

**Courtroom Perceptions and Decisions: The Effects of Perspective Taking, Victim Impact
Statement Content, and Victim Gender**

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Abstract

Controversy surrounding the implications of victim impact statements (VIS) suggests that additional research is needed to further determine the extent to which the content of these statements can influence courtroom perceptions and decisions. Past research shows that when victims present a VIS, the jury and judge view a victim favorably and give a more extreme punishment to the defendant (Myers & Greene, 2004). Research has also found that participants view the person they have been asked to perspective take with more favorably, whether it be the defendant or the victim (Skorinko et al., 2014). Other studies have found that jurors might interpret anger differently depending on victim and juror gender (Chaplin, 2015; Deng et al., 2016; Peace & Forrester, 2012; Skorinko et al., 2014). The present study investigated if the outcome of a trial is influenced by the interaction between angry content in a victim impact statement (anger or no anger), the gender of the victim (male or female), and who the jurors are told to perspective take with (defendant, victim, or no one). A total of 295 jury-eligible participants completed the study. The results of this study show that combinations of victim impact statement content, perspective taking, and victim gender produce significant results in some cases; however, since the results were somewhat unpredictable, we believe that additional research is needed to more definitively say how these conditions influence each other in the courtroom.

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Courtroom Perceptions and Decisions: The Effects of Perspective Taking, Victim Impact Statement Content, and Victim Gender

In 1987, the Supreme Court found that juries who listen to victims speak about the impact of a crime risked becoming prejudiced by information about the defendant's character (*South Carolina v. Gathers*, 490 U.S. 805 (1989)). The practice of victims giving statements about the effect a crime had on their life was thus banned; however, this case was later revisited on numerous occasions. The ban was reaffirmed in 1989, but then reversed in 1991. The court decided that although victims' statements have the ability to garner sympathy for victims and prejudice juries against defendants, victims should be given the opportunity to "balance the defendant's extensive right to present mitigating evidence" (Deise & Paternoster, 2015, p. 4). The controversy surrounding the implications of victims' statements suggest that additional research in this area is needed to further determine the extent to which the content of these statements can influence courtroom perceptions and decisions. To address this, the present study investigated if the outcome of a trial is influenced by the interaction between angry content in a victim impact statement (anger or no anger), the gender of the victim (male or female), and who the jurors are told to perspective take with (defendant, victim, or no one).

Victim Impact Statements

A "Victim Impact Statement" (VIS) is a written or oral statement meant to convey the "emotional, physical, and financial impact" a victim or others have suffered in the aftermath of a crime (United States Department of Justice, 2021, para 2). The statement could be written by the victim themselves, or a family member or friend. VIS can be delivered as a written statement, or they can be read aloud in the courtroom. The content of VIS is largely unrestricted. Since there

are no strict guidelines in place to regulate the content in a VIS, research into empathy-producing tactics could help attorneys better advise their clients.

Past research has found that when victims choose to present a VIS, it leads the jury and judge to view a victim favorably, and give a more extreme punishment to the defendant (Myers & Greene, 2004). Furthermore, VIS including emotional content such as strong language and extreme emphases cause juries to feel more sympathetic towards victims, and contributes to the harsh punishments mock jurors have chosen to inflict in past lab-based studies (Nadler & Rose, 2003). These findings indicate that the emotional content in a VIS can impact jurors' decision making.

Victim Impact Statement Content—Anger

Whether it be the pressure of taking the stand, the feeling of being wronged, or the desire to inflict emotional distress upon the defendant, victims commonly express anger in their spoken victim impact statements. Although the expression of anger may seem perfectly natural in this kind of situation, anger expressed by the victim has the potential to undermine “reasonable deliberation, impartiality and equality before the law” (Sorial, 2016, p. 288). It is difficult, due to the intricacies of trials, to pinpoint exactly what it is about VIS that influences jurors' perceptions of victims and defendants. Our focus was drawn to anger because past research regarding the presence of anger in VIS is often contradictory. Whereas one study's findings confirmed what the Supreme Court found in 1987—angry VIS lead to a higher likelihood that jurors will choose the death penalty (Nunez et al., 2017), other studies have found that anger expressed by a victim could lead jurors to think the victim is immature, unable to find closure, and has a desire for personal revenge (Sorial, 2016, page 291). These findings led us to believe that in order for a VIS to be successful, there needs to be some balance between what the victim

is feeling, and what they are showing. Victims' statements can be a rhetorical tool used to gain sympathy and promote understanding from jurors and judges. This tool is so powerful because "the presentation of a victim impact statement potentially enables an individual victim to gain access to the power to punish" (Butler, 2013, para 20). Inquiry into this power is essential due to the seriousness of courtroom outcomes.

