will be the one who gets the quickest recognition and will be easiest to remember.

To their credit, the researchers offered their own caveats regarding their research. They suggested that one of the limitations was the fact that the experiments were done in a laboratory using perceptions of mostly undergraduate students. They warned that generalizing their results to real world applications is "*uncertain*" and should be "*done with caution*."

To this warning I would like to add that given all the ways eyeglasses can affect appearance today, the need to choose three basic variables to explore could not possibly have turned up results of much value. It was a yeoman effort "full of sound and fury" but an impossible task, "signifying nothing" new. Therefore common sense must prevail over the research.

Michelle Ramos-Burkhart responds:

Michelle Ramos-Burkhart is President/Senior Trial consultant with Verdict Works, LLC, located in Long Beach, California where her firm focuses on criminal and civil defense and serves clients nationwide. Michelle has a B. S. in Behavioral Science, a J.D., LL.M. in Trial Advocacy and is completing her PhD with emphasis in perception and cognition.

My current research and practice area is strongly focused in cognition and perception. While the implications of the research are applicable for many consultants and attorneys, I think the recent return to focus on external factors that influence a juror's perceptions makes this study timely. It provides a nuanced look at how perception can be altered albeit slightly, by the wearing of eyeglasses.

Historically, juror personality traits and their relationship to decision-making were evaluated when determining how a juror might judge a person on trial. This gave way over the years to scientific methodologies that would provide stronger predictors of jury decisions (Greene, Chopra & Kovera, 2002). Currently, much of the research in juror decision-making focuses on information and cognitive processes as opposed to personality or physicality indicators (Greene et. al., 2002)

One poll conducted in the U.K. on behalf of the College of Optometrists amongst 2,000 respondents in December 2009 found:

- 43% of people think glasses make people look more intelligent
- 36% of people think glasses make someone look more professional
- 40% already wear or are considering wearing clear lens glasses they don't need

While this data is interesting from a personal, business or career standpoint, for our purposes it is clear that criminal defendants appearances can also make impressions. You may recall that Lee Boyd Malvo dressed in conservative style sweaters when he was on trial for his role in the 2002 D.C sniper shootings. More recently, the Jodi Arias case reflects what many assume is a deliberate "rebranding" of her appearance from a blonde sexy bombshell to a diminutive brunette with glasses and bangs. These tactics are nothing new, however, the depth and data that researchers like Leder, Forster and Gerger are narrowing in on through studies like this, may be changing the way we use this information in a courtroom context.

In popular media it has been given a name, "*The Nerd Defense*" at least according to New York defense lawyer Harvey Slovis. However, these approaches are not without some pushback. In 2007, a District of Columbia Superior Court prosecutor requested that the jury be instructed on Harris' altering of his appearance as a determining factor pointing to guilt, and these instructions were upheld by the court, *Harris v. State*, DC Circuit No. 08-CF-1405 (2012).

Leder, Forster and Gerger's multi tiered study seeks to evaluate whether different types of eyeglasses could elicit stereotypes. They discovered that glasses could (a) foster stereotypical evaluations, but (b) it depends on the type of glasses worn (Leder, Forster & Gerger, 2011). Accuracy it seems was not impeded, but speed of identification was depending on the type of lens.

So, what does this mean for consultants and lawyers moving forward? It is clear the field is moving towards more specificity in strategies of trial execution and this is one of many studies that may or may not influence practice by attorneys or their consultants. While the recent focus of appearance in court has received a great deal of play in the media, it is not clear how often attorneys or consultants are using these methods in practice which might make for an interesting study in and of itself. Personally, I would be interested in a further study that looked specifically at gender, since prior studies, for example, indicate lack of credibility due to gender for female attorneys versus their male counterparts (Hahn & Clayton, 1996). How might eyeglasses alter those findings? Stereotypes and biases are cognitive psychosocial processes that affect all people and our relationships in various ways. These studies go hand in hand with many preconceived notions that may alter and sway our juror pools.

Finally, I believe that the impact of this research on jury decision-making may have a multitude of applications including juror perceptions of attorneys and judges as well as

defendants. Additionally, it may have applicability in the context of expert testimony for eyewitnesses or perhaps even in voir dire. As a consultant that works in criminal and civil defense, I welcome the data but would proceed with caution as the D.C. case noted above reflects; what you may think is a tool in your arsenal of strategy could with an insightful prosecutor or skeptical judge come back to bite you. Weighing the benefit and risk in conjunction with the facts and evidence should help determine whether to utilize this research in your cases. In the meantime, I'm off to buy some glasses.

References

Greene, E., Chopra, S. R., Kovera, M. B. et al. (2002). Jurors and juries: a review of the field. In J. R. P. Ogloff (ed.), Taking Psychology and Law into the Twenty-First Century (pp. 225–284). New York: Kluwer Academic/Plenum.

Hahn, P.W., & Clayton, S.D. (1996). The effects of attorney presentation style, attorney gender, and juror gender on juror decisions. Law and Human Behavior, 20, 533-554.

Leder, H., Forster, M., & Gerger, G. (2011). The glasses stereotype revisited: Effects of glasses on perception, recognition and impressions of faces. Swiss Journal of Psychology, 70, 211-222.

Beyond Expert Credentials:
Every Aspect of Credibility Counts

by Charlotte A. Morris

Combining Common Knowledge with Specialized Expertise

EXPERT TESTIMONY IS REQUIRED when the determination of standard of care or causation is beyond the ordinary experience and knowledge of the normal fact finder. But jurors are also instructed that they may use their own common knowledge and life experience to decide the case. In effect, our justice system seems to be talking out of both sides of its mouth: we bring experts to teach jurors the most complex aspects of our case, but jurors are ultimately free to use their own experience and common sense to decide it. Which means that either both will come together for a verdict in your favor, or they will compete with one another and your outcome is less certain.

Credibility Counts

Beyond the legal requirements for expert qualification (which is serious business, but truly unrelated to the ultimate question of how persuasive an expert will be) it's important to evaluate expert witnesses the same way you size up any other witness.

I assess all witnesses along three general components of credibility: trustworthiness, competence and likability. Each of these are characterized by a wide variety of traits, only some of which are shown below:

Trustworthiness	Competence	Likability
Dependable, Reliable, Consistent, Honest, etc.	Skill, Knowledge, Training, Reputation, Experience…	Warmth, Manners, Humor, Listening Skills, Empathy…

Most experts score off the charts in competence.[i] But be sure you are evaluating your potential experts on the other two elements of credibility from the time you first meet them. Keep a checklist in each expert witness file so you will remember to deliberately evaluate your witness along all three dimensions.

Do this every time you meet with your expert. It only takes a few minutes and you can track what you are noticing over time, while there is still time to help the witness communicate more effectively or to make changes to your line-up for trial if necessary.

It is easy for lawyers themselves to fall into "expert" mode when talking with experts, but if you do so you may be over-emphasizing the value of competence, or short-changing the importance of trustworthiness and likability. If your choice is between the expert with humor and humility and the one with a much longer list of publications on a CV – and you are sure that both will be qualified as experts and help you overcome a *Daubert* challenge or motion for summary judgment – choose the one jurors will *like* and *trust* the most.

Finally, make the majority of your calls with experts by videoconference. Skype™ is free and witnesses can take their computers or tablets wherever they go; there are no good excuses for not doing so anymore and no call is too short. Take your own video camera (or your iPad™) to your initial interview with experts and record your conversations. While you're talking literature and technical details, the video camera will capture the other components of credibility. Once back at your office, you can review the videotape and record your observations separate and apart from the substance of your discussion.

The Mechanics Matter: Experts Are People Too

Your experts will communicate their important (and expensive) testimony by the same means all other human beings communicate, so you should also be evaluating them for both verbal and non-verbal skills. Jurors' impressions and opinions will be based on everything they see and hear from an expert on the stand (or by video), not just the impressive curriculum vitae.

Just as you can rate your experts on components of credibility, you can also rate them on a wide variety of traits within categories of verbal and non-verbal communication, such as:

Voice	Speech	Non-Verbal
Volume, rate, pitch, pace…	Memory, vocabulary, interaction with opposing counsel, teaching skills…	Eye contact, posture, gestures, mannerisms…

"Holy Mackerel, Man!" and Other Charming Excerpts from an Expert Witness Deposition

I recently consulted on a case and found all of these gems in a single deposition transcript. It highlights for me how often attorneys assume that experienced expert witnesses will not need careful preparation before giving crucial testimony in the case.

An engineer with dozens of cases to his credit, answered questions this way:

A: That is immaterial and irrelevant.

A: You asked me that question earlier.

A: What did I just say? Holy Mackerel, Man.

A: I love the way you guys ask those questions.

And my personal all-time favorite:

A: Object to form.

Even without the benefit of a videotaped deposition – which would have added all of the non-verbal flavor to an already spicy transcript – I could see the damage this expert did to his own credibility and potentially the credibility of the case itself. We cannot allow experts to jeopardize either and there are no excuses for even the smartest witnesses to compromise the integrity of their testimony this way.

As you make your observations, share them with your expert as you go. Be sure to compliment on things done well, and deliver constructive feedback on the things that are getting in the way of overall credibility.

If you feel awkward giving this kind of specific feedback to an expert, it may be a sign that you don't have the rapport you will need to work well with that expert in front of a jury, or it may signal that you have an arrogant expert on your hands. As an experienced trial consultant, I've often been charged with giving feedback to expert witnesses. In my experience, most expert witnesses are grateful for the attention to detail because they value their own reputation and want to do well in every case.

If you are concerned about rules governing disclosure of your work with an expert witness and how it can be done with a trial consultant present in the prep session, be sure to review your local rules and read up on the issue[ii]. You can also send a video of your working session with a witness and allow the trial consultant to provide you with feedback that you can then pass along to your expert.

Finally, do not assume that because you have picked an expert with a lot of experience testifying in other cases that any other lawyer has done this preparation work for you. In fact, I recommend starting with an expert in the same place I would with any

other witness: using a series of open-ended questions that are not specific to expertise.

Some of these include:

- What are your strengths as a witness? What are your weaknesses?
- If you have testified in jury trials before, did you get any feedback from jurors about how you did? If so, what did you learn?
- What do you have to say that will help the case?
- What do you have to say that will hurt the case?
- What do you understand your role in the case to be? How does it compare to other witnesses, if you know?
- What do you believe to be the important theme(s) in the case?
- What do you most want the jury to know about you? What do you most want the jury to know about the case?

I am often surprised at how infrequently attorneys ask simple "getting to know you" questions of their experts. Remember that jurors themselves are experts in their chosen professions and experts are ordinary people too when they are not at work. Questions like those above have the effect of opening up and "normalizing" your super-experts, which makes them far more relatable to jurors at trial. Remember the components of credibility include the qualities of witnesses that make them likable and trustworthy. You will have to look for and encourage those traits or an expert will default to competency every time.

You may also be surprised to learn that some experts have no clue whatsoever how their specific testimony relates to your overall strategy for the case, have never considered how expert testimony compares to the testimony of other witnesses, or have no idea what your working case themes are. No witnesses (expert or otherwise) are going to be effective until you have helped them to internalize these ideas and incorporate them into testimony.

Give Your Expert a Stake in the Outcome

To deepen experts' commitment to your case, introduce them to your clients. If you can't do so directly, use pictures and videos wherever possible to enhance the deposition transcripts your experts review. The most effective expert witnesses I have ever seen are those who feel a direct (if not also personal) connection to your case and your clients. If you find that an expert is not really that interested in knowing much about your clients, you have a good clue that the expert will fail on at least one major component of credibility (likability).

Beyond forming an emotional or psychological connection to your clients, your experts may be in a better position strategically to help you fight off contributory/comparative fault claims if they know – and understand – how and why your clients behaved the way they did. If your experts are not showing enough interest, prompt them with questions like these:

- What are you most curious about in this case?
- If you could ask my client anything, what would you ask?
- Have you ever known anyone (or a company) like my client who was in a situation like this before? What does it bring to mind?
- What do you most want the jury to know about how you think or feel about my client?

Experts who genuinely care about your client will use language in their testimony that reflects this. Listen for – and encourage – all the ways that your experts can give opinions that also convey care and concern for the individual (or anyone in a similar situation), rather than impersonal, general statements of a rule or standard.

At Trial: Arm Your Experts with Jurors' Own Experiences

After you have done the front-end work to prepare an expert to be effective in deposition and with a jury, you also have an opportunity to gather more information at trial that will be useful to the expert once on the stand.

If you plan your questions carefully, jurors will tell you about their expectations for expert testimony during *voir dire* without you ever mentioning the phrase "expert testimony." Good jury selection techniques allow us to get jurors thinking about what they already know that will be important to – and consistent with – our expert testimony. The very best questions enable you to marry the "common" with the specialized knowledge.

From work experience alone – in any case, with every juror – you can start to establish what qualities make an expert credible. Obviously you want to encourage and positively reinforce answers that identify those traits you wish to highlight in your own expert:

- Are you qualified in your profession by: Your degree? Your training? Your experience?
- Tell us about each of those and which you hold most valuable or important in your work.
- Are there technical aspects of your job?
- Do you consider yourself an expert at what you do? Why do you think so? What did it take to become an expert?

- When you do not agree with other experts on the job, how do you resolve those differences?

- If you were wrong about something on the job, would it be difficult for you to admit it? On the other hand, if you felt sure you were right are you willing to stick to your guns?

You can also get jurors talking about the very ideas you want to advance through your witnesses and test jurors' willingness to accept and adopt the opinions of an outside expert.

- Are you required to comply with safety rules or standards where you work?

- Are you bound by any professional standards in your practice?

- On a scale of 1 to 10, how would you rate the importance of the rules and standards in your work? Why are they important in your job (or not)?

- Are those rules or standards handed down by outside experts or are they unique to your place of work?

- How often – if ever – do you seek the opinion of outside experts who may be able to see your situation at work more objectively and bring good ideas to the table?

Lastly, an expert witness will be prepared to tell jurors how and why the defendant either did or did not fall below the standard of care and caused (or didn't cause) the Plantiff's harms and losses. Hopefully your experts' opinions will match those pre-existing ideas jurors bring with them to the jury box, and to ensure this, you will need to ask jurors to tell you, for example:

- What makes a good doctor good?

- What makes a bad doctor bad?

- What's the difference between an accident and negligence?

- What's the difference between medical mistake and malpractice?

After you have gathered jurors' own ideas, beliefs and opinions on these and other important issues, talk to your experts and share those insights so that they can strike the same note when they take the stand. Having an expert put testimony in terms that are familiar to jurors gives your expert a huge advantage over a "smarty-pants" who doesn't know the importance of paying attention to the sensibilities of the jury.

The time and money you invest in expert witnesses is perhaps the greatest expense of any case. No matter how impressive the credentials, experts must relate as well to jurors as their testimony must relate to the facts and law. If you are not already tending to the expert's strengths and weaknesses that are distinct from technical expertise and specialized knowledge, you may be inviting jurors to substitute their common knowledge, life experience, or common sense for the testimony of an ineffective – but not inexpensive – expert witness.

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Endnotes

[i] A highly competent witness may also be too cocky. See Morris, Charlotte A., "Preparing the Narcissistic Witness: Mirror, Mirror on the Wall." The Jury Expert, Vol. 20: Issue 3. September 2008. http://www.thejuryexpert.com/2008/09/the-preparation-of-narcissistic-witnesses-mirror-mirror-on-the-wall/

[ii] Trial consultants work as agents of the attorney-client. For more discussion see Davis, Stanley D., Beisecker, Thomas D. "Discovering Trial Consultant Work Product: A New Way to Borrow an Adversary's Wits?" American Journal of Trial Advocacy , Vol. 17: 581. See Also, In re Cendant Corp. Securities Litigation, 343 F.3d 658 (3d Cir. 2003).