Gender and Jury Decision Making

Few past works have investigated juror perceptions of victim's gender, but research in other fields suggests that there are sex differences when it comes to feelings of empathy—on average, females have stronger empathetic responses (Christov-Moore & Iacoboni, 2018). While men and women are similarly physiologically aroused when experiencing both positive and negative emotions, when it comes to anger, men tend to be more outwardly expressive, whereas women are more likely to internalize their feelings (Chaplin, 2015; Deng et al., 2016). In addition, men are found to "engage...slightly more in verbal aggression" than do women (Potegal et al., 2010). These findings suggest that jurors might interpret anger differently depending on the gender of a victim. To fill the gap in the existing literature, we decided to add a gender condition to this study, with the purpose of exploring whether there would be a difference in participants' perceptions depending on the gender of the victim.

The decision to examine gender was further supported by past research about ingroup bias which found that female jurors were more likely to perceive a VIS as emotional if a female victim read a victim impact statement (Peace & Forrester, 2012). Other studies also acknowledge the important role that ingroup biases could play in the courtroom in relation to gender (Skorinko et al., 2014). These findings show that in a trial that utilizes victim impact statements, a female juror tends to feel more empathy for a female victim, while a male juror usually feels more

empathy for a male victim. This suggests that the potential alignment of a participant's gender and the victim's gender could influence the outcome of a trial.

If it is found that the victim's gender significantly impacts participants' perceptions of the trial, it will point towards the link between gender and linguistic stereotyping, which is when, oftentimes false, judgements are made about people based on something they say or write (Rubin, Coles & Barnett, 2015).

Perspective Taking

Although there is reason to believe that gender biases have the potential to sway a jury, there has been little investigation as to the results of interactions between variables such as Victim Gender and VIS, and Victim Gender and Perspective Taking. Perspective taking is when an individual attempts to think about another person's situation or position. It happens in the courtroom when attorneys prompt the jury to think about their client's position. A 2001 study by Catellani & Milesi utilized perspective taking in order to see the effect it had on counterfactual thinking. Their methods prompted participants to perspective take with both a victim and defendant. Courtroom dynamics were not their primary focus; however, the strategy they introduced—perspective taking in the courtroom—was soon adopted as a useful tactic for attorneys, and as a topic of continued research to better understand its effects. This tool makes sense, considering that previous research has found perspective taking to lead to higher amounts of empathy (Batson, 1998). This knowledge has been applied to studies about perspective taking in the courtroom, finding that when jurors are prompted to take the perspective of the defendant, they view the defendant as less culpable (Skorinko et al., 2014). When jurors are prompted to take the perspective of the victim, they view the defendant as more culpable (Skorinko et al., 2014).

While past work has examined the emotional content of victim impact statements and perspective taking, no research has looked into the conjunction of angry victim impact statements and perspective taking. The aim of the current work is to examine how perspective taking and angry victim impact statements influence juror decision making.

Conclusion and Present Study

Overall, past research has found that victim impact statements tend to lead to more favorability towards the victim in a court case (Skorinko et al., 2014). However, what is less clear from the past work is how anger expressed in these victim impact statements will be perceived by jurors, as some research suggests it will enhance favorability towards the victim but other research indicates it might backfire, and that the gender of the victim might influence how the expression of anger is viewed (Peace & Forrester, 2012). In addition, it is unclear from the past work how victim impact statements will be viewed by jurors when those jurors are asked to take the perspective of the defendant (or victim) in a court case. Therefore, the present study investigates the interaction between anger in a victim impact statement (anger or no anger), the gender of the victim (male or female), and who the jurors are led to perspective take with (defendant, victim, or no one) influence the outcome of a trial. Based on this past work, I predict that: H1) Participants who read the angry VIS will feel more empathy for the victim; H2) Participants will feel more empathy for female victims than male victims; H3) Participants asked to perspective take with the victim will have more empathy for the victim and view the defendant as more culpable; H4) Participants asked to perspective take with the defendant will have more empathy for the defendant and view the defendant as less culpable; H5) Participants who view a female victim, the Angry VIS, and are asked to perspective take with the victim will feel more empathy for the victim and find the defendant more culpable; H6) Participants who view a male

victim, the No Anger VIS, and are asked to perspective take with the victim will feel more empathy for the victim and find the defendant more culpable.

Method

Participants

A total of 295 jury-eligible participants (59.66% male, 39.32% females, .02% other), and an age range of 18-76. The the self-reported ethnicity breakdown is as follows: 77.6% White/Caucasian, 12.5% Black/African American, 4.1% Asian (East Asian, South Asian, Pacific Islander), 2.4% Hispanic/Latino(a), 1.4% biracial, .3% Middle Eastern, .3% Native American/Alaskan Native, and .7 people who chose not to disclose. Participants were recruited from both a university in New England, and Amazon's Mechanical Turk. Participants recruited from the university were given class credit, and participants recruited from Amazon's Mechanical Turk were paid \$3.00 for 20-25 minutes of their time. Thirty-one participants were excluded from this study after data collection. Participants were excluded if they completed the study in an unreasonably short amount of time, if they stopped taking the study after only a few minutes, and if they left obviously incorrect answers for most of the short-answer questions. All participants gave informed consent prior to completing the study.

Design

This experiment followed a 2 (Victim Impact Statement (VIS) Condition: Angry VIS vs No Anger VIS) x 2 (Victim Gender: Female or Male) x 3 (Perspective Taking (PT): PT Defendant vs PT Victim vs No PT) between-participants design. One of the independent variables, VIS Condition, was operationalized through the content in the statements. Some participants viewed VIS with angry content, and some saw VIS with no angry content. Another independent variable, victim gender, was operationalized by showing participants a victim with a

stereotypically male or female name. The other independent variable, perspective taking, was operationalized by asking participants to take the perspective of the victim, the defendant, or not to perspective take at all. We measured outcomes of the trial such as verdict, how much empathy participants felt for the victim and defendant, perceptions of culpability, and participants' predispositions towards the prosecution and defense.

Materials

Details of Trial

Participants read a fictitious trial, *State of New Jersey vs. George Taylor*, detailing a first degree, armed robbery of a convenience store. In the trial summary, the defendant George Taylor enters a Quick Stop gas station, pulls out a handgun, demands money from the cashier, and then shoots the cashier. The cashier, Victor or Victoria Jones (depending on the Victim Gender condition), was taken to the hospital and received surgery to remove the bullet.

Victim Impact Statement (VIS) Condition

One of the independent variables manipulated in this study was the content of the Victim Impact Statements (VIS). Participants were randomly assigned to view either a VIS that contained no angry language or a VIS that contained angry language. Both Victim Impact Statements contained the same information conveyed differently depending on which condition (Angry vs No Anger) participants were randomly assigned to read.

Creating Victim Impact Statements that participants perceived as "angry" posed unique challenges due to the fact that representing "anger" in text is not a straightforward task. Previous unpublished research conducted at a university in New England has examined the impact of emotional VIS. The results of that research did not find any significant relationships between the emotionality of VIS and jurors' reactions. Upon reflecting on the process, we realized that we

had not delved into the research behind the rhetoric of expressing emotion through text. This research, previously unexplored by us, played a key role in informing this new study.

This new project examining “anger” within VIS instead of “emotion” presented new challenges. Due to the nature of anger, it is not only difficult to tell why people are reacting and interpreting content the way they are, but there is no way to signal anger within writing in such a way that it is guaranteed that readers will perceive the text as “angry.” There is no way to predict how someone might interpret a written text. In order to attempt to convey “anger” to readers, we developed strategies to make one of the VIS angry, and we pretested both the Angry VIS and No Anger VIS to make sure that our VIS had the intended effect on participants. Some of the strategies used were Explicit Statements, Verb Changes, Descriptive Names, Added Adjectives, Explicit Statements of Anger, and Blame.

Another factor we took into consideration was the differences between the two statements. We wanted to make sure that the Angry VIS, which contained added angry language, did not include any extraneous information. Since this study compares two pieces of text in which “anger” is manipulated, it is important to the integrity of the study that the only difference between the two pieces of text is the “anger.” Writing is not an exact science, so specifically isolating “anger” within text is impossible to do. To mitigate this issue, we made as few changes to the Angry VIS as possible. We also pretested the statements to make sure that participants perceived one as more angry than the other.

Pre-testing: Victim Impact Statement (VIS) Condition

To confirm that the Angry VIS was perceived as having more anger than the No Anger VIS, both versions were pretested using a within-participants design. Nineteen participants read both VIS, and answered a series of questions immediately after reading each one. The order in

which they viewed the VIS was random. The Angry VIS was perceived as significantly more angry than the No Anger VIS with a p-value of <0.001 . Additionally, the Angry VIS was perceived as no more informative or descriptive as the No Anger VIS, with p-values of 0.909 and 0.449 respectively. This provides evidence that the Angry VIS adequately portrays anger without adding any extraneous information. The No Anger and Angry statements can be seen in Appendices A and B.