It's usually around the end of my second hour of filling out expense reports from my most recent trip that a dull pain starts to fill my head. I start questioning my sanity, wondering why it could be taking this long to do something that's not all that difficult. BUT THEN WHY IS IT SO DIFFICULT? Expensify is a free web service and mobile app that promises to make your expense reporting less painful. While I've just started using it, it seems like it might do just that. It helps you stay organized, file your receipts, create reports, and stay in good standing with the IRS. Check it out!

Brian Patterson is a graphic designer and trial consultant at Barnes & Roberts. He has created and overseen production of multimedia presentations for well over a hundred courtroom proceedings since 1998. He is Assistant Editor of The Jury Expert, and is founder and contributor to the blog Information Graphics & Litigation.

Does This Recession Make Me Look Black?

by Christopher D. Rodeheffer, Sarah E. Hill, and Charles G. Lord

Don't miss our trial consultant responses at the end of this article: Roy Aranda, Gabrielle Smith, Stanley L. Brodsky, and George Kitahara Kich, and a response to the consultants from the authors.

The Effect of Resource Scarcity on the Categorization of Biracial Faces

Whether at the supermarket or jogging through the park, we effortlessly categorize those we come in contact with as either belonging to "us" or "them." Unfortunately, race is usually a determining factor in how we make these decisions. People readily associate same race individuals with "us" (i.e., the in-group) and other race individuals with "them" (i.e., the out-group; Hewstone, Hantzi, & Johnston, 1991). In today's diverse world, however, not all individuals fit neatly into one racial category. According to the 2010 U.S. Census, there are over 9 million Americans with a multi-racial heritage, a number that is expected to more than double by 2050 to 21.5 million (Humes, Jones, & Ramirez, 2011). If, while jogging through the park, you pass someone with a mixed-racial heritage, how will you perceive them? Here, we discuss two studies that suggest your decision might be biased by the current state of the economy (Rodeheffer, Hill, & Lord, 2012). We predicted that when resources are scarce, and there is less to go around, people may be more restrictive when granting in-group or "us" status to biracial others.

Whether we view another person as belonging to "us" or "them" has substantial consequences for how we might treat them. People are biased toward members of their in-group, which usually occurs at the expense of those who are categorized as belonging to the out-group (Kurzban & Neuberg, 2005). Research shows, for example, that simply dividing people into arbitrary groups can lead to in-group favoritism or bias. In one study, people were divided into groups based ostensibly on their performance on an essentially meaningless dot counting task. People subsequently allotted more money to those in their assigned group than to those in the other group (Billig & Tajefel, 1973). Further, dividing people into categories in this way creates an "out-group homogeneity effect," which is the tendency to ascribe greater diversity to one's in-group and

homogeneity to out-groups. In others words, people tend to perceive out-groups as being less diverse or "all alike" than their own groups. Given that we think more positively about people who are similar to us and more negatively about those who are dissimilar, these distorted perceptions foster a universal tendency for in-group bias or favoritism (Byrne & Wong, 1962; Rokeach & Mezei, 1966).

One explanation offered for such biases, is that they arise from resource competition between groups (e.g., Kurzban & Neuberg, 2005; Schaller, Park, & Faulkner, 2003; Sherif, 1966). From this perspective, heightened out-group antagonism is predicted to occur during periods of scarcity, leading to detrimental intergroup conflict (Jackson, 1993; Sheriff, 1966). Accordingly, resource scarcity—such as that experienced during recessions— may favor the emergence of in-group / out-group distinctions and, in turn, cloud our judgments of others. The costs of such intergroup conflict can be great, ranging from the loss of extant resources to physical harm or even death (Kurzban & Neuberg, 2005). Over the course of our evolutionary past, to help manage these costs, we might expect natural selection to have instilled in our ancestors heightened vigilance about whom they associate with under conditions of diminished resource access. This heightened vigilance may lead people to be increasingly leery of those whose in-group status is ambiguous (e.g., mixed-race individuals), making it less likely to view such ambiguous individuals as fellow in-group members.

The idea that scarcity might lead people to categorize biracial others with the out-group race is consistent with existing research. Miller, Maner, & Becker (2010) conducted a series of studies demonstrating that when biracial targets were perceived as threatening, they were more likely to be categorized as belonging to the out-group race. When viewing angry biracial faces, for example, White people were more likely to categorize those faces as Black (Miller et al., 2010). We propose that restricted resource access may evoke similar threat perceptions, biasing perceptions of biracial targets. When resource access is restricted via recession or other conditions of scarcity, and the threat of intergroup conflict increases, people may more readily associate biracial others with the out-group.

Study 1

The goal of Study 1 was to test how cues to resource scarcity via economic recession, compared to cues of economic prosperity, would influence peoples' willingness to include biracial others in their racial in-group. We predicted that when led to believe the current U.S. economy was failing, participants would be more likely to include biracial others in the racial out-group compared to those led to believe the economy was prospering.

Method

Participants

Participants were 71 White undergraduate psychology students (18 male, 53 female) participating to fulfill a research participation requirement for a psychology course.

Procedure

To inspire thoughts that the current U.S. economy was either faltering or prospering, we showed participants a brief slideshow depicting either economic collapse or prosperity. To convince participants in both conditions that the slideshows accurately portrayed the current state of the U.S. economy, we told them that they were picture and caption versions of an article recently published on nytimes.com. Both slideshows consisted of seven slides, all of which had the title of the alleged article at the top, a relevant picture, and then a caption describing the picture.

The recession slideshow, for example, was entitled, *"The New Economics of the 21st Century: A Harsh and Unpredictable World."* One slide had a picture of an unemployment line, with a caption that read: "The white-collar unemployment line—a sign of the new economy. Even college-educated individuals have a hard time finding secure work, leading to constant anxiety about the future."

The prosperous economy slideshow was entitled, *"Modern Times of Economic Prosperity: More than Enough to Go Around."* One slide, for example, had a picture of a thriving office with a caption that read, "One among many, a thriving office attempts to maintain control over the demand for their services. Jobs are being created faster than they can be filled."

Participants viewed their assigned slideshow. Then they were shown 20 biracial faces (10 male, 10 female) and for each one asked, *"If you had to choose, would it be more accurate to describe this biracial individual as Black or White?"* The target faces were created by averaging one White and one Black face using the face-averaging program at , which is made available by the Face Research Lab at the University of Glasgow Institute of Neuroscience and Psychology. All faces used were forward facing, neutral expression profiles and were taken from the Center for Vital Longevity Face Database (Minear & Park, 2004). After completing the categorization task, participants were thanked and fully debriefed.

Results and Discussion

To test our hypothesis that people in the recession condition, relative to those in the economic prosperity condition, would categorize more biracial target faces as Black, we entered the number of faces categorized as Black into an independent-

samples *t _test as the dependent variable with condition (recession, prosperity) as the independent variable. The results show that those exposed to recessionary cues categorized more faces as Black (_M* = 9.35, *SD _= 2.80) than did those in the abundance condition (*M_ = 7.82, *SD* = 3.15), *t*(69) = 2.16, *p* = .034, *d* = 0.51. Thus, this finding supports our hypothesis that recessionary cues may lead Whites to have a more restrictive racial in-group, categorizing more biracial targets as black.

Study 2

In Study 2 we sought to determine the directionality of this effect. Does scarcity increase the number of faces people categorize as Black? Does abundance decrease the number of faces people categorize as Black, or both? To this end, a neutral condition was included, serving as a baseline comparison for both the scarcity and abundance conditions. We predicted that those in the scarcity condition would categorize more biracial targets as Black compared to both the abundance and neutral conditions.

Method

Participants

Participants were 81 White undergraduate college students (32 male, 49 female) participating to fulfill a course research requirement.

Procedure

Participants were randomly assigned to one of three conditions: resource scarcity, resource abundance, or a neutral control.

In the scarcity condition, participants completed analogy problems containing words descriptive of resource scarcity (e.g., sweat:summer :: debt:__).

In the abundance condition, participants completed analogy problems containing words descriptive of resource abundance (e.g., payday:money :: harvest:__).

Participants in the neutral condition completed analogy problems that contained words unrelated to scarcity or abundance (e.g., diamond:baseball :: court :__).

Next, after completing their respective problems, participants in all conditions completed the same facial categorization task used in Study 1, categorizing 20 biracial faces by responding to the item, " *If you had to choose, would it be more accurate to describe this biracial individual as Black or White?"*

Results and Discussion

We entered the number of faces participants categorized as Black into a one-way analysis of variance, with condition (scarcity, abundance, neutral) as the independent variable. The analysis yielded a significant effect of condition, $F(2, 78) = 5.11$, $p = .008$, $\eta p2 = .12$. Probing this effect (Tukey's HSD, *p _<.05) revealed that participants in the scarcity condition categorized more biracial faces as Black (_M* = 9.78, *SD* = 2.60) compared to those in the neutral (*M* = 7.39, *SD* = 3.02) and abundance conditions (*M* = 7.62, *SD* = 3.43). The results also revealed that the abundance and neutral conditions did not differ from each other. This finding is consistent with the results of Study 1 and our hypothesis that during times of restricted resource access, people may limit the inclusiveness of their in-group, leading them to categorize more biracial targets as belonging to the out-group.

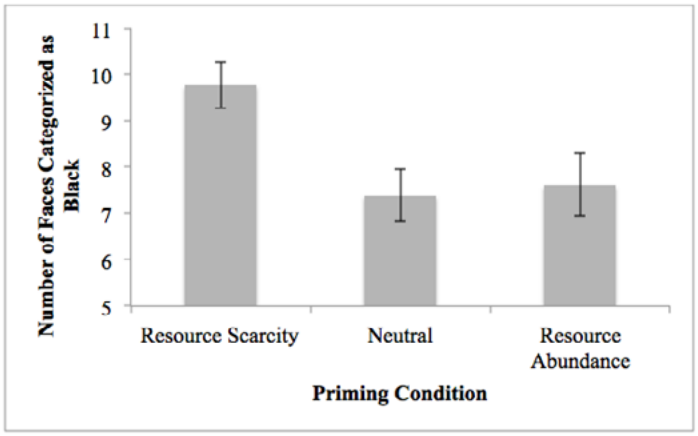

Figure 1. Mean number of faces categorized as Black as a function of priming condition (Study 2). Error bars reflect standard error of the mean.

General Discussion

Humans develop complex social relationships and work cooperatively toward common goals (Richerson & Boyd, 1998). Such ultra-sociality has many benefits (e.g., shared resources), but also has its costs (e.g., crime). We would expect, then, for humans to have cognitive mechanisms in place to help manage the costs and benefits of group life and sociality—we would expect humans to be discriminately social (Kurzban & Leary, 2001; Kurzban & Neuberg, 2005). To this end, people make snap judgments about who belongs and who does not.

In two studies we found that cues to recession and resource scarcity may influence how people make these snap judgments when evaluating whether biracial individuals belong to their racial in-group or out-group. Recessionary and scarcity cues increased people's tendency to categorize biracial targets as belonging to the out-group. This increased tendency may carry substantial consequences for biracial individuals, potentially subjecting them to both subtle and blatant forms of discrimination (Fiske, 1998). Recall the "out-group homogeneity effect," or the tendency to think out-groups are "all alike." This bias is reflected in our simple perceptions and memory for other-race faces. Research in social psychology, for example, shows that people have poor facial recognition

memory for other-race individuals relative to same-race-individuals. In other words, people tend to think members of other racial groups all look the same (Devine & Malpass, 1985).

Memory for biracial faces varies depending on whether people categorize them as belonging to the in-group or out-group. Simply considering a biracial face as belonging to the in-group, rather than an out-group, significantly improves recognition (Pauker et al., 2009). These findings suggest that biracial individuals, depending on how they are categorized by others, stand to either gain or lose the benefits afforded to in-group members, such as shared resources, various forms of social support, and more favorable interpersonal evaluations. If recessions decrease the extent to which people think biracial individuals belong (presumably by both White and Black people), we might expect obtaining such benefits to be considerably more difficult for biracial individuals.

Although this research was not conducted with the courtroom in mind, it might be relevant to litigation. In general, our findings suggest that during times of economic hardship, biracial individuals in the courtroom—whether a defendant, defense attorney, prosecutor, plaintiff attorney, or witness—may face greater adversity. Research has established, for example, that race plays an important role in the sentencing of capital punishment: Black defendants are more likely to be sentenced to death compared to White defendants (Baldus, Woodworth, Zuckerman, Weiner, & Broffitt, 1998). Furthermore, as the stereotypicality of Black defendants (primarily characterized by darker skin pigmentation) increases, the likelihood of a death sentence becomes even greater (Eberhardt, Davies, Purdie-Vaughns, & Johnson, 2006). Presumably, this occurs because people more readily assign out-group status to those individuals who more closely fit the stereotypical profile of what is considered to be the out-group.

We might expect, then, during tough economic times or other conditions of resource scarcity that prompt people to view biracial people as belonging to the out-group, biracial people may receive harsher sentences when convicted, have a harder time making their case as an attorney, or greater difficulty seeming credible as a witness, just as Blacks in the deep South historically suffered from increased lynching at times when cotton prices were low (Beck & Tolnay, 1990).

Conclusion

Overall, our findings support our hypothesis that times of recession or scarcity prompt people to have a more restrictive in-group, and as a consequence, people become less likely to see biracial individuals as in-group members. These findings are consistent with research on in-group biases (e.g., Brewer, 1979; Halevy, Bornstein, & Sagiv, 2008; Mullen, Dovidio, Johnson, Copper, 1992; Tajfel, 1982), out-group prejudice (e.g., Ackerman et al., 2006; Cottrell & Neuberg, 2005; Navarrete & Fessler, 2006; Navarrete et al., 2009), and intergroup conflict (Jackson, 1993; Sheriff, 1966). As our world continues to become increasingly diverse and densely populated, achieving a better understanding of the processes and consequences of intergroup relations is paramount.

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References

Ackerman, J. M., Shapiro, J. R., Neuberg, S. L., Kenrick, D. T., Becker, D. V., Griskevicius, V., . . . Schaller, M. (2006). They all look the same to me (unless they're angry): From out-group homogeneity to out-group heterogeneity. Psychological Science, 17, 836–840.

Baldus, D. C., Woodworth, G., Zuckerman, D., Weiner, N. A., Broffitt, B. (1998). Racial discrimination and the death penalty in the post-Furman era: An empirical and legal overview, with recent findings form Philadelphia. Cornell Law Review, 83, 1638-1770.

Beck, E. M., & Tolney, S. E. (1990). The killing fields of the deep South: The market for cotton and the lynching of Blacks, 1882-1930. American Sociological Review, 55, 526-539.

Billig, M., & Tajfel, H. (1973). Social categorization and similarity in intergroup behavior. European Journal of Social Psychology, 3, 27-52.

Brewer, M. B. (1979). In-group bias in the minimal intergroup situation: A cognitive motivational analysis. Psychological Bulletin, 86, 307–324.

Byrne, D., & Wong, T. J. (1962). Racial prejudice, interpersonal attraction, and assumed dissimilarity of attitudes. Journal of Abnormal and Social Psychology, 65, 246-253.

Cottrell, C. A., & Neuberg, S. L. (2005). Different emotional reactions to different groups: A sociofunctional threat-based approach to "prejudice." Journal of Personality and Social Psychology, 88, 770–789.

Devine, P. G., & Malpass, R. S. (1985). Orienting strategies in differential face recognition. Personality and Social Psychological Bulletin, 11, 33-40.

Eberhardt, J. L., Davies, P. G., Purdie-Vaughns, V. J., & Johnson, S. L. (2006). Looking deathworthy: Perceived stereotypicality of Black defendants predicts capital-sentencing outcomes. Psychological Science, 17, 383–386.

Fiske, S.T. (1998). Stereotyping, prejudice, and discrimination. In D.T. Gilbert & S.T. Fiske (Eds.), The handbook of social psychology (4th ed., Vol. 2, pp. 357–411). New York: McGraw-Hill.

Halevy, N., Bornstein, G., & Sagiv, L. (2008). "In-group love" and "out-group hate" as motives for individual participation in intergroup conflict: A new game paradigm. Psychological Science, 19, 405–411.

Hewstone, M., Hantzi, A., & Johnston, L. (1991). Social categorisation and person memory: The pervasiveness of race as an organizing principle. European Journal of Social Psychology, 21, 517-528.

Humes, K. R., Jones, N. A., & Ramirez, R. R. (2011). _Overview of race and Hispanic origin: 2010 _(2010 Census Briefs C2010BR-02). Retrieved from

Jackson, J. W. (1993). Realistic group conflict theory: A review and evaluation of the theoretical and empirical literature. The Psychological Record, 43, 395-413.

Kurzban, R., & Leary, M. R. (2001). Evolutionary origins of stigmatization: The functions of social exclusion. Psychological Bulletin, 127, 187-208.

Kurzban, R., & Neuberg, S. (2005). Managing ingroup and outgroup relationships. In D. Buss (Ed.) The Handbook of Evolutionary Psychology (pp. 653-675), Hoboken, NJ: Wiley

Minear, M., & Park, D.C. (2004). A lifespan database of adult facial stimuli. Behavioral Research Methods, Instruments, & Computers, 36, 630-633.

Miller, S. L., Maner, J. K., & Becker, D. V. (2010). Self-protective biases in group categorization: Threat cues shape the psychological boundary between "us" and "them." Journal of Personality and Social Psychology, 99, 62-77.

Mullen, B., Dovidio, J. F., Johnson, C., & Copper, C. (1992). Ingroup- out-group differences in social projection. Journal of Experimental Social Psychology, 28, 422–440.

Navarrete, C. D., & Fessler, D. M. (2006). Disease avoidance and ethnocentrism: The effects of disease vulnerability and disgust sensitivity on intergroup attitudes. Evolution & Human Behavior, 27, 270–282.

Navarrete, C. D., Olsson, A., Ho, A. K., Mendes, W. B., Thomsen, L., & Sidanius, J. (2009). Fear extinction to an out-group face: The role of target gender. Psychological Science, 20, 155–158.

Pauker, K., Weisbuch, M., Ambady, N., Sommers, S. R., Adams, R. B., & Ivcevic, Z. (2009). Not so black and white: Memory for ambiguous group members. Journal of Personality and Social Psychology, 96, 795-810.

Peery, D., & Bodenhausen, G. V. (2008). Black %2B White = Black. Hypodescent in reflexive categorization of racially ambiguous faces. Psychological Science, 19, 973-977.

Richerson, P. J., & Boyd, R. (1998). The evolution of human ultra-sociality. In I. Eibl-Eibisfeldt & F. Salter (Eds.), Ideology, Warfare, and Indoctrinability (pp. 71-95). Oxford: Berghan Books.

Rodeheffer, C. D., Hill, S. E., & Lord, C. G. (2012). Does this recession make me look black? The effect of resource scarcity on the categorization of biracial faces. Psychological Science, 23, 1476-1478.

Rokeach, M., & Mezei, L. (1966). Race and shared beliefs as factors in social choice. Science, 151, 167-172.

Schaller, M., Park, J. H., & Faulkner, J. (2003). Prehistoric dangers and contemporary prejudices. In W. Stroebe & M. Hewstone (Eds.), European review of social psychology (pp. 105–137). Hove, England: Psychology Press.

Sherif, M. (1966). Group conflict and cooperation: Their social psychology. London, England: Routledge & Kegan Paul.

Tajfel, H. (1982). Social psychology of intergroup relations. Annual Review of Psychology, 33, 1–39.

We asked several trial consultants to respond to this paper. Roy Aranda, Gabrielle Smith, Stanley L. Brodsky, and George Kitahara Kich respond below.

Roy Aranda responds:

Roy Aranda, Psy.D., J.D. is a forensic psychologist with offices in N.Y. and Long Island. He has been involved in several high profile cases including traveling to Cuba and Puerto Rico and testifies frequently in criminal and civil cases throughout New York State.

Rodeheffer, Hill, & Lord conducted two ingenuous studies to assess the impact of current state of the economy and race perception.

Briefly, they tested the hypothesis that how people perceive individuals of mixed racial heritage may be influenced by scarcity of resources during trying economic times. Noting that people are biased towards members of their own group, "Us" (insiders who belong) v. "Them" (outsiders who do not belong), Rodeheffer, Hill, & Lord predicted a more restrictive categorization of biracial individuals along this "Us v.Them" dimension by White undergraduate psychology students who were led to believe that the economy was failing and were asked to describe 20 biracial faces as Black or White.

The results of their first study (N = 18 males; 53 females) supported the hypothesis: namely that recessionary cues may lead Whites to categorize more biracial targets as black. Directionality of the effect (scarcity v. abundance) was supported by a second study (N = 32 males; 49 females).

The authors cite a body of relevant research and discuss several implications:

- Losing benefits afforded to in-group members
- Loss of or less access to shared benefits
- Loss of or less access to social support
- Less favorable interpersonal evaluations
- Being subjected to subtle and blatant form of discrimination

Rodeheffer, Hill, & Lord speculate that their research might be relevant to the world of courtrooms and litigation. How? They propose some areas of concern during times of economic hardship when more restrictive in-group biases appear to be more prevalent:

- Biracial individuals in the courtroom may face greater adversity
- Biracial defendants may receive harsher sentences
- Biracial attorneys may have greater difficulty making their case
- Biracial witnesses may have greater difficulty seeming credible

We are, of course, dealing with a system in which various forms of "isms" and pretextuality already are prevalent.

Some recent "strong statements" were made by Neil Vidmar, criticizing lawmakers who had introduced a bill to repeal North Carolina's Racial Justice Act[1], and by Associate Justice of the Supreme Court Sonia Sotomayor.[2]

Vidmar writes that *"juries that reflect our state's multi-racial population are key to the integrity of our criminal justice system."* He notes that *"racially mixed juries tend to have more thorough deliberations."*

And Justice Sotomayor was very critical of a question made by the prosecutor in *Calhoun v. United States*:

> You've got African Americans, you've got Hispanics, you've got a bag full of money. Does that tell you—a light bulb doesn't go off in your head and say, This is a drug deal?" Justice Sotomayor noted that such argumentation "*offends the defendant's right to an impartial jury*" and admonished "*not to fan the flames of fear of prejudice" nor summon the thirteenth juror, prejudice*" (quoting Judge Frank, dissenting opinion, *United States v. Antonelli Fireworks Co.*, 155 F. 2d 631 (CA2 1946)).

Adding to these already existing biases noted supra, one can only wonder if further research will confirm the hypothesis about resource scarcity and racial perception, and how much more this will tap the *"deep and sorry vein of racial prejudice that has run through the history of criminal justice in our Nation"* as stated by Justice Sotomayor in *Calhoun v. United States*.

Food for thought:

- Further efforts to replicate these findings?
- Applied research; taking it out of the university setting.
- What about other biracial mixes? For instance, biracial Hispanics. Will these results generalize? There are many "models" to draw from: perceptions regarding undocumented individuals as "illegals"; anchor babies. The perception that already is prevalent that "illegals" are an out-group who takes away from "our" ("Us v. Them") resources. These "illegals" face very real and harsh consequences including detention, imprisonment, tough penalties, removal (i.e. deportation), and other biases.
- Does scarcity of resources in fact have a statistically significant impact to the "*treatment*" biracials experience in the criminal justice system above and beyond racial biases already encountered?
- Is there a way to ferret out differential kinds of racial and biracial bias?
- It is not just the courtroom where biases are manifested. There is the court of public opinion, political push-pull reactions, knee-jerk reactions, and how statutes and regulations are interpreted and enforced.
- What role does resource scarcity and abundance play in people who wield authority and power? Would those

with greater abundance perceive others with less abundance as outsiders? And if threatened by loss of resources, would they perceive others who are becoming more abundant or pose a greater threat as being outsiders?

- What impact might this "effect" have, if any, on jury consultants who play a significant role in the justice system?
- What impact might this "effect" have, if any, on news reporters who cover more sensationalistic trials?
- What repercussions, including financial consequences, may be seen in civil proceedings?
- And arbitration, mediation, plea bargaining, negotiations, settlements, etc.?
- Other legal contexts (Family Court; Immigration proceedings; bench trials; etc.)?

It strikes me that the role of resource scarcity v. abundance and biracial "Us v. Them" bias has broad and far-reaching implications. I commend Rodeheffer, Hill, & Lord for this most interesting research, quite on point given our socio-cultural-economic climate.

References

[1] Neil Vidmar, Why Racially Mixed Juries and the Racial Justice Act Are Important, NewsObserver.com, March 16, 2013, available at: http://www.newsobserver.com/2013/03/16/2752597/why-racially-mixed-juries-and.html

[2] Calhoun v. United States , Statement of Sotomayor, J., 568 U.S. (2013)

Gabrielle Smith and Stanley L. Brodsky respond:

Gabrielle Smith, M.A. is a social psychology graduate student at the University of Alabama. Her research includes race relations, racial identity and the effect of stigmatization on marginalized groups.

Stanley L. Brodsky is a Professor in the Department of Psychology at The University of Alabama. He is the author the book Principles and Practices in Trial Consultation, as well as 13 other books.

On the Categorization of Biracial Faces: Understanding Race-Based Perceptions and Judgments in the Courtroom

> *Take this actual event. "She asked me 'What are you?' Can you believe she asked me that question? I told her how dare she ask me such a thing and expect a response and I walked away. As I was walking away I heard her whisper to her friend, 'they are all so aggressive'. To her, my outburst confirmed my identity. I was officially Black."*

This situation is not unusual for biracial people to encounter. Individuals who are racially ambiguous are often grilled about their racial composition, especially in locations that have minimal racial diversity. We are social animals who seek to classify others into distinct groups to simplify a complex social environment. When we encounter people who are not easily categorized (e.g. biracial people), there is often a struggle to classify them in order to reduce the cognitive load of the inability to stereotype (Bargh, 1999).

The Rodeheffer, Lord, and Hill study required participants to assign photos of biracial people as belonging to one of two racial groups: Black or White. The sparse available research on the perception of biracial others suggests that being biracial is a mutually exclusive racial category that differs from both Black and White categories. Thus, the research by Rodeheffer, et al. fails to address a critical element of the biracial identity: the possibility that the individual is perceived as biracial instead of either Black or White. Biracial perception research suggests that biracial individuals do not simply experience half of the privilege that Whites have and half of the prejudice that Blacks face, but instead experience completely different types of privilege and prejudices. For example, biracial others are often perceived as less warm and more socially inept compared to both Black and White others (Jackman, Wagner & Johnson, 2001; Sanchez & Bonam, 2009).

We would have liked to see a direct survey of perceptions of how much the economic downturn is due to one racial group over the other. Such a survey would assess negative perceptions without assuming that the participants feel negatively about the Black community. Furthermore, placing a biracial face next to either a Black or White face causes them, by contrast, to be categorized with the other that is not present. Thus, this study would have benefited from priming individuals not only with thoughts of the recession, but also with the issue that the recession is the fault of either the in-group (i.e. Whites) or the out-group (i.e. Blacks). Asking participants to fit biracial faces into either the Black or White category after priming them with the economy is not enough.

Our concerns about categorizing biracial persons apply equally to attorneys, defendants, plaintiffs, and potential jurors. After all, compelling scholarly foundations lead us to believe that participants in the courtroom process are stereotyped by a variety of demographic variables. The justice system needs to be committed to central processing of evidence, so that race, gender, age, social class, and appearance do not influence the triers of fact. The subjective processing of peripheral information harmfully detracts from fairness in understanding of evidence and moving towards inferences based on probative information. The mere presence of a Black or biracial person on a predominately White jury can promote deeper processing of information regarding a Black or biracial defendant (Vidmar & Hans,

2007). Thus, it is important to create a racially representative environment in the courtroom in order to promote racial justice.

Race is arguably the single most powerful subjective influence in courtroom decisions. Racism in its various forms is deeply seated in many Americans in ways that are usually inaccessible to individuals. At the same time, racism is not a simple or unitary variable, much as race is not a simple or unitary trait. This article on categorization of biracial persons addresses only implications for defendants in criminal trials. The authors make the dangerous leap of suggesting that a small nudge in tough times that identifies defendants as black instead of white will harm them. What is wrong with the suggestion? Plenty.

1. The concept of being biracial needs to be examined. After all, one can argue that all Americans are racially mixed, in terms of early African origins. More important, this article buys into simplistic notions of racial identity.

2. We argue that tolerance for ambiguity in racial identity is one of the best pathways towards tolerance among people. Research on perceptions of biracial others suggests that there is a significant increase in bias toward biracial others once their racial identity is known (Sanchez & Bonam, 2009). Thus, it seems important to measure how identifying biracial others as either Black or White impacts judgment compared to designating them as biracial.

Instead of identifying race, the better task is to conduct studies in which we learn about the ways in which persons become comfortable in not knowing the "race" of biracial persons with whom they have contact.

3. Attorneys for the state in criminal cases typically assume that African-Americans will be poor prosecution jurors. To a lesser extent, attorneys for the defense in civil cases act the same way. Batson and subsequent similar appellate decisions have not addressed so-called degrees of Blackness. Research addressing skin tone in the courtroom posits that African-American with light-skinned faces are shown more leniency than dark-skinned faces in both conviction rates and level of sentencing (Viglione, Hannon, & DeFina, 2011). This difference needs to be addressed beyond the either-or issue of Black and White. Because lighter skin tones usually belong to biracial individuals, there is a suggested difference between those who are biracial and those who are Black. However, since light skinned individuals still frequently receive heavier sentences than Whites, they are far from in-group members. Our position is that attorneys need to go beyond simplistic racial dimensions and instead take on the more difficult task of striking jurors based on substantive criteria related to the evidence and charges.

Conclusions:

We welcome the efforts to think about biracial defendants. As we consider the understandings of biracial defendants and other parties in the courtroom, we urge targeted efforts to let go of stereotypes, to rise above biases, and to move towards race-fair perceptions and judgments. Such efforts do not occur automatically, but they are part of a commitment to justice beyond skin color.

References

Bargh, J.A. (1999). The cognitive monster: The case against the controllability of automatic stereotype effects. In S. Chaiken & Y.Trope (Eds.), Dual Process Theories in Social Psychology (pp. 361–382). New York: Guilford.

Fiske, S.T., & Neuberg, S.L. (1990). A continuum model of impression formation from Category-based to individuating processes: Influences of information and motivation on attention and interpretation. In M.P. Zanna(Ed.), Advances in Experimental Social Psychology (Vol. 3, pp. 1–74). San Diego, CA: Academic Press.

Jackman,C. F., Wagner, G. W., & Johnson, J. T. (2001). The attitudes toward multiracial children scale. Journal of Black Psychology, 27, 86 –99.

Sanchez, D. T. & Bonam, C. M. (2009). To disclose or not to disclose biracial identity: The effect of biracial disclosure on perceiver evaluations and target responses. Journal of Social Issues, 65(1), 129-149.

Vidmar, N. & Hans, V. (2007). American juries: The verdict. New York: Prometheus Books.

Viglione, J., Hannon, L. DeFina, R., (2011). "The Impact of Light Skin on Prison Time for Black Female Offenders." The Social Science Journal, 48:250-258.

George Kitahara Kich responds:

George Kitahara Kich, PhD, is an ASTC Board Member and a Litigation & Jury Consultant at George Kich Consulting where he provides focus group research, jury selection assistance and works in preparing witnesses. Along with more recent writing and presentations on jury dynamics, questionnaire development and persuasion, he has written book chapters and articles on race and gender (e.g., "In the margins of sex and race: Difference, marginality, and flexibility"; " Being different together in the university classroom: Multiracial identity as transgressive education") and, most recently, when the weather is good, he has been developing his stone carving techniques.