Victim Gender Manipulation

Another independent variable manipulated in this study was gender. Past findings suggest the possibility that jurors might interpret anger differently depending on the gender of the victim. We wanted to investigate whether the gender of the victim would play a role in how participants perceived the VIS. Participants were randomly assigned to a victim that had either a stereotypically male or female name (Victor Jones or Victoria Jones).

In order to determine which names to use for the victim, we pretested the following three sets of male and female names: Victor/Victoria Jones, Michael/Michaela Jones, and Christian/Christina Jones. Nineteen participants rated each name as “Male,” “Female,” or “Could be male or female.” All of the names were correctly identified as “Male” and “Female,” so the name chosen for the final study, Victor/Victoria Jones, was chosen at random.

Perspective Taking (PT) Manipulation

An independent variable manipulated in this study was the perspective-taking condition. We were curious to see if there were any changes in how participants perceived the trial when they were specifically asked to take the perspective of the defendant, the victim, or neither. If a participant is assigned to a perspective taking condition, either the prosecution or defense’s argument ends by prompting participants to take the perspective of George Taylor or

Victor/Victoria. If a participant is assigned to the condition without perspective taking, neither the prosecution or defense's argument mentions perspective taking at all.

Abbreviated Prosecution Perspective Taking

“Ladies and gentlemen of the jury, I am here to ask that you put yourself in my client's shoes. You are all upstanding citizens, like George Taylor, so how would you feel if you were wrongly accused of robbery? Take his/her perspective for a moment. How would you feel if the evidence provided against you was all circumstantial and nothing concrete?”

Abbreviated Defendant Perspective Taking

“Ladies and gentlemen of the jury, I ask that you take Victor/Victoria Jones's perspective as you make your decisions. How would you feel if you were the victim of this heinous crime? How would you feel if you were 100% confident of who committed the crime against you, but the defense tried to question you?”

The full arguments can be found in Appendices C and D.

Procedure

Participants recruited from the university completed the study on computers in the lab, white participants recruited from Amazon MTurk completed the study on their personal devices. Before starting the study, they indicated their informed consent by choosing to “agree” or “disagree” to participate. Every participant agreed. After giving informed consent, participants learned they would be reading a trial and answering some questions about their perceptions of the trial. Participants first read a trial about an armed robbery at a gas station. In the trial summary, participants learned that the defendant, George Taylor, shot the victim who was the cashier. The victim was either portrayed as being female through a stereotypically female name

(i.e., Victoria) or male through a stereotypically male name (i.e., Victor). Participants also read abbreviated closing statements for the prosecution and the defense. One-third of the participants were randomly assigned to perspective take with the defendant by the defense attorney in their closing arguments, another one-third of participants were randomly assigned to perspective take with the victim by the prosecution in the closing arguments, and one-third of the participants read the closing arguments without being asked to perspective take. After reading the trial summary, participants also read a victim impact statement. Half the participants read a victim impact statement that showcased anger towards the defendant by the victim, and the remaining half of the participants read a statement that contained no anger towards the defendant.

After reading all the case materials, participants were then asked to deliver a verdict by identifying the defendant as “guilty” or “not guilty.” They also indicated how culpable the defendant was by indicating how confident they are that the defendant committed the crime, how responsible the defendant was, how blameworthy, etc. We also measured how culpable the participants perceived the victim to be by asking how responsible and blameworthy the victim was for the crime. Since past work has found that perspective taking can influence empathy felt towards different actors in a situation (Skorinko et al., 2014), we measured how much empathy the participants had for the defendant and the victim. To do this, we asked participants to indicate how much empathy they felt towards the defendant. We also utilized Batson’s Empathy Scale (1997) that asks participants to indicate how empathetic, sympathetic, compassionate, moved, warm hearted, tender they feel towards a target. In this case, we asked these items for the defendant and the victim. In addition, we measured individuals’ natural inclination towards empathetic concern and perspective taking by having participants complete two subscales from the Interpersonal Reactivity Index on perspective taking and empathic concern (Davis, 1980).

Participants also filled out the Juror Bias Scale to determine whether they had a predisposition towards the prosecution or the defense (Kassin & Wristman, 1983). Finally, participants completed demographic information (i.e., gender identity, race/ethnicity, age, etc.). After completing the measures, all participants were thanked and debriefed.

Assessment Scales and Measures

Verdict Dependent Variable

Participants were asked to assign the defendant a “guilty” or “not guilty” verdict. We are interested in whether the verdict participants decide on was influenced by the conditions they were assigned to.