LET ME START WITH positively acknowledging the essential contribution of this article: these researchers found that "*when resources are scarce . . . people may be more restrictive when granting in-group, or "us" status to biracial others.*" Additionally, they found that "*cues to recession and resource scarcity may influence how people make snap judgments…*" Social and psychological research has indeed shown that biracial faces present an ambiguity problem for White people, for people with minimal interracial social contact, or for those who are directly or covertly racist. Also, resource scarcity is an important factor in the mindset of jurors, and has indeed been shown to result in both negative and positive responses between dissimilar peoples.

Our work in litigation research to humanize and personalize the claimants or respondents for whom we work continues to be at least one attempt to ameliorate such well-known perceptual processes, such as "out-

group homogeneity bias" discussed in this article, as well as counter-factuals, "us-them" biases generally and tort-reform or anti-corporate biases, to name a few. Humanizing and personalizing the criminal defendant for instance, or showing how the physically-injured plaintiff is also a member of your community, does help break down some of the power of these biases. Additionally, we know that jurors who have more strongly felt the negative effects of economic downturns do seem to have varying degrees of bias against plaintiffs' money damages requests in personal injury, medical malpractice and employment cases. At the same time, we have found, for instance, that "a contract is a contract" people with medium or limited incomes can decide verdicts for multiple millions of dollars in a case where an executive was contractually promised stock options or salaries that none of the jurors or respondents could ever have had in their lifetimes. We also know that White jurors can tend to focus negatively on criminal defendants who are people of color; however, those biases are sometimes mediated by personal experience of victimization, having a mixed-race jury, specific education about the evidence in the case, and a general trust in the legal system. We know that simplistic research, where fundamental assumptions are not examined or accounted for, may not provide the best strategic outcomes for our clients.

Let me also say, that reviewing this article stirred mixed reactions for me. As a multiracial man, I have been "primed" on the complexities and implications of race, race mixing and multiracial identity my whole life, as well as through my research in the area prior to becoming a litigation consultant. In addition, along with my trial consulting work, I have been researching and preparing for an early April 2013 conference panel at the University of Southern California, on national and trans-national mixed-race identity. I have been marveling at advancements in the diversity and quality of current research and social theory since the 1960s (when I started academically examining race and mixed race). I eagerly volunteered as a commentator when I heard the title of this article being planned for TJE. Although I have many pages of notes, I will try and focus my comments here for *The Jury Expert* on this research design and its outcomes in order to inform attorneys and litigation consultants about how to best conduct useful research.

In terms of this article, I want to comment on just a few points:

• This article is addressed to and attempts to explain White people's (actually, young White students') responses to "ambiguous" faces. The researchers' prediction that people privilege their own in-group members over out-groups is a well-known phenomenon. The sentence, "*If, while jogging through the park, you pass someone with a mixed-race heritage, how will you perceive them?*" seems to gets to the heart of the relational dynamic about racial identification and issues of belongingness vs. otherness, et cetera. However, it presumes a perspective that is not multiracial, and focuses on the perceptual problem of the White person (as if the White person is a member of a homogenous group). If your expected jury will be White and the parties are not, then (1) a careful determination of these questions about ambiguity will be relevant, and (2) careful differentiation of the White group can provide valuable jury selection information about which White people are affected in this negative way.

• This article seems to view "resource scarcity" as an experience of a White majority threatened by non-White others, and not as a multiracial class or social demographic issue. How do people who are not White respond to White people involved in a court case when primed about resource scarcity? How important is resource scarcity as "the" biasing factor in race relations? If there is no scarcity experience, then will racism end? What exactly was shown in these scarcity slideshows? Incorporating a measure of what resource scarcity is, studying the general biasing effects this priming has on respondents, for instance in a focus group, by each side may provide useful information about the value of that kind of priming as a strategy in court. It may also reveal the importance and the interplay of other factors.

• This article is actually addressing the power dynamics of "hypodescent", sometimes also known as the " one-drop rule". It seems to be saying that resource scarcity is a basis for these simple perceptual judgments, and not a more clear-cut racism that has been the result of a highly-socialized perceptual and implicit historical dynamic. Another view on quick categorization of ambiguous faces may be useful and bears some review as a contrast. In 2008, two researchers from Northwestern University published Black %2B White: Hypodescent in Reflexive Categorization of Racially Ambiguous Faces . In this research,

> Participants studied ambiguous target faces accompanied by profiles that either did or did not identify the targets as having multiracial backgrounds (biological, cultural, or both biological and cultural). Participants then completed a speeded dual categorization task requiring Black/not Black and White/ not White judgments (Experiments 1 and 2) and deliberate categorization tasks requiring participants to describe the races (Experiment 2) of target faces. When a target was known to have mixed-race ancestry, participants were more likely to rapidly categorize the target as Black (and not White); however, the same cues also increased deliberate categorizations of the targets as 'multiracial.' These findings suggest that hypodescent still characterizes the automatic racial categorizations of many perceivers, ***although more complex racial identities may be acknowledged upon more thoughtful reflection.***" (Emphasis is mine; the quote is from the above-mentioned article). Hypodescent beliefs, not resource scarcity, were seen as the operative factor in this 2008 publication.

• What were the perceptions, experiences or valuations about biracials that these White students had prior to priming? How did they identify themselves racially or ethnically? What effects did the priming have for those who had awareness of "*more complex racial identities*"? Prior to the research directive to categorize biracials as either White or Black, what were their implicit responses to biracial, Black or other racial categories? Were they asked prior to the conditioning or priming, how they might categorize such ambiguous faces without the priming?

This research helps perpetuate the limited, restrictive binaries about race, marginality and a colorism hierarchy that many of us have fought to expose. The useful kernel of insight about in- and out-group effects conditioned by factors such as economic scarcity, gets lost in choice of regressive sample selection, unexamined assumptions and homogeneity errors. Some sources of information that can help in understanding how research about positive or negative perceptions of ambiguity might be affected by additional factors:

Wikipedia: Multiracial America

Five Myths About Multiracial People in The U.S.

Census Says There Are More Biracial People, but That Depends

Mixed Race in a World Not Yet Post-Racial

And of direct relevance to the legal community:

Judicial Erasure of Mixed-Race Discrimination

At this point, as when I am teaching, I might say, please review the prior web resources, take notes and then, discuss freely.

The authors reply:

WE APPRECIATE the consultants' comments; however, we take issue with the numerous disagreements and comments on our research made by two of the reviews. Although we do not have the time or space to respond to every concern, below are responses to a few that we felt most compelled to dialog:

We feel that the original context of our research was either not clearly conveyed to the consultants, or was ignored. We were invited by the editors of *The Jury Expert* to write this piece based on an article (which we cite in the paper) we published as a short report in *Psychological Science*. A short report is limited to 1000 words and is meant to report brief experiments of broad interest and that can serve as a foundation for later, more nuanced research. Indeed, our paper was published with the intention that our results would serve as an impetus for future research—not that the results would reflect the final word on research related to race perceptions. With this in mind, we agree with the reviewers that there are several factors that we did not explore that may influence the relationship between scarcity and group categorization. However, there were several ways that the reviewers misrepresented our research that we believe should be addressed. We address these below.

In his review, Kich states, "*It seems to be saying that resource scarcity is a basis for these simple perceptual judgments, and not a more clear-cut racism that has been the result of a highly-socialized perceptual and implicit historical dynamic*." This simply does not reflect our position. As evolutionary psychologists, we use the principles of evolutionary biology and natural selection to better understand human cognition and behavior. From this perspective (as we clearly state in our article), we view competition for resources over the course of our evolutionary past as one of the primary, ultimate causes for what he refers to as the "*highly-socialized perceptual and implicit historical dynamic*" of group relations. In other words, over the course of evolutionary history, the group dynamics that we observe today served an amoral adaptive function (e.g., acquisition of resources, self-protection). Scarcity increases this natural competition between groups, which is why we believe that people are more exclusive when assigning group membership when prompted with scarcity cues. Of course, just because something is "natural" does not make it moral or excusable (for a review and rebuttal of the major unwarranted concerns of evolutionary psychology, please see Confer et al., 2010).

Kich also states, "*This article seems to view "resource scarcity" as an experience of a White majority threatened by non-White others, and not as a multiracial class or social demographic issue.*" This interpretation also does not reflect our position. Resource scarcity has been and always will be a problem faced by all humans (arguably even more so as time progresses with the depletion of our world's natural resources), regardless of race or social demographic. Accordingly, we would predict that we would find analogous results in a Black population (i.e., with Black participants also being more likely to categorize biracial others as belonging to their racial out-group, perceiving them as White). As described in the discussion section of our original article, future research is needed to test this prediction. Rather than helping "*perpetuate the limited, restrictive binaries about race, marginality and a colorism hierarchy*" (as suggested by Kich), we are confident that the results of our research will provide the groundwork for important new discoveries that will help us better understand the psychological processes that guide person perception and, ultimately, help people overcome the type of simplistic racial categorization Kich warns against.

Similarly, Smith and Brodsky claim that, "*this article buys into simplistic notions of racial identity.*" We disagree with this statement. We do not buy into the simplistic notion of racial identity nor do we believe our research promotes such a view, but rather it seeks to better

understand the natural, unfortunate tendency of people (on average) to make simplistic (and often incorrect) inferences about group membership based on race or other easily visible characteristics (i.e., you don't look the same as me therefore you don't belong). Our research identifies an additional factor (i.e., scarcity) that increases the difficulty of combating such natural tendencies.

We question if Smith and Brodsky dismissed or perhaps did not understand the purpose of our article. Our research was designed to test whether resource scarcity leads people to be less inclusive about who belongs to one's in-group, not on the nuances of race perception. The fact that our paper did not address these nuances was not because we do not view them as important and relevant. They were simply not the focus of the reported research. Future research would certainly benefit from a deeper understanding of such nuances. However, experimental research is necessarily narrowly focused at its early stages and, when published, serves as the foundation for more nuanced work.

Further, the claim made by Smith and Brodsky that we "*make a dangerous leap*" in suggesting that cues to scarcity might lead to harmful consequences in the courtroom for biracial defendants is unwarranted. A careful reader will notice that we acknowledge that our research was not conducted with the courtroom in mind, but that our findings may have implications for the courtroom. This statement was carefully crafted to suggest that the following discussion is purely speculative, something worth considering.

In conclusion, we stand by our method and results. We feel that the largely negative responses we received from the consultants reflect misunderstandings of the original context, purpose, and focus of our research. We sought to better understand how resource availability influences group boundary formation. To do this, we capitalized on peoples' natural tendency to make quick judgments about group membership based on one's outward appearance. We strongly believe that our results are important and make a valuable contribution to literature on group relations. We look forward to future research, both of our own and that of others, which will help us better understand this important issue.

References

Confer, J. C., Easton, J. A., Fleischman, D. S., Goetz, C. D., Lewis, D. M. G., Perilloux, C., & Buss, D. M. (2010). Evolutionary psychology: Controversies, questions, prospects, and limitations. *American Psychologist, 65* , 110-126.

The Power to Judge:
Social Power Influences Moral Judgment

by James McGee

Trial consultants are often asked by attorneys for insight into the demographic and personality variables that will be most influential in the jury room during deliberations. Of course, each case – and each jury – is unique. The complete answer to this question requires a full understanding of the case and findings from pre-trial research designed specifically to test the issues of the case. Nevertheless, certain principles of social psychology can illuminate, in coarse grain, how some jurors are likely respond to evidence and argument, as well as to the ways in which they are presented.

For centuries, humans have understood that social power, the feeling that we have control over others' resources, has predictable effects on the way people behave. In some cases, power can have ill effects, as Lord Acton famously observed in 1887: "Power tends to corrupt, and absolute power corrupts absolutely. Great men are almost always bad men." Modern psychological research tells us that power influences people's thinking at a very deep level. It affects not only how our brains navigate social situations, but also how our physiology – down to the hormones circulating in our blood – responds. Social power makes people think, feel, and react differently. Therefore, it is useful as a factor to consider during jury selection and as a tool to employ during arguments.

Social power helps to govern the way we perceive, judge, and interact with others. It has been shown to decrease our inhibition, buffer us from the effects of social and physical stress, and clarify our perceptions. Recent findings in the psychology literature have also suggested a link between feelings of social power and moral cognition (e.g., Wiltermuth & Flynn, 2012). In this article, I present the findings of a research project that I conducted for my master's thesis examining the ways in which social power influences moral judgments of others. In two studies, participants' feelings of power were manipulated and then they were presented with a variety of moral vignettes. The vignettes presented decision making scenarios that varied across several dimensions, including the overtness of the moral issues, the complexity of the information presented, the uncertainty of the information presented, and the moral principles underlying the scenario.

Lord Acton may have been right. Power may corrupt by making people less critical of their own moral behavior. However, when it comes to judging others, results from this research suggest that high power is associated with harsher judgments of simple

moral issues, ranging from littering to premarital sex. When participants are presented with moral vignettes complicated by additional information and/or moral principles (see examples in Figure 1), the association between power and moral judgment all but disappears, except in one consistent way. In complex moral dilemmas that pit utilitarian (outcome-based) and deontological (rule-based) principles against each other, power (versus no power) is associated with harsher judgment of utilitarian acts (see example in Figure 1). These findings demonstrate two distinct ways that power influences moral thinking.

Background

The Psychology of Power

Recent research efforts have revealed broad-reaching implications of social power in a variety of contexts. In particular, power has been identified as a key factor in many types of social perception and judgment. For the purposes of this research, and following in the path of previous studies, I defined power as the psychological experience of having control over valued resources and other people (Dahl, 1957; Emerson, 1962; French & Raven, 1959; Keltner, Gruenfeld, & Anderson, 2003). This definition emphasizes the subjective and transitory feeling of power. It also includes control over people, an attribute of power that makes power a fundamentally social phenomenon, and is the focus of this research.

Power as Disinhibition

Recent empirical evidence has confirmed what has been reflected so clearly in recent media headlines – that power is linked with corrupt behaviors. One theory is most easily described as "power-as-disinhibition." First, people who are primed with feelings of power are faster at setting goals and pursuing them (Guinote, 2007; Keltner, Gruenfeld, & Anderson, 2003). Power also increases willingness to engage in action (Galinsky, Gruenfeld, & Magee, 2003), and improves motor performance (Burgmer & Englich, 2012). Low power, by contrast, hinders people's ability on cognitive tasks (Smith, Jostmann, Galinsky, & van Dijk, 2008). Taken together, these findings suggest that power can serve as a disinhibiting force in social interaction and judgment.

Power as Immunity

In a variety of contexts, power has also been associated with immunity from concern about others and from social influence. Kipnis (1972) demonstrated that people who feel powerful view the less powerful as objects of manipulation and respond by treating them poorly. Power can also lead people to "use" others as tools to achieve their goals (Gruenfeld, Inesi, Magee, & Galinsky, 2011). People who feel powerful also struggle to take the perspectives of others or correctly determine others' emotional expressions (Galinsky, Magee, Inesi, & Gruenfeld, 2006). A higher sense of power is associated with a decreased ability to feel distress when exposed to other people's suffering, suggesting that power may interfere with our sense of compassion (Van Kleef, Oveis, Van der Lowe, LuoKogan, Goetz, & Keltner, 2008).

This blindness to others is carried to the societal level as high power individuals also tend to ignore major social norms, such as those regarding sexual aggression (Bargh, Raymond, Pryor, & Strack, 1995). Some of my own recent work with Dana Carney suggests that power buffers people against the psychological and physiological effects of stress (Carney, Yap, Mehta, McGee, & Wilmuth, under review). Feelings of power may induce an increase in testosterone secretion in both men and women. This increase in testosterone level appears to be associated with suppression of an increase in cortisol, usually associated with the stress response. If normal people experience stress when committing immoral acts, power may reduce the psychological cost of immoral behavior, and thus lead to more of it.