Culpability Dependent Variable

We decided it was important to measure culpability so that we could gain a better understanding of participants’ thought process when assessing defendants and victims. This scale was initially used in a study about perspective taking in the courtroom in order to see how perceptions of culpability relate to perceptions of guilt and innocence (Skorinko et al., 2014). Participants’ perceptions of the defendant were measured on a 7-point Likert-type scale with 1 meaning “Not at All” and 7 meaning “Extremely.” Responses to the questions were combined into two variables for analysis—one for the defendant and one for the victim—to measure culpability. The questions we asked can be found in Appendix E.

Empathy (Favorability) Dependent Variable

Since past work found that perspective taking might influence empathy (Skorinko et al., 2014), we wanted to examine whether that was the case in this study. As in past work (Skorinko et al., 2014), we used Batson’s (1997) Empathy measure. This measure was originally used to measure empathy towards stigmatized groups such as young women with AIDS, homeless men,

and convicted murders. Batson et al. (1997) asked participants to perspective take with a member of a stigmatized group, and then presented them with a questionnaire designed to measure empathy through a series of questions rated on a scale of 1 (strongly disagree) to 9 (strongly agree). The questions are based on empathy adjectives, including, “sympathetic,” “compassionate,” “soft-hearted,” “warm,” “tender,” and “moved” (Batson et al., 1997, p. 111). Based on this self-reported empathy scale, Batson’s studies found that participants felt significantly more empathy towards the people and groups they were asked to take the perspective of. In addition, we added a single question that directly asked about empathy. To score the items on Batson’s (1997) scale, we took the average score for each question. The single question about empathy was analyzed on its own. Higher scores indicate a higher amount of empathy.

Participants completed a series of questions based on Batson et al.’s (1997) scales for both the defendant and victim. The questions were combined into one variable for analysis. The full list of questions can be found in Appendix F.

Interpersonal Reactivity Index

Davis’s (1980) Interpersonal Reactivity Index (IRI) is a questionnaire created to measure individuals’ levels of empathy (Davis, 1980). Twenty-eight questions measure a variety of topics that relate to perspective taking, fantasy, empathic concern, and personal distress. Questions are answered on a scale of 1 (Does not describe me well) to 5 (Describes very well). For analysis, we took the average scores, with a higher score indicating higher empathetic concern.

For the purpose of our study, only the 15 questions regarding perspective taking and empathic concern were used since those are the types of questions that relate to this area of study.

The two subscales were combined, and reverse-scored for analysis. The full list of questions can be found in Appendix G.

Juror Bias Scale

Participants responded to Kassin and Wristman's Juror Bias Scale (1983), a scale that was developed to measure jurors' predispositions towards the prosecution or defense (Kassin & Wristman, 1983). The results of this scale give us insight as to how participants might respond to questions of guilt and innocence. Participants filled out the scale on a 7-point Likert-type scale with 1 meaning "Strongly Disagree" and 7 meaning "Strongly Agree." The scores were averaged together to create one variable for analysis, which was reverse-scored, so a higher score indicates that a participant is pro-prosecution. The full list of questions can be found in Appendix H.

Manipulation/Attention Checks

In order to ensure that participants were paying enough attention to the study, we asked a series of questions designed to test their knowledge of the study. We asked if the defense encouraged them to take the perspective of the defendant, and if the prosecution encouraged them to take the perspective of the victim, both of which had options for "yes" and "no." These questions verified that the perspective taking independent variable had the desired effect. Next, we asked participants how angry they thought the testimony was on a scale of 1 (Not At All) to 7 (Very Angry).

To verify participants' understanding of the trial summary, we asked participants four questions: 1. "What was the defendant in the case on trial for?"; 2. "What was the defendant's name?"; 3. "What happened to the victim during the crime?"; 4. "What was the victim's name?" These questions were formatted as open responses. We used these responses to clean the data.

Demographics

At the end of the study, we asked participants to report demographic information including their age, ethnicity, grade (if applicable), political affiliation, gender, if they are a citizen of the United States, if they have served on a jury before, if they or someone they know has been a victim of a robbery, if they or someone they know has been a victim of a violent crime, and if they are taking the study through the university or through Amazon Mechanical Turk.

Results

The data were assessed for statistical significance at $\alpha = .05$ and were analyzed using a 2 X 2 X 3 ANOVA with Victim Impact Statement Content (Angry VIS, No Anger VIS), Victim Gender (Male, Female), and Perspective Taking (PT with victim, PT with defendant, No PT), as factors. The main analysis focused on what verdict participants assigned the defendant, participants' feelings of empathy towards the victim and defendant, their perceptions of culpability, as well as whether participants had a predisposition towards the prosecution or defense.

Main Analyses

Verdict. Participants were asked to assign the defendant a verdict of either “guilty” or “not guilty.” Looking at the verdicts given regardless of the conditions, the results show that the verdict was split somewhat evenly with 47.46% of participants assigning the defendant a “guilty” verdict and 52.54% choosing “not guilty,” $\chi^2 (N = 205) = .76, p = .4$. There was no significant effect of Perspective Taking on verdicts $\chi^2 (N = 295) = 4.87, p = .09$. More specifically, there were not significant differences in the number guilty verdicts assigned based on whether the juror took the perspective of the defendant ($N = 47$), the victim ($N = 53$), or no one ($N = 40$), χ^2

($N = 140$) = 1.81, $p = .40$. There was also no significant effect for Victim Impact Statement Content on verdicts, $\chi^2 (N = 295) = .15, p = .70$. And, there was no significant effect for Victim Gender on verdicts, $\chi^2 (N = 295) = .46, p = .49$.

General Empathy Measure for Victim. To measure empathy, we asked participants a single question about how much empathy they felt for the victim. The ANOVA revealed a significant main effect for Anger, $F (1, 283) = 4.23, p = .04, \eta_p^2 = .01$, such that participants who read the Angry statement ($M = 6.06; SD = 1.15$) felt significantly more empathy for the victim than when they read the No Anger statement ($M = 5.74; SD = 1.36$). This finding supports our hypothesis, H1, which said that participants who read the Angry VIS will feel more empathy for the victim.

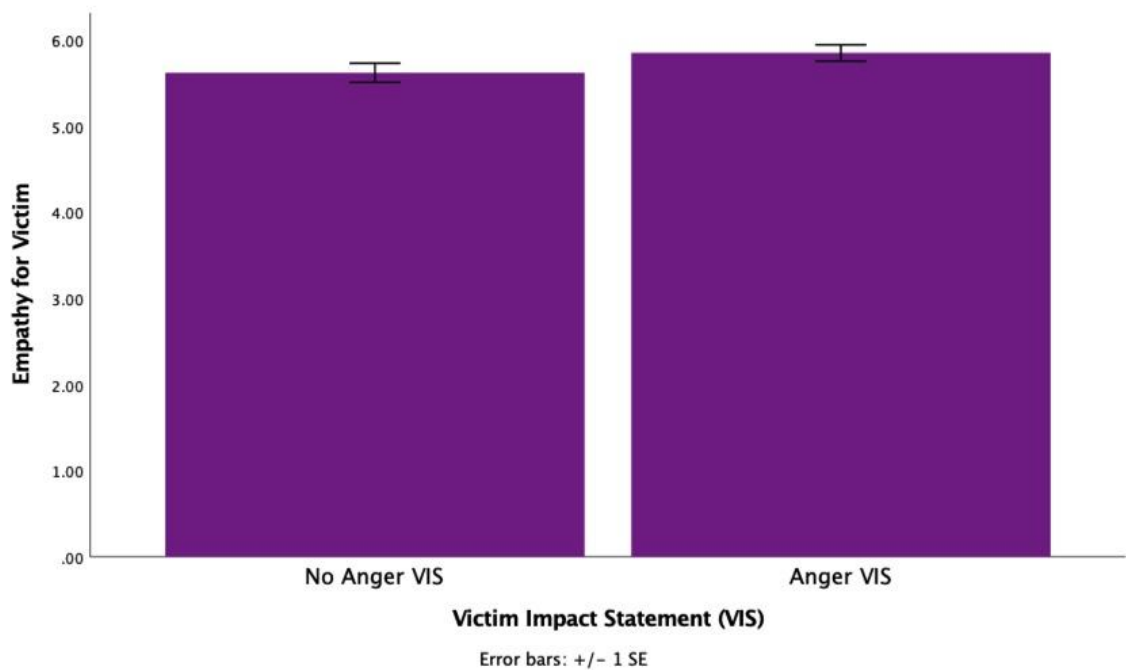
There was also a significant interaction between Perspective Taking and Victim Gender, $F (2, 283) = 5.62, p = .004, \eta_p^2 = .04$. A simple effects analysis showed that when the victim was male, participants felt significantly less empathy for the victim when they were asked to perspective take with the defendant ($M = 5.53; SD = 1.42$), than when they did not perspective take with anyone ($M = 6.06; SD = 1.05$). This finding confirms past research that has found that perspective taking with the defendant leads to less empathy for the victim (Skorinko et al., 2014). This pattern does not replicate for female victims, as the opposite was found. When the victim was female, participants felt significantly more empathy for the victim when they took the perspective of the defendant ($M = 6.29; SD = 1.01$) than when they did not perspective take with anyone ($M = 5.64; SD = 1.45$). We did find, however, that when the victim was female, participants felt significantly more empathy for the victim ($M = 6.15; SD = 1.03$) when they took the perspective of the victim than when they did not take the perspective of anyone ($M = 5.64;$

$SD = 1.45$), and this finding is what we might expect based on past research. All other pairwise comparisons were not significant, $ps > .28$.