Power as Clarity and Control

A theory recently advanced by Wiltermuth and Flynn (2012) has characterized social power as a sense of clarity with regard to one's moral judgment. According to this theory, power may be able to reduce the ambiguity with which people perceive others' behaviors and the appropriateness of their own judgments. This view is supported by studies that show that power is associated with overconfidence in one's own beliefs and judgments (Fast, Sivanathan, Mayer, & Galinsky, 2012) and certainty in speaking (Magee, Milliken, & Lurie, 2010). Feelings of power may help people to see the world in terms of black-and-white rules, just as it helps people to see certainty in their own thoughts and behaviors. As a result of perceiving and applying rules more easily, the powerful may believe that they are insulated from potential negative effects of rules being enforced with punishment (Wiltermuth & Flynn, 2012).

The Power to Judge

The results of previous research on power suggest that power influences judgment by preparing people to make decisions, buffering them from the negative consequences of those decisions, and increasing the clarity with which they view their decisions. The special case of moral judgment seems to proceed in one of two possible ways – a slow, deliberate, and rational process of moral reasoning, or a rapid, emotion-driven burst of moral intuition (e.g., Kohlberg, 1969; Haidt, 2001). Power may influence these two mechanisms differently.

Hypotheses

When individuals are faced with scenarios of simple moral transgressions, there is little chance for moral or situational ambiguity. Moral rules and principles are more easily applied when the issue is clear and simple. High power individuals have been shown to focus more easily on rules, and are prone to

punish (e.g., Wiltermuth & Flynn, 2012). When presented with a simple moral issue, high power individuals are well prepared to attend to and apply a moral rule or principle (and ultimately deal with the consequences), which makes it easier to condemn another's actions. Thus, I expected that those primed with high social power would be more likely to judge people more harshly when presented with moral transgressions described in simple scenarios. The precursor of this condemnation is a focus on rules, and the outcome is an increase in punishment.

However, when faced with scenarios of complex moral transgressions, power should not have a significant impact on moral judgments. When the moral transgression presented in a vignette is complicated by uncertainty, additional relevant information, or multiple moral principles, it is more difficult, and less adaptive, for an individual to use a rule-based rational process to arrive at a judgment. Rather, an intuitive, unconscious process is more likely to be used. This intuitive process that people use to weigh multiple factors in a complex moral scenario may be less subject to influence by social power.

Results of Two Studies

Across two studies, I investigated how feelings of social power may influence individuals' judgments of moral transgressions. The first study tested the relationship between social power and judgments of simple moral issues. The second tested the relationship between power and judgments of complex moral transgressions and examined this relationship across five different types of transgressions. For the purposes of this article, the description of the research methods and the statistical analyses of the findings have been abbreviated.[i]

Study 1: Does Power Influence Judgments of Simple Moral Issues?

In Study 1, I investigated the relationship between power and moral judgment across a variety of simple moral issues. One hundred participants (56% female; median age range: 30-39) were recruited online using Amazon Mechanical Turk, a popular crowd-sourcing platform that is now commonly used for conducting social science and behavioral research. Studies on the use of Amazon Mechanical Turk for behavioral research suggest that online responses closely approximate in-person responses (Buhrmester, Kwang, & Gosling, 2011). Participants were required to be at least 18 years old and to live in the United States.

Procedure

Study 1 had two conditions, high power and low power. Participants were assigned to one of the two power conditions using a method that approximated random assignment. Power was manipulated with a recall task. The task required participants in the high-power condition to recall a time in which they felt power over someone else and to write four to five sentences on this topic. The low-power participants were given a similar task, but were instructed to recall a time in which someone else had power over them (Galinsky, Gruenfeld, & Magee, 2003; Wiltermuth & Flynn, 2012; see Figure 2 for results of power prime manipulation).

Following the power prime, each participant responded to a

Issue (Type)	Example Vignette
Littering (simple)	Imagine that you see Scott littering (throwing trash on the ground). How moral or immoral do you judge Scott to be?
Littering (additional information – general)	Imagine that you see Scott littering (throwing trash on the ground). Litter is a human impact on the environment and is a serious environmental issue in many countries. Litter can exist in the environment for long periods of time before degrading and be transported large distances into the world's oceans. Litter can affect quality of life. How moral or immoral do you judge Scott to be?
Premarital sex (additional information – specific)	Imagine that Susan has just told you that she engages in premarital sex (sex before marriage). She has been in a committed relationship for 8 months, and waited to have sex with her boyfriend until recently. She was planning to wait until she got married, but she was afraid that her boyfriend might leave her if she didn't have sex with him. How moral or immoral do you judge Susan to be?
Drug use (degree of certainty)	Imagine that your co-worker, Brian, has just failed an employment drug screening test. You know that the test is only accurate about 75% of the time. How moral or immoral do you judge Brian to be?
Two conflicting moral principles	Anita learns that her father shot and killed an animal from an endangered species on a hunting trip. In response, she decides to break off all communication with her family for one year. How moral or immoral do you judge Anita to be?
Deontological vs. utilitarian reasoning	Enemy soldiers have taken over Sara's village. They have orders to kill all remaining civilians. Sara and some of her townspeople have sought refuge in the cellar of a large house. Outside they hear the voices of soldiers who have come to search the house for valuables. Sara's baby begins to cry loudly. She covers his mouth to block the sound. If she removes her hand from his mouth, his crying will summon the attention of the soldiers, who will kill her, her child, and the others hiding out in the cellar. To save herself and the others, she must smother her child to death. She does this. How moral or immoral do you judge Sara to be?

Figure 1: Example moral vignettes

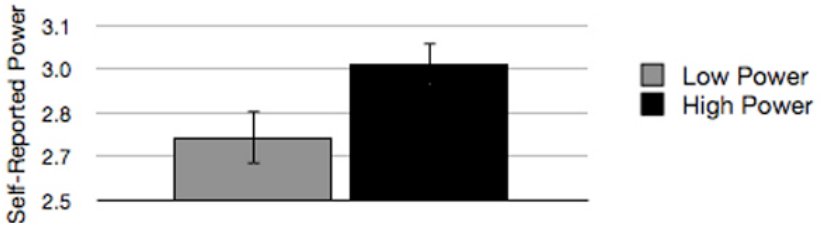

Figure 2: Power manipulation for Study 1

set of 12 randomly-ordered questions about moral issues. Each item presented a moral issue, framed as a judgment about an anonymous individual engaging in a potentially immoral behavior. Participants were asked to judge the degree to which they found the person engaging in each behavior to be moral or immoral. Response choices ranged from "very immoral" to "very moral" on a 9-point Likert-type scale, with no midpoint demarcated. The moral issues presented were adapted from research by Zhong, Strejcek, & Sivanathan (2010), and included the following issues: adultery, alcoholism, casual sex, drug use, homosexuality, littering, pornography, premarital sex, profane language, prostitution, smoking, and wearing animal fur clothing.

Following the 12 moral issue questions, participants were asked to complete a manipulation-check, which was a measure of self-reported feelings of power. Last, participants completed a set of demographic questions, which included items on gender, age, race, and political ideology.

Results

The results of Study 1 support the hypothesis that feelings of high power are associated with harsher judgments of certain moral transgressions when they are presented as simple issues. (See Figure 3 for results of Study 1; statistical information on each variable is available in the endnotes [ii].)

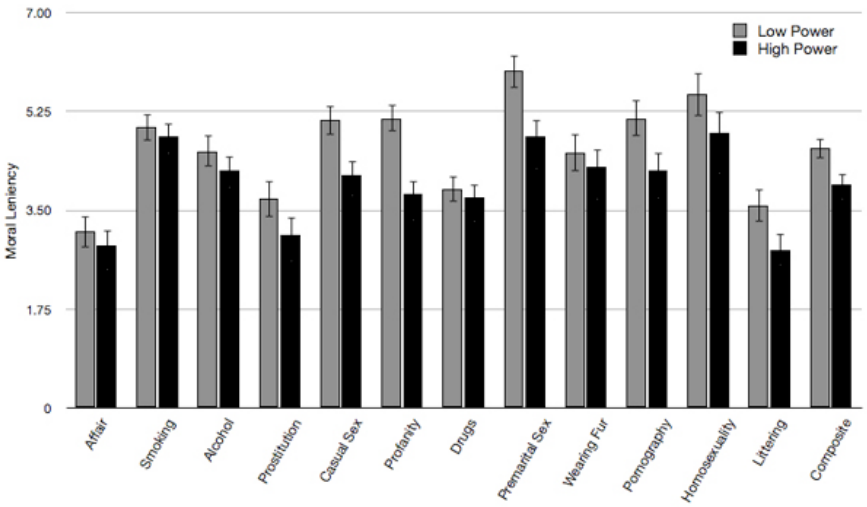

Figure 3: Results of Study 1

Study 2: Does Power Influence Judgment of Complex Transgressions?

In Study 2, I investigated the relationship between power and moral judgment when moral vignettes are not presented as simple moral issues, but are modified to increase the level of complexity. For Study 2, four hundred participants were recruited using the same online panel that was employed in Study 1. As in Study 1, participants were required to be at least 18 years old and to live in the United States.

Procedure

Study 2 employed three conditions, the high- and low-power conditions from Study 1 as well as a no-power control condition. Power was manipulated using the same recall task that was used in Study 1. The same instructions were presented to participants in the high- and low-power conditions. For the no-power condition, participants were presented with a neutral prompt (Galinsky, Magee, Inesi, & Gruenfeld, 2006).

Following the power manipulation, participants were presented with a set of moral scenarios based on those employed in Study 1, but modified to include additional layers of complexity. The types of complexity measured were (1) uncertainty of information, (2) additional information specific to the moral scenario, and (3) additional information generally about the moral issue. Each item presented a scenario and then asked the participant to judge the degree to which the person in the scenario was moral or immoral on a 9-point Likert-type scale.

A fifth type of scenario was presented, which included three derivatives of the "trolley problem," (Foot, 1967; Paxton, Ungar, & Greene, 2011) a moral dilemma which tests proclivity toward deontological versus utilitarian reasoning. Deontology is an approach to moral reasoning that emphasizes the duties and rules behind moral acts. It suggests that there is an inherent rightness or wrongness to each act, which is unrelated to the outcome (Fiske, Gilbert, & Lindzey, 2010). By contrast, utilitarianism is a consequentialist approach. It emphasizes outcomes in determining whether an act is morally right or wrong. The morally right action is the one that will result in the greatest overall good. The trolley problem and its variants test the relative influence of these two approaches in moral reasoning by pitting them against each other. In a short vignette about a train traveling down a track, about to run over and kill a number of people tied to the track, a hypothetical person observing this impending event can perform an action and change the outcome, which will kill only one person. Confronted with a trolley problem, a participant must choose between actively killing one to save many (utilitarian choice) or letting the many die to avoid actively killing the one (deontological choice).

Participants in Study 2 were also presented with a scale assessing self-reported feelings of power (Lammers & Stapel, 2009), which served as a manipulation check, and a set of demographic questions.

Results

Overall, the results of Study 2 suggest that the relationship between power and harsher judgment of moral transgressions disappears when the vignettes contain additional layers of complexity, such as additional information or uncertainty. When moral judgments are made in the context of such additional information, high power and low power individuals behave similarly (See Figure 4 for results of Study 2). However, when the principles of deontology and utilitarianism are positioned against each other in a complex vignette, high power individuals favor the outcome of the deontological decision. That is, they judge the subject of the vignette more harshly for choosing the utilitarian outcome of killing one to save many. (See Figure 5; statistical information for this study is available in the endnotes[iii].)

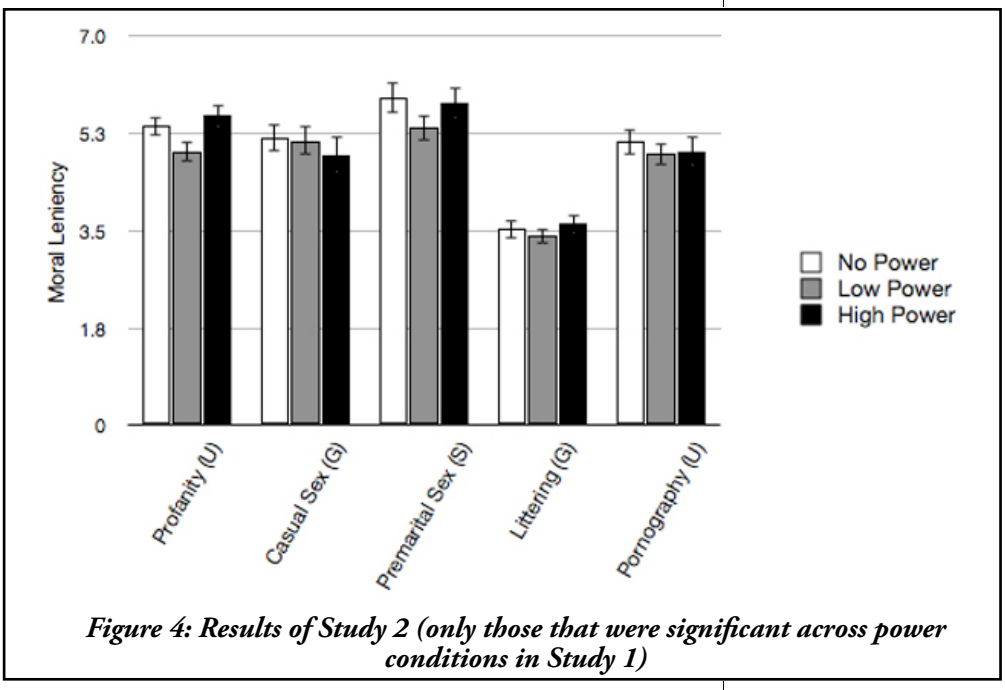

Figure 4: Results of Study 2 (only those that were significant across power conditions in Study 1)

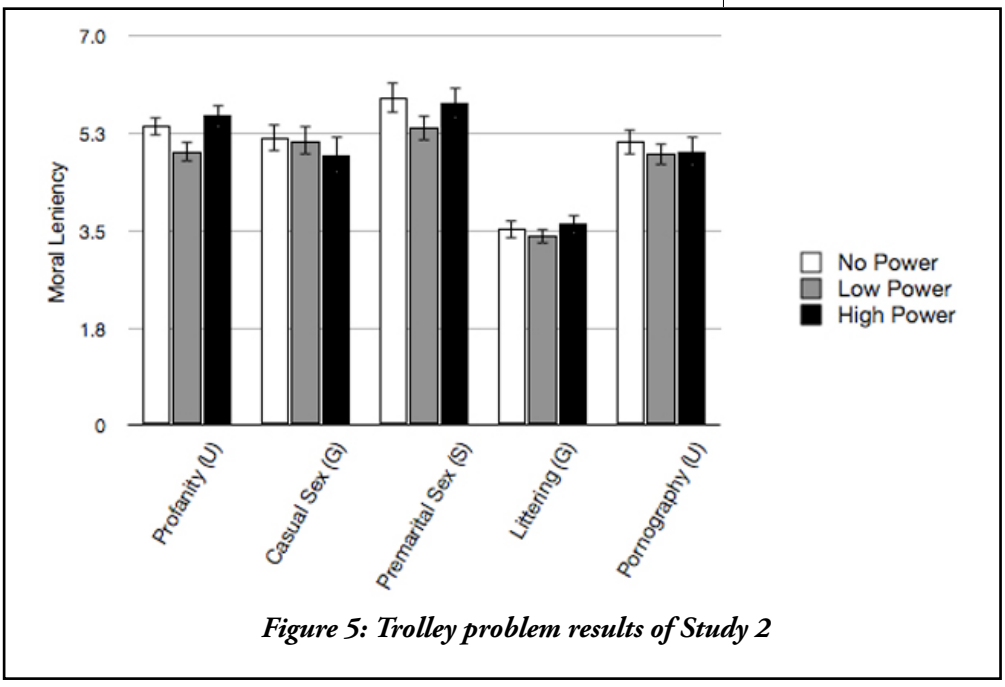

Figure 5: Trolley problem results of Study 2

Discussion and Practical Implications

Jurors routinely evaluate the morality of defendants and witnesses at trial. Knowing where jurors stand with regard to social power may well influence their perceptions of these individuals, the ease with which they perceive wrongdoing and become advocates for punishment. (Jurors do not make sentencing decisions, although they may determine damages in civil cases.)