There were no main effects for Perspective Taking or Victim Gender on empathy felt for the victim., $ps > .11$. There were no two way interactions Perspective Taking and Anger, and Anger and Victim Gender, $ps > .44$. There was no significant three way interaction between Perspective Taking, Anger, and Victim Gender, $p > .6$.

Figure 1

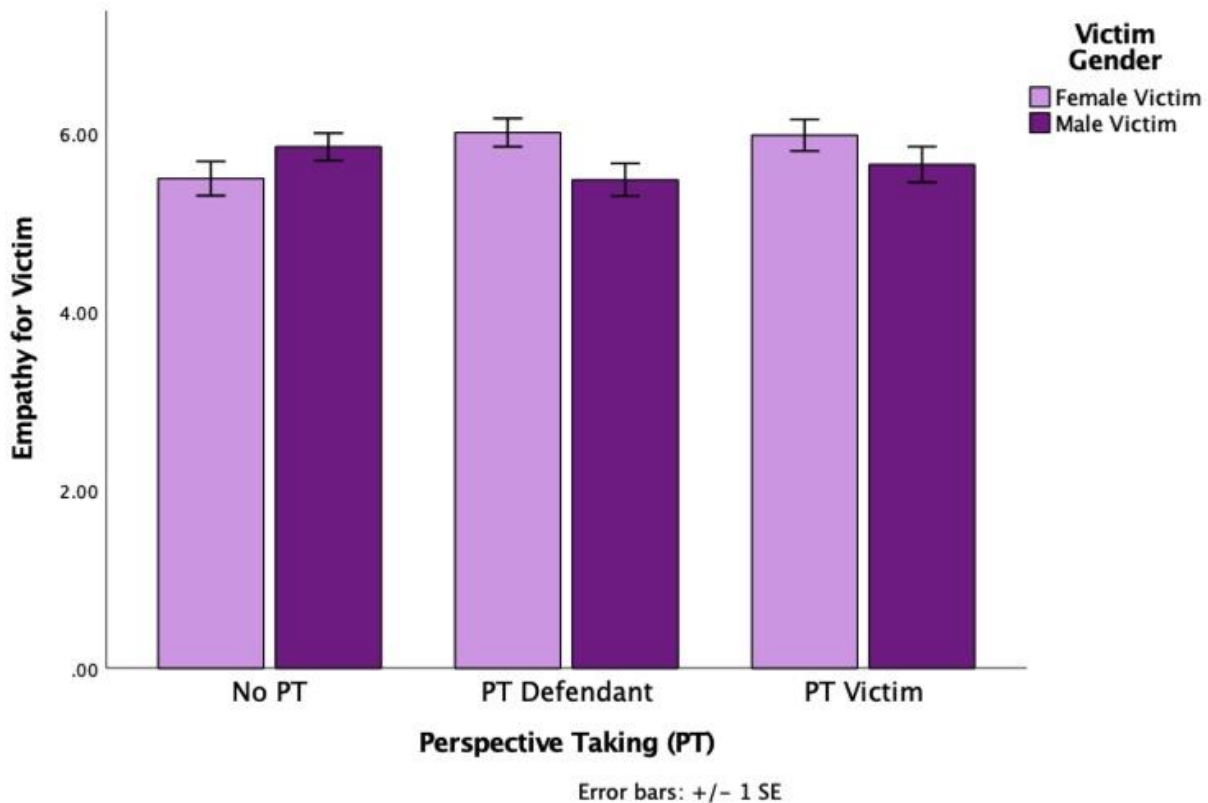
Empathy felt for the victim (main effect for anger)



Note. Bar graph depicting how much empathy participants felt for the victim based on VIS condition, rated on a scale of 1 (not at all) to 7 (very much). Higher scores indicate more empathy felt for the victim. $p \leq .04$.

Figure 2

Empathy felt for the victim (interaction between Perspective Taking and Victim Gender)

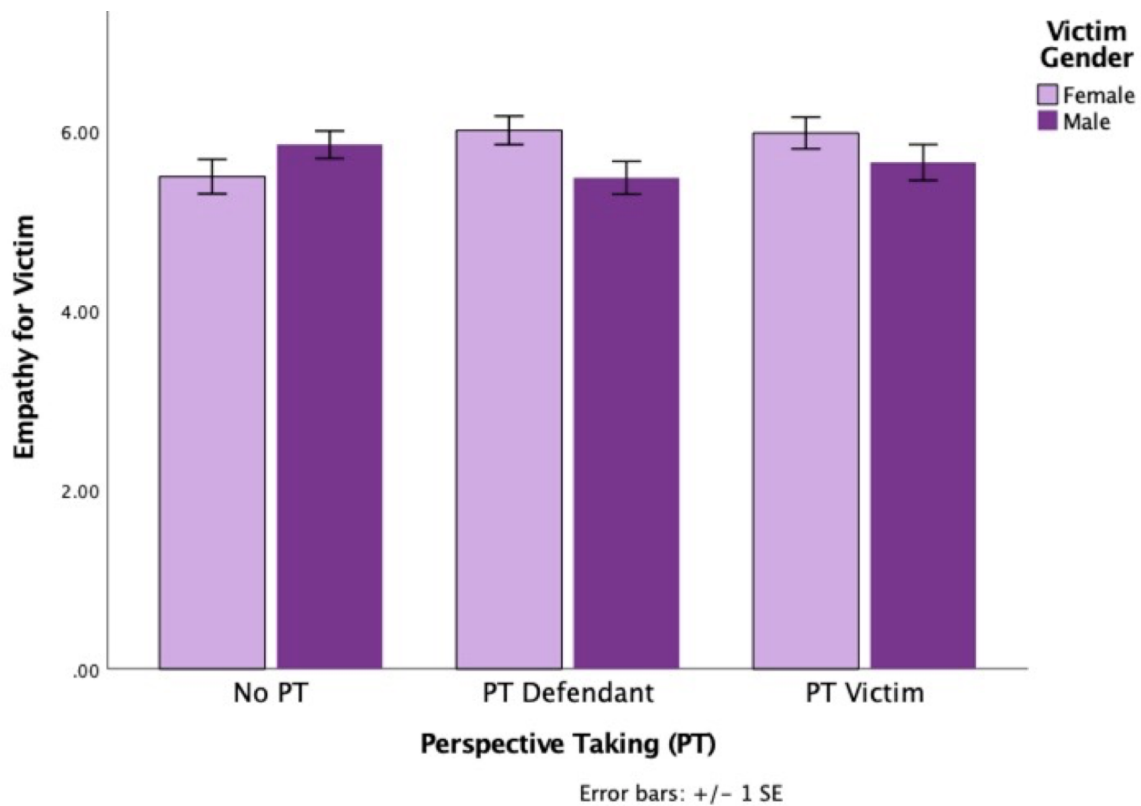


Note. Bar graph depicting how much empathy participants felt for the victim based on perspective taking and victim gender conditions, rated on a scale of 1 (not at all) to 7 (very much). Higher scores indicate more empathy felt for the victim. $p \leq .004$.

Batson Empathy Measure for Victim. We also measured empathy using a series of questions based on empathy adjectives. Unlike the single item measure of empathy, this measure did not show a main effect for anger, $p = .18$. In addition, different from the single item measure, the interaction between perspective taking and victim gender was marginal $F(2, 283) = 2.76$, $p = .065$, $\eta_p^2 = .01$. Exploratory simple effects analyses showed that when taking the perspective of the defendant, participants felt more significantly more empathy towards the victim when they

were female ($M = 6.0$; $SD = 1.07$) than when they were male ($M = 5.48$, $SD = 1.31$), $F(1, 283) = 4.18$, $p = .04$, $\eta^2_p = .02$. There were no significant differences in the comparison between perspective taking with the victim and no perspective taking, $ps > .17$. When the victim was female, there was no statistically significant difference in empathy felt towards the victim based on perspective taking condition, $F(1, 283) = 2.38$, $p = .1$, $\eta^2_p = .02$. When the victim was male, there was also no significant difference in empathy felt towards the victim, $F(1, 283) = 1.12$, $p = .33$, $\eta^2_p = .01$.

There were no main effects for Anger, Perspective Taking, or Victim Gender on empathy felt towards the victim, $ps > .14$. There were also no two way interactions between Perspective Taking and Anger or Anger and Victim Gender, $ps > .83$. There was no significant three way interaction between Perspective Taking, Anger, and Victim Gender, $p > .58$.

Figure 3*Empathy felt for the victim (Batson's Empathy Scale)*

Note. Bar graph depicting how much empathy participants felt for the victim based on perspective taking and victim gender conditions, rated on a scale of 1 (not at all) to 7 (very much). Higher scores indicate more empathy felt for the victim. * $p \leq .065$.

General Empathy Measure for Defendant. There was a significant main effect for Anger, $F(1, 