Implications for Trial

The results of this research suggest that people with feelings of high social power (e.g., during voir dire, think of those with high social standing, high income, respectable jobs, or many subordinates) may be more likely to condemn others, such as defendants and witnesses, for clear-cut moral transgressions, such as causing physical harm to others. This may also apply to those who take on powerful roles within the jury, so considering social power together with the likelihood that a prospective juror will become a leader is also important. Perceived wrongdoing in both criminal and civil cases may be subject to harsh moral judgment by high power individuals. In the jury room, this may manifest in several ways.

Powerful jurors are more likely to strictly *enforce* moral rules by condemning the transgressors. They will be especially receptive to applying the rule of law when it is spelled out clearly or when the facts of the case are relatively simple. When presenting cases to juries, consultants should advise defense attorneys to minimize the effects of social power on harsh moral judgment by presenting layers of complexity (e.g., additional evidence, uncertainty with regard to evidence, and conflicting legal or moral principles) as early as possible in the trial. If the prosecution makes a case seem straightforward during opening arguments, the defense attorney would be prudent to complicate matters quickly to undermine powerful jurors' proclivity to condemn.

Research Finding	Implications	Additional Thoughts
High power people judge moral transgressions more harshly when transgressions are simple.	Defense counsel should focus extra effort on swaying high-power jurors in simple cases. For the Prosecution/Plaintiff, simplicity is your friend.	If you are Defense, you want to avoid as many high power jurors as you can. Prosecutor or Plaintiff? Load the jury with those high power people.
High power and low power people show no difference in moral condemnation when transgressions are complex.	For the Defense, a complex case (i.e., one that involves complex moral issues) will elicit leniency from high-power jurors.	Defense or Prosecution/Plaintiff should pick jurors who will lead the jury toward their side. Defense counsel can worry less about high power jurors.
High power people more readily accept deontological (rule-based) vs. utilitarian outcomes.	Either side can appeal to high power jurors by emphasizing the rule of law over the fairness of the outcome.	All else equal, avoid high power jurors if your case strategy focuses on the fairness of the outcome than black letter law.

Figure 6: Research findings and implications

High power individuals are also better cognitively equipped to *identify* and *apply* rules and norms to the actions of others. At trial, this means that powerful jurors seek the proper application of the rule of law to a situation. They are more likely to be influenced by arguments about the fairness of applying rules to everyone than by arguments about the fairness of the outcome. For example, in an insider trading case, powerful jurors would be less concerned about how insider trading gives some investors an unfair advantage or contributes to market volatility (outcome), and more concerned with applying the law fairly (rules). By making the applicable law clear and emphasizing the jury's duty to apply it, either side could appeal to high-power jurors. However, in the same example, defense attorneys should aware that a defense emphasizing the victimless nature of the alleged crime may have limited appeal to high power jurors, because it focuses on the outcome.

Finally, consider patent cases when jurors are typically asked by the defense to invalidate a patent that was issued by the United States Patent and Trademark Office. Many jurors do not feel justified in invalidating a patent, even when the jury instructions make it clear that it is their job to do so if the evidence of the case supports it. Even the most powerful jurors can feel intimidated by the complexity of the patented technology. Empowering the jury is especially important in this context if the goal is a finding of invalidity. To do this, appealing to higher power jurors is the patent litigator's best bet. Convincing the powerful jurors and enabling them to convince others can be best achieved by emphasizing the underlying simplicity of the technology at issue. Give powerful jurors the tools to convince their peers – in simple terms, analogies, and visual images. This will not only help to instruct jurors about the case material, but will also connect the material to subjects over which they have a greater command, in essence priming feelings of power for them. In turn, this will enable them to invalidate and to teach the less powerful jurors that they, too, have sufficient knowledge to invalidate. Such a task can be challenging, as patent cases are often complex, but the defense can be compelling to powerful jurors by focusing on the simple application of the laws, including the jury's power to invalidate.

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James McGee is currently a trial strategy consultant at DOAR Litigation Consulting in New York City. He employs behavioral and social science methods, including surveys, focus groups, and mock trials, to conduct pre-trial research on case themes. He has previously held research positions in organizational behavior and psychology at Columbia Business School and Princeton University. He holds a master's degree from Columbia and a bachelor's degree from Cornell.

References

Bargh, J. A., Raymond, P., Pryor, J. B., & Strack, F. (1995). Attractiveness of the underling: An automatic power→ sex association and its consequences for sexual harassment and aggression. Journal of Personality and Social Psychology, 68(5), 768.

Buhrmester, M., Kwang, T., & Gosling, S. D. (2011). Amazon's Mechanical Turk A New Source of Inexpensive, Yet High-Quality, Data?. Perspectives on Psychological Science, 6(1), 3-5.

Burgmer, P., & Englich, B. (2012). Bullseye! How power improves motor performance. Social Psychological and Personality Science.

Carney, D. R., Yap, A. J., Mehta, P. H., McGee, J. A., & Wilmuth, C. (Under review). Does power corrupt? For better and for worse.

Dahl, R. A. (1957). The concept of power. Behavioral Science, 2(3), 201-215.

Emerson, R. M. (1962). Power-dependence relations. American Sociological Review, 31-41.

Fast, N. J., Sivanathan, N., Mayer, N. D., & Galinsky, A. D. (2011). Power and overconfident decision-making. Organizational Behavior and Human Decision Processes.

Fiske, S. T., Gilbert, D. T., & Lindzey, G. (2010). Handbook of Social Psychology (Vol. 2). Wiley.

Foot, P. (1967). The problem of abortion and the doctrine of the double effect. Oxford Review, 5, 5–15.

French, J., & Raven, B. H. (1959). The bases of social power. In D. Cartwright (Ed.), Studies in Social Power (pp. 150-167). Ann Arbor, MI: Institute for Social Research.

Galinsky, A. D., Gruenfeld, D. H, & Magee, J. C. (2003). From power to action. Journal of Personality and Social Psychology, 85, 453-466.

Galinsky, A. D., Magee, J. C., Inesi, M. E., & Gruenfeld, D. H. (2006). Power and perspectives not taken. Psychological Science, 17(12), 1068-1074.

Gruenfeld, D., Inesi, E., Magee, J., & Galinsky, A. (2011). Power and the objectification of social targets. Journal of Personality and Social Psychology, 95, 11-127.

Guinote, A. (2007). Power and goal pursuit. Personality and Social Psychology Bulletin, 33(8), 1076-1087.

Haidt, J . (2001). The emotional dog and its rational tail: A social intuitionist approach to moral judgment. Psychological Review. 108, 814-834.

Keltner, D., Gruenfeld, D. H., & Anderson, C. (2003). Power, approach, and inhibition. Psychological Review, 110(2), 265.

Kipnis, D. (1972). Does power corrupt? Journal of Personality and Social Psychology, 24, 33-41.

Kohlberg, L. (1969). Stage and sequence: The cognitive-developmental approach to socialization (pp. 347-480). Rand McNally.

Lammers, J., & Stapel, D. A. (2009). How power influences moral thinking. Journal of Personality and Social Psychology, 97(2), 279.

Magee, J. C., Milliken, F. J., & Lurie, A. R. (2010). Power differences in the construal of a crisis: The immediate aftermath of September 11, 2001. Personality and Social Psychology Bulletin, 36(3), 354-370.

Paxton, J. M., Ungar, L., & Greene, J. D. (2011). Reflection and reasoning in moral judgment. Cognitive Science.

Smith, P. K., Jostmann, N. B., Galinsky, A. D., & van Dijk, W. W. (2008). Lacking power impairs executive functions. Psychological Science, 19 (5), 441-447.

Wiltermuth, S., & Flynn, F. (2012). Power, moral clarity, and punishment in the workplace. Academy of Management Journal.

Van Kleef, G. A., Oveis, C., Van der Löwe, I., LuoKogan, A., Goetz, J., & Keltner, D. (2008). Power, distress, and compassion: Turning a blind eye to the suffering of others. Psychological Science, 19(12), 1315-1322.

Zhong, C. B., Strejcek, B., & Sivanathan, N. (2010). A clean self can render harsh moral judgment. Journal of Experimental Social Psychology, 46(5), 859-862.

Endnotes

[i] Please contact the author at jam2201@columbia.edu for a complete description of the methods and analyses.

[ii] Detailed results of Study 1: The 12 moral issue items were averaged to create a composite measure of moral judgment (α = .83). As predicted, participants in the high power condition judged simple moral transgressions more harshly (M = 3.96, SD = 1.09; lower values correspond to judgments of immorality) than participants in the low power condition (M = 4.60, SD = 1.00), although the effect on the composite measure did not quite reach statistical significance, $t(44) = 1.98$, $p = .054$. The moral issue items were also analyzed individually. For each of the 12 individual moral issues, the sample means of moral judgments suggest that individuals in the high power condition judged each transgression more harshly than did those in the low power condition. That is, the sample means for the high power condition were lower than those for the low power condition across all items (lower mean indicates harsher judgment). For three of the 12 individual issues, this relationship reached significance at the .05 alpha level: casual sex (Mhigh = 4.13, SDhigh = 1.46;Mlow = 5.10, SDlow = 1.45, p = .04), profane language (Mhigh = 3.80,SDhigh = 1.86; Mlow = 5.13, SDlow = 1.34, p = .01), and premarital sex (Mhigh = 4.80, SDhigh = 2.24; Mlow = 5.97, SDlow = 1.66, p = .05). For littering and pornography, the p-values approach significance (each is approximately .1).

[iii] Detailed results of Study 2: The 19 moral issue items were averaged to create a composite measure of moral judgment (α = .75). As predicted, a one-way ANOVA comparing the composite measure across the three conditions revealed that there was no significant difference in the judgment of the complex moral transgressions between high power (M = 4.72, SD = .843), the low power condition (M = 4.57, SD = .734), and the no power control condition (M = 4.83, SD = .72), $F(125) = 1.32$, $p = .271$. Since the control condition was added for Study 2, an independent samples t-test was also conducted between the high and low power conditions in order to directly compare the results of Study 2 to those of Study 1. The t-test also revealed that there was no significant difference between the high and low power conditions in the harshness of moral judgments for the composite (average) ratings: $t(76) = -.816$, $p = .42$.

The moral items were further analyzed individually. For 16 of the 19 individual moral vignettes, the sample means of moral judgments did not differ significantly across the three conditions. This result provides further support for Hypothesis #2, that power fails to influence the severity of judgments of moral dilemmas complicated by additional information or uncertainty.

For all three vignettes derived from the classic trolley problem, a significant association emerged across the three conditions. In all three cases, the high and low power mean ratings were lower than the mean for the no power condition. This was true for the "baby" trolley problem (Sara must kill her baby to prevent it from alerting enemy soldiers; Mhigh = 4.13, SDhigh = 2.15; Mlow = 4.44, SDlow = 2.35; Mno = 5.51, SDno = 1.68; $F(124) = 5.17$,$p = .007$), the "submarine" trolley problem (David must kill an injured crewman to conserve limited oxygen for the other crewmen;Mhigh = 5.34, SDhigh = 2.07; Mlow = 5.17, SDlow = 2.21; Mno = 6.30, SDno = 1.88; $F(124) = 3.92$, $p = .02$), and the "classic" trolley problem (Mhigh = 4.09, SDhigh = 2.45; Mlow = 3.72, SDlow = 1.96; M no = 4.81, SDno = 2.18; $F(124) = 2.99$, $p = .05$). This indicates that participants rendered harsher judgments against the subjects of each vignette for choosing the utilitarian outcome (i.e., participating in the killing of one to save many). Thus, participants in the two power conditions favored the deontological outcome.

Road Warrior Tips - March 2013

Like many of you, we travel all the time. And we have secrets that help us get around faster, more comfortably and tips on what to make sure and carry with you in the air, on the ground or even, underground! Thanks to the generosity of these frequent flyers—these trial consultant secrets can be yours as well. As we collect additional secrets, we'll add them here (check the Road Warrior category before you head out).

For flight tracking I use the FlightTrack Pro app on my iPad. I find the app has very accurate information on flight status, often updated before the airlines post updates at the airport. You can also access airport flight boards and terminal maps. It shows aircraft data in flight, so you can track your inbound aircraft and pulls in weather radar data from Weather Underground so you can see the status of weather ahead. Airport operational status is shown with colored dots on the map. I give the app 5 stars. For booking flights, I research options of the Kayak iPad app and then book directly with the airline. Perhaps that's not fair to Kayak, but I really like the search options on Kayak. I book directly with airlines so that I can access my personal profile. I have also found that booking air travel and hotels through third party sites like Kayak and Hotels.com can lead to disaster because I end up making frequent changes to my travel plans. Changes are all but impossible when dealing with third parties and the airline or hotel doesn't treat you like a valued customer when you book indirectly. You might save some money on hotels, but there is a price. Submitted by Doug Green of [Douglas Green Associates, Inc.]

I often find myself with a full carry-on suitcase and assorted small items that won't fit in that bag as I prepare for a flight. I am saved by a recent discovery that Baggallini makes zippered tote bags that expand depending on what you put in them. They are handy for extra files or confidential papers I am wary of leaving behind as I return home. They fit perfectly under the plane seat and the zipper keeps them from spilling so you don't have to keep them closed with your feet. I put my iPad, my purse, my phone, earphones, an external keyboard for the iPad, charging cables, my reading glasses, my car keys (there's a handy cord to clip those to), a zippered bag of pens and assorted office supplies, extra AA batteries, snacks, and whatever else I discover I forgot to stuff in the suitcase at the

last minute inside that expanding bag! When I don't have to haul my full laptop and briefcase—this is much lighter weight and holds a lot more extras that I seem to accumulate. I use the outside pocket for my boarding passes and zip my wallet and cash inside the zippered section of the outside pocket. A web search will show they come in myriad colors depending on the retailer. I also use a Baggallini universal tablet case for my iPad when I am sticking it inside the Baggallini zippered expandable tote bag. When all I am hauling is the iPad, I use a bag with handles and a strap so I can be hands-free. I am awaiting shipping on the Clam Case Pro which looks like it will fit inside the Baggallini case. This will eliminate the need for carrying an external keyboard for the iPad along with me. Submitted by Rita Handrich of [Keene Trial Consulting.]

Uber is an iPhone and Android app that locates, books and pays for executive town car service. Open the app and you are presented with a map showing your location and the locations of every town car within range. Click a button and one of them will be dispatched to your current location or to a location you choose (if you are in a conference room, you may want to pick the nearest intersection for pickup). Since you've already entered your name, cell phone and billing information, this data is transmitted to the driver along with your location. Just climb in the back seat and go. You'll get the receipt as an email. Taxi Magic is a similar app for taxis. Submitted by Jason Barnes of [Barnes & Roberts.]

If you are not one to write down your parking spot number on the back of your airport parking ticket, then at least park on the same floor every time. That way, if after a long day you should forget where you parked, you will at least know what floor. Submitted by Amy Hanegan of [Better Witnesses.]

I don't know whether this app is any good, and in fact, there were 2 reviews online that seemed to say it was not good. But, the location bit alone might be worthwhile to some – The updated Federal Courts app is now available for iPhone, iPad, and iPod Touch. $3. Submitted by David Fauss of [Magnus Consulting.]

Previous Tips:

National Travel: [alphabetized by state]

Florida, Orlando:

Orlando security is very slow. They have one of those "Clear" lanes, which I thought didn't exist anymore, but other than that, no frequent flyer or First Class lines. Prepare for a 20 of 30 minute wait at the Orlando security lines. Submitted by Tara Trask of [Tara Trask and Associates]

Nevada, Las Vegas:

Very often the cab lines in Las Vegas are HORRIBLE. If there is a convention in town you can literally wait an hour for a cab and the lines can stretch around the building. There is a trick. Get one of the luggage porters that are employed by the airport to haul your bags out for you (even a briefcase). They take you to the FRONT of the cab line. Worst case, you will wait behind one or two people. This can save a lot of time for a tip of $5 or $10 bucks. Submitted by Tara Trask of [Tara Trask and Associates]

New York, NYC:

I really like hopstop.com. Great for big city metro info. You can use it on your handheld and it tells you how to get where you are going via metro lines. For NYC, it even says "go south toward Housten" or whatever to direct you when you come out on the street from the subway. I use it in NYC on the subways all the time. LOVE subways. Submitted by Tara Trask of [Tara Trask and Associates]

North Carolina, Asheville:

Asheville is lovely but the taxis at the airport are often dirty and rundown and I was sure the driver I had was going to communicate his tuberculosis to me as he spit phlegm into a plastic cup. Then I found Marvels Upscale Transportation. The same price as the dirty cabs with a wonderfully clean town car and a charming and personable driver! Submitted by Rita Handrich of [Keene Trial Consulting]

Traveling Faster, Easier and with Less Frustration

Be a 'Trusted Traveler':

The "Trusted Traveler" [known as PreCheck for domestic travel] program of the TSA has reopened (for a while, at least) for new registrants. It is a program that allows people who are deemed to be 'low security risk' to register. It provides access to special lanes at airport security checkpoints, and you don't have to deal with having shoes, belts, liquids, computers, etc. hauled out and placed back in your luggage. It is more like it was before 9/11. There are also options that facilitate driving through border checkpoints into Canada and Mexico, as well as returning international travelers. I just registered, and was conditionally admitted. Now I have to go through a fingerprinting and photographing process at one of their airport centers, and I am good to the standard security lanes. I anticipate that will give me back dozens of hours each year.

Note: Not all airports make use of this program. Generally, the bigger the airport the more likely it is to be in the system. By the end of 2012, it will have expanded to 35 airports. Austin is not in it, but most of the airports I fly to are, so I will benefit on the return flights. For program information and included airports, go to this website. Submitted by Doug Keene of [Keene Trial Consulting.]

Carry a Spare Passport, Driver's License and Eyeglass

Prescription:

Another thing that I do when flying, especially overseas, is to make a color copy of my U.S. Passport, driver's license and flight information including the paper documentation for electronic tickets. I tuck all of these together in the lining of my suitcase and in my backpack/briefcase. I also bring a copy of my most recent eyeglass prescription with me as I have been in the unenviable position of having lost my glasses when canoeing on a combination business and vacation trip. Submitted by Steve Perkel of [Archer & Greiner, PC.]

International Travel: [alphabetized by country]

Japan, Tokyo:

If traveling to Tokyo – you'll be flying into Narita, which is well outside of Tokyo. Like Dulles and DC here, only worse. Best way into Central Tokyo is to use the "Airport Limousine Bus" – and not a taxi. It's a much cheaper, and nicer ride. Submitted by Bruce A. Beal of [Beal Research]

Eating Well on the Road

Everywhere You Want Good Coffee:

I love coffee, but don't want to spill it on me while sitting in that airplane or have it go cold. Holding it while someone tries to crawl over to his or her seat is no fun either. I bought a great little thermos from Nissan Thermos (JmL350P) and take it pretty much everywhere with me. It's vacuum insulated and comes with a tea infuser for people who are discriminating tea drinkers. I like it because the top screws on and prevents spillage. I've had it for five years and have dropped it, kicked it, and bounced it down a set of steps and it's still going strong. More importantly, it really keeps my coffee hot for hours. I fill it up at the airport and have good coffee, or at least better coffee, than is typically served on the plane. It easily slides in the pocket in from of my seat. And, I've never had a problem getting it through security. Submitted by Debra Worthington, [Auburn University]

In the Airport:

Longing for a layover? Not generally. But when you have one, CNN has a link to 14 airport amenities that will make you long for a layover! Austin, TX (my hometown) is first among them (and rightly so). Also included are Miami International Airport, Schiphol in Amsterdam, Hong Kong International, Boston's Logan International, San Francisco International Airport, and airports in Portland, Milwaukee, Minneapolis/St. Paul and more. Submitted by Rita Handrich of [Keene Trial Consulting]

Enter the "Secret Garden." For anyone with flights or layovers at Norfolk International Airport in VA and needing to refresh and relax, there is a "secret passage," a walkway into Norfolk Botanical Gardens that borders the airport. The Gardens are truly lovely—all 12 acres of them and there is a free tram with narration that makes a 25 minute tour of the main areas on the half hour. There is a good Café with real fresh made food, and beer with terrace seating adjacent to the Japanese Garden section, complete with small waterfall, koi, statuary. Not that many travel by air through Norfolk, but I thought I would recommend it. The Gardens also have Bald Eagles, Eagle Cam and on Easter when I was there with a friend, many folk with big camera set ups were focused on the nest. There are numerous secluded, shaded places with benches where one can sit, review work, meditate or just love being outside. (Apparently the passage way isn't really so "secret" because I discovered the WSJ ran an article on it stating that there are monitors in the Gardens main building where you can keep up with flight schedules, but I didn't try to find them when I was there.) Submitted by Margie Fargo of [Jury Services, Inc.]

When traveling I am always on the lookout for electrical outlets as I wait for the next connecting flight. These are two terrific resources for identifying which gate to stop at for a quick recharge of phone, laptop or tablet devices. AirPower WikiS(4cbbpq55zly0ql45tpjnmt55))/default.aspx?AspxAutoDetectCookieSupport=1 "25") and and the easily remembered AirportPlugs.com. Submitted by Doug Keene of [Keene Trial Consulting]

The GoHow app for Android, iPhone and Blackberry is pretty awesome. It provides flight tracking information, including departure and arrival gates, what's around the gate (restaurants, services, etc.), and transportation and directions to and from each airport. You can find, ahead of time, the best place to grab a salad during your 20-minute layover or while you're running to your gate. It's come in very handy. Submitted by Leslie Ellis of [TrialGraphix.]

While at Your Destination:

I try to control my diet pretty strictly, but the road makes it very hard. On the road my hours tend to be long, time zones change eating times, long flights with no in-flight food makes me tend to eat what I can, when I can. Also, client invitations to go out with them for meals or drinks create more pressures on the whole eating-thing.

I have started to Google map some health food stores for places near my hotel in advance of my trip. I then try to go a little early (like catch a flight that gets in an hour earlier than one I would have chosen) and go to that store and stock up on some items that are part of my regimen. Then, if I know I am working long hours, I can take some good food with me. If a client wants to go out, it is fine because I can order a salad or something light while I am with them knowing I have some reserves back at the hotel. When I do not think about meals in advance like that, I find myself at the mercy of the "we'll bring in sandwiches" offer, which, as kind and as thoughtful as that might be, usually does not fit my vegetarian and cycling-racing life. By being more mindful of meal challenges and being more

proactive, I have been much more successful keeping up my energy levels on the road and not having to compromise how I want to live. Submitted by Dan Dugan, [Trial Science Inc.]

A good night's sleep is absolutely critical for me, especially when I'm keyed up the night before a project. I have three things I won't travel without: first, a set of Macks Pillow Soft Earplugs. I buy them at my local grocery store, but I think they're also available on Amazon. These are made of moldable silicone. I found that the cheap foam earplugs are nearly worthless for me, but the silicone ones work wonderfully if they're inserted correctly. They block nearly any sound (like unsupervised kids running through the halls). Note: an airtight seal is important – just follow the instructions.

Secondly, I use an eye mask to block all light. Yes, they look dorky, but I'm either alone or with my husband so it doesn't matter. Bed Bath and Beyond has a good selection. Get one (or two) with very soft edges so you don't wake up with raccoon lines on your cheeks.

Finally, I suck on Historical Remedies' Stress Mints just before bedtime. They are homeopathic mints with ingredients like vanilla, chamomille, peppermint, and the like. I get them at Vitamin Cottage, but you can ask at any health food grocery store or, again, check Amazon. I fall asleep within about 15 minutes and never wake up groggy. Watch out for similar mints with valerian – I used some until I learned that valerian can cause nightmares – not a good thing before going into a high-stress environment the next day! Submitted by Gayle Herde of [Integrity Services Group]

While Using Taxi Services:

Leave the taxi door hanging open as you go to retrieve your items from the trunk. It helps to stop the driver from taking off (because he's forgotten you have trunk items — it has happened to me), and also forms the habit of taking one last look inside the cab for things you may have left on the seat or floor when you do eventually close the door. Submitted by John Gilleland of [TrialGraphix]

I always ask the cab driver for the "standard rate" to and from the airport to the hotel. It is almost always cheaper than running the meter. I always like to know I can save my client some money, even in little ways, once in a while. Submitted by Dan Dugan of [Trial Science, Inc.]

iPhone app – Taxi Magic. Need the phone number of a taxi, this app appears to know how to find them most anywhere. submitted by David Fauss of [Magnus Research Consultants]

Things to Leave Behind When You Return Home or Move on Down the Road

Bedbugs:

A friend who had recently done some work for a major exterminating company gave me these instructions. When entering your hotel room, take your luggage straight to the bathroom and set it all in the middle of the tile floor. Then go directly to the bed and pull back the covers all the way down to the mattress. Carefully examine the beading around the mattress to see if you see any of the little irritating bugs. If you find any, call the front desk and ask for another room. When we were in Manhattan recently, the Ritz made the headlines with an infestation. It seems no hotel is immune. Submitted by Andy Sheldon of [SheldonSinrich]

Nasty (but Invisible) Germs and Filth:

Read somewhere to always pack a Ziploc or other clear plastic bag to go over the remote control. It's supposed to be one of the most germy, disgusting items in the room. The travel expert said put the bag over it and then you don't have to worry about touching it. Submitted by Kristin Fitzgerald of [ZMF]

Stinky Gym Shoes:

While your shoes are still hot and steamy from that workout, stick a fabric softener sheet in each of them prior to packing them back up in your suitcase. When you unpack you can stick your nose in those shoes and inhale nothing but freshness (if you really want to do that). Submitted by Charli Morris of [Trial Prep who learned this one from Karen Lisko of Persuasion Strategies]

Make that Cell Phone Work Harder for You

Don't want to forget what level you parked on in that parking garage? A quick snapshot can take care of that problem.

Have you been in and out of one too many hotels this week? Hotels don't have room keys anymore with the room number conveniently inscribed on it (thank goodness). But that swipe card may not help you remember if you were in Room 1114 or 1141. Take a quick shot of your room number or send yourself a text.

If you run a lot of mock trials, you end up in a lot of venues. Later, you're trying to remember what it looked like or whether it was the place with the column inconveniently placed right in the line of site of your video equipment. Take a quick snap or two, tagged the photo with when, where, or any other comments, then text or email them to yourself.

You've probably seen this done elsewhere, but if you're traveling, it's a fun and easy thing to do for those of you with smaller children at home. Take a small stuffed animal or other toy (their choice). And take shots of it in fun or weird places as you travel. Email or attach them to a text and send them home. Seeing Ginger the Horse doing a handstand on the window ledge at your hotel or looking out a taxi window while you're stuck in traffic only takes a moment, but can make your child's (or niece or nephew's) day. If you're really busy, just do

it once during your trip.Submitted by Debra Worthington, [Auburn University]

Things to Carry With You: [alphabetized by product name]

A Playful Attitude:

I play a kind of Pollyanna Glad Game with the myriad of hotels I spend time in. I have learned a trick to no longer being angry and resentful over the fact that the place that I am to lay my weary head for the night or week or whatever has a boisterous convention group in it. I do this in one of two ways:

1. I use the knowledge I get from staying with them for a show I am writing. For example, I just finished a short play partially based on the experience of staying in a hotel where a junior beauty pageant was taking place (think Toddlers and Tiaras meets me in the lobby). Another consultant and I stayed in a hotel recently in the midwest where upon entering we were greeted by a convention of Elvis impersonators and a very bewildered wedding party. You know I am using that one for something.

2. Instead of pretending that I am not with the convention, I pretend that I am. I discovered this trick while staying at the same hotel as an NRA Convention once where it just seemed…well…safer to have everyone around me believe that I actually was carrying a concealed weapon. It is fun to be an IT genius, a Financial Planner, an auditor, an office supplies regional manager, a quilter, etc. So far it has only backfired on me once when a desperate woman in New Orleans ran up to me shouting, "Are you the Port Of San Franscisco???" and I blew my cover by saying without thinking, "Darling – how could you? I've really worked damned hard to keep the weight off." Submitted by Katherine James of [ACT of Communication]

Belkin Power Cube:

Always travel with a power strip, or even better, the Belkin power cube with USB ports. Great for charging multiple objects, like computer, phone, iPad, et cetera. Submitted by Paul Scoptur of [Scoptur Trial Consulting]

Divers Alert Network:

What do scuba diving and trial consulting have in common? Travel, and the potential for illness or injury while traveling. Membership in the Divers Alert Network is $35/year and includes (as quoted from the website): "DAN TravelAssist®. As a DAN Member, you automatically receive DAN TravelAssist and up to $100,000 of evacuation assistance coverage. This benefit is effective for both diving and nondiving medical emergencies. Evacuation coverage begins when you travel on a trip at least 50 miles (80 km) from home and call the DAN Emergency Hotline (%2B1-919-684-9111) for assistance or evacuation." Check www.dan.org for more info – you might just want to start diving too! Submitted by David Fauss of [Magnus Research Consultants]

Flashlight:

Having been in a hotel during a hurricane when the power was lost and the emergency lighting was inadequate, I learned never to travel without a flashlight. Now, with the ubiquitous presence of smart phones and a plethora of free or low-cost apps, I use my Flashlight application on my cell phone to light the way. Submitted by Steve Perkel of [Archer & Greiner, PC.]

Google Translate:

Google Translate is a Google app that will translate between any 2 of dozens of languages, include a speech out load option. Submitted by Bruce A. Beal of [Beal Research]

Hotel Shower Caps:

Many hotels still provide you with a shower cap (although I've never used them for this). Snag them and use them to slip over your shoes to help keep your clothes clean. Submitted by Debra Worthington, [Auburn University]

Laughter:

Before road trips, I download comedy shows from sites like azizansari.com onto my ipad. Then I bring a splitter and two sets of ear buds. If we are driving, my assistant and I can both listen to the show. If we are flying, we can use the splitter and ear buds and watch something mindless after a long day. It is better than movies because sometimes you just want to listen to something hysterical while shutting your eyes. And, if you laugh out loud on the plane, chances are your colleague is also laughing so you both look and sound equally idiotic. Submitted by Ellen Finlay, [Jury Focus]

Three Critical Components in Litigation Graphic Design That You're Not Doing

by David W. Mykel

As litigators, we are standing at the edge of another revolution in trial advocacy. In the 1990s and early 2000s, the technology revolution transformed courtrooms around the country into multi-media presentation theaters. The next revolution is going to ensure that audiences are just as engaged as they are at an IMAX: prepare for the Visual Revolution. With almost 70% of the population being visual learners (Deza, Michel Marie & Elena (2009), Encyclopedia of Distances, Springer) and more and more people getting their information from the internet (49% according to Pew Research Center for the People & the Press), the threshold is near. Knowing this, each and every case that comes through a modern courtroom needs to be told in a visually compelling manner that turns complex facts into a clear and coherent story.

We are dealing with a different breed of audience; one that embraces technology, spends 141 hours in front of a television, and 41 hours a month online (A2/M2 Three Screen Report, Nielsen Media. Vol. 5, 2Q, 2009.). Our audience is pioneering this Visual Revolution and we too need to make this transition by creating an engaging story using multimedia tools to meet the ever changing needs of this modern, visual, and "instant information" culture. The more effective your courtroom presentation is, the more persuasive your argument is going to be, and the easiest way to accomplish this is with a visual framework and strategy.

In my twelve-year career as a litigation consultant, I have witnessed numerous graphics that have not embraced this ever-changing culture's wants and needs. I have reviewed and critiqued countless visuals that have been carelessly laid out and unintentionally colored, while scrutinizing others that were difficult to read and even more difficult to understand. Visuals have departed from their original, intended purpose of telling a cohesive visual story and have become glorified word processing or a mix of improperly laid out, poorly selected images with an obscene election of colors.

In this day and age of "web-based learners," our communication strategy needs to be structured and adhere to the same concepts to which our audiences are exposed daily. This article will demonstrate how to implement easy-to-follow tactics into your next presentation and take your communication to the level your audience expects.

Properly Placed Titles and Subtitles in Consistent and Prominent Areas

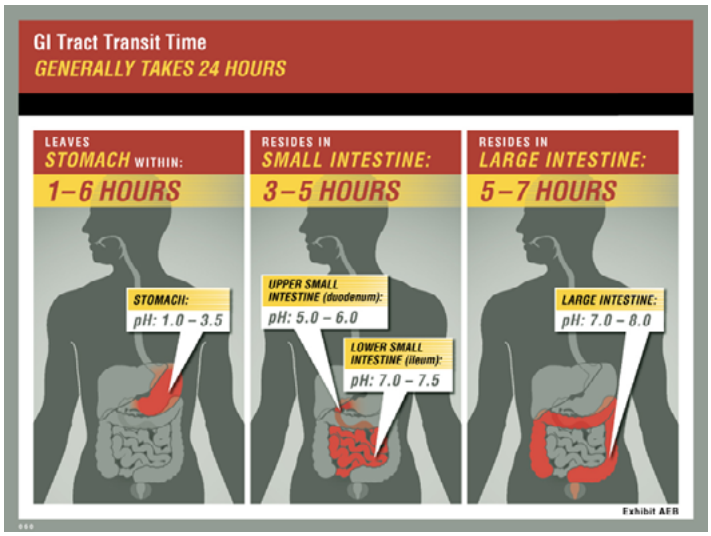
Placing titles and subtitles in the same spot every time teaches your audience where to look whenever a new visual is introduced. The overwhelming majority of the population reads left to right and top to bottom. Beginning your title in the upper left-hand corner takes full advantage of how your audience learns and educates them where to expect something important to be located. Placing your title and subtitle, which should also be your takeaway, in this strategic position ensures that your audience sees and understands the context and the theme of the graphic first, before other aspects are viewed and considered. We recommend creating two to three template variations that allow for horizontal and vertical positioning of the title and subtitle to accommodate different types of information. Creating a few templates allows more latitude in choosing the best layout to display a variety of documents, images, charts, etc., yet still focuses your audiences' attention to the same location for your theme (i.e. takeaway).

A client on a recent case, commented that "*a good demonstrative, can immediately convey a message in a single look*," and in our experience, nothing makes this easier than a perfectly worded and placed title.

Consistently Formatted Text, Data, and Images

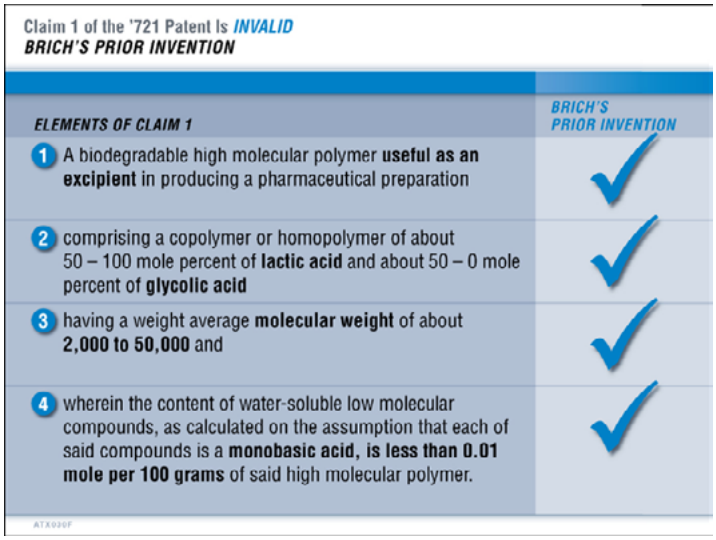
Adhering to the same principles above, it is a smart practice to consistently format text, data, and images. Effective presentations should always support two principles: education and persuasion. Just as we are educating our audiences about our case, we are also aiding/training them to recognize the visual structure of the presentation by teaching the viewer to "know" where to look for important points. Conversely, if you constantly shift where important text, data, and images appear your audience will become confused as to whether or not this data is meaningful, leaving it up to them to decide. Remember, if you don't show your audience how to assess what is important to your case, they will do it for you, and the result may not be what you wanted or intended.

Presenting information in this fashion enables both presenters and readers to readily 'find' critical data during testimony. As communication experts, we know individuals are more likely to be emotionally and/or logically tied to a decision when they themselves have reached it, compared to when another party determines it for them.

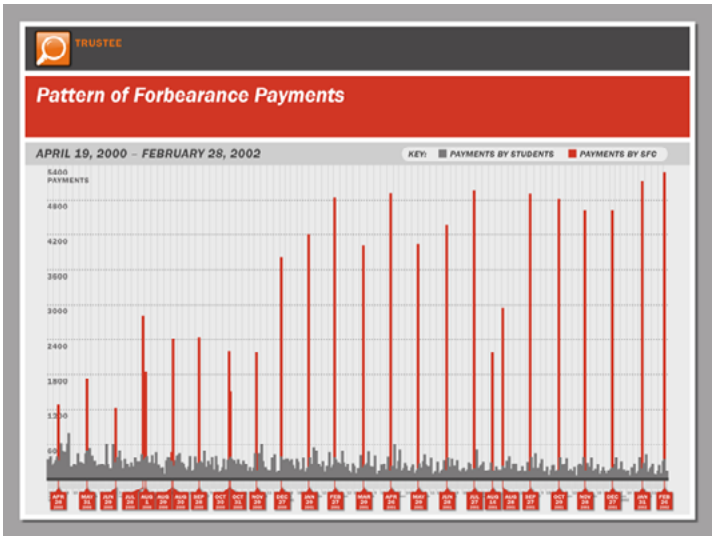


Consistent Application of Color in Diagrams, Icons, Labels, and Backgrounds

Since color plays a vital role in our everyday psychology, it would be irresponsible if we ignored it in our presentations. Color has the ability to influence our feelings and emotions in a way that few other mediums can. Color is a catalyst for affecting human mood, behavior, thinking, and rationale. Color invokes emotions, which is why marketing gurus have been integrating color into their strategies for centuries. Do you think the Coca Cola cans have remained red for decades by accident? If you're thoughtlessly mixing colors throughout your presentation, you may end up unintentionally influencing your audience in the wrong direction.



When creating presentations for our clients, our consultants use blue or green, since it represents honor, trust, and calmness to identify our side of the case. We use the most emotionally intense color, red, for our opposition, because it represents danger and caution. By assigning a consistent color to the parties in a case, we ensure that each side is easily discernible and the point-of-view we're advocating is clearly drawn.



Color can not only be used to differentiate parties, but also to help focus your audience on key information within a graphic. When trying to call attention to something, we utilize yellow highlighting (associated with liveliness and energy) to focus our audience's concentration and let them know "hey, this is important."

Colors can be a powerful tool to entice and engage your target audience and when used in a decisive manner, can be the difference between a visual that persuades and a visual that confuses or distracts.

Conclusion

You may notice something "consistent" about these points. Consistency in your strategy, your communication, and your presentation should go hand-in-hand. Grabbing your audience's attention is not simply about communication processes; it is a strategic necessity, and the only true way to do this, is by investing as much time in your visual framework as you invest in your strategy. You could craft the most persuasive themes ever uttered in a courtroom but if you present them in a convoluted and unorganized manner, your case will fall short of your desired verdict. Think of it this way: What good is the perfect oratory presentation if your audience is deaf? Remember, nearly 70% of the population are visual learners, so we need to ensure we are addressing our audience's wants and needs at THEIR level, not OURS.

After completing hundreds of post-trial interviews with jurors, one thing is clear: if we don't supplement our case strategy with compelling, deliberately well-crafted visuals, our audience will be distracted and tune-out, forgetting our themes and dismissing the merits of our case. Following these simple, yet imperative rules will ensure your audience stays engaged throughout your presentation and empowers them to advocate your themes throughout deliberations and verdict.

David W Mykel is a Litigation Communications Consultant with VisuaLex, LLC, a litigation and graphics consulting firm located in New York City serving clients nationwide for over 25 years. Mykel assists clients on high exposure matters where he leverages his litigation experience and background in psychology in order to develop communication and presentation strategies that drive verdicts. From interviewing thousands of jurors and logging countless hours in the courtroom, Mr. Mykel has developed a unique perspective that allows him to utilize the tenets of art and the methodologies of science in order to create litigation graphics and presentation strategies that resonate with both jurors and judges.

When Should Lawyers Use Big Words

by Adam Alter

Editor's Note: When I saw the first part of the title of Adam Alter's new book, I had no idea what it meant. But as I read the second part, I thought it could be interesting for Jury Expert readers. "Drunk Tank Pink" refers to the impact of the color pink on violence and aggression:" Even if a person tries to be angry or aggressive in the presence of pink, he can't. The heart muscles can't race fast enough. It's a tranquilizing color that saps your energy. Even the color-blind are tranquilized by pink rooms. "Interesting. If you visit that link, you'll see that "drunk tank pink" is strongly reminiscent of a powerful pink liquid you may have taken to address overindulgence in food or drink. But the book doesn't stop there. It answers many questions you may have never known you had. Like, what makes us give financially more to hurricane relief when the name of the hurricane begins with the same letter as our own first name? How would illuminating railway lines with blue lights cut down on violence and crime? Why would the art hanging on your walls make you more honest? Why do athletes wearing red win more often than those wearing blue? This book is a fast and enjoyable read and actually has relevance for litigation advocacy as you'll see in this introduction to the book from the author himself. –Rita Handrich, Editor

When I moved from Australia to the United States to embark on a Ph.D. in social psychology, I was only a few courses shy of becoming a lawyer. I was loath to abandon my legal studies completely, so one of my advisors, Professor Danny Oppenheimer, and I decided to investigate a question that had puzzled me for years: when, if ever, should lawyers use big words?

It's a deceptively simple question, and I imagined the answer was either "yes" or "no", perhaps with caveats depending on the type of case or the make-up of the jury or some other variable I would soon discover. In fact, the answer is far more complex and, I think, more interesting.

First though, it's important to explain what I mean by "big words." Legal discourse is so different from standard English (or any other language) that it has its own name: legalese. Legalese is an arcane portmanteau that borrows words from Latin and the far reaches of several other contemporary (and even borderline extinct) languages. People esteem lawyers for their intellects and the lawyer's unique command of legalese and its vocabulary can perpetuate that image. But there's no

inherent reason why lawyers absolutely must use bigger words when smaller ones will do. Judicial bodies in Australia, the United States, and countless other countries have recognized this alternative universe[1] by promoting Plain English as an alternative to Legal English, though big words live on in legal discourse, and probably always will.

As it turns out, the evidence is murky at best. Some researchers have shown that communicators seem more intelligent when they use simpler language,[2] but others have shown the reverse: that people are more impressed by complex language when they expect the communicator to be conveying equally complex information (as lawyers often do).[3] That makes a lot of sense when you think about it. Humans are mentally quite lazy, and they generally exert as little attention as possible to form a minimally acceptable conclusion.[4] If a lawyer or any other communicator forces them to expend extra mental effort without justification, they're likely to feel negative about the communicator. If, on the other hand, the information is innately complex, that extra effort is justified and oversimplification might even suggest that the communicator is missing some of the nuances.

More subtle, however, is the question of whether you should ever inject artificial bursts of complexity into a statement. Is there ever a good time to strategically choose a longer word when a short one will do? The answer, as we found in some later work,[5] is "yes". Longer words slow people down and force them to think just slightly harder than they had to think beforehand. They may not enjoy the experience (though that diminished enjoyment lasts briefly) but their mental systems kick into gear, processing what comes next with a greater degree of care and effort. Psychologists call the shallower mode of processing System 1 processing, and the deeper mode System 2.[6]

System 2 processing is exhausting, and we can't possibly process everything deeply, so we apportion our mental resources by responding to cues in the environment. As I discuss in my new book, Drunk Tank Pink [7], a complex word is one such cue and it suggests to us that we need to pay closer attention. (By that theory, for example, when I used the word *portmanteau earlier—the most complex word in this article–you probably paid especially close attention to the phrase "that borrows from Latin," which followed portmanteau.*)

The answer to the question I posed earlier is that you should use long words when they're appropriate. Don't avoid them altogether just because they'll make you look stodgy—but never use a long word when a shorter word will do (this is the same advice that grammarians have been giving for years [8]). More surprising, perhaps, is the importance of peppering simpler words with complex words at critical junctures: before a key argument, or before a message that you want the jury (or other listeners) to process more carefully. In that case, the benefit of encouraging people to pay closer attention outweighs the cost of forcing them to think harder in the first place.

Adam Alter is an assistant professor of marketing and psychology at New York University's Stern School of Business. He studied law for several years in Australia before completing his Ph.D. in social psychology at Princeton University. He has been a professor at NYU since 2009. Professor Alter is also the author of a new book, Drunk Tank Pink: And Other Unexpected Forces That Shape How We Think, Feel, and Behave, which considers some of the issues described in this brief article more deeply.

References

[1] For a sample of U.S. Plain English laws, see: http://www.languageandlaw.org/TEXTS/STATS/PLAINENG.HTM.

[2] See Oppenheimer, D. M. (2006). Consequences of erudite vernacular utilized irrespective of necessity: Problems with using long words needlessly. Applied Cognitive Psychology, 20, 139–156.

[3] Galak, J., & Nelson, L. D. (2010). The virtues of opaque prose: How lay beliefs about fluency influence perceptions of quality. Journal of Experimental Social Psychology, 47, 250-253.

[4] Psychologists refer to this as cognitive miserliness: e.g., Fiske, S. T., & Taylor, S. E. (1991). Social cognition (2nd ed.). New York: McGraw-Hill.

[5] Alter, A. L., Oppenheimer, D. M., Epley, N., & Eyre, R. N. (2007). Overcoming intuition: Metacognitive difficulty activates analytic reasoning. Journal of Experimental Psychology: General, 136, 569-576.

[6] The best popular treatment of the issue is Nobel Laureate Daniel Kahneman's book: Kahneman, D. (2011). Thinking, fast and slow_. New York: Farrar, Strauss, and Giroux.

[7] Alter, A. L. (2013). Drunk tank pink: And other unexpected forces that shape how we think, feel, and behave. New York: Penguin Press.

[8] See, e.g., Strunk, W., & White, E. B. (1999). The elements of style (4th ed.). New York: Longman.

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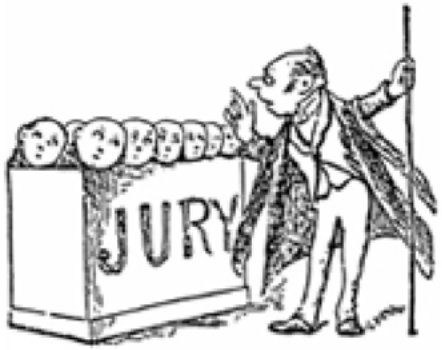

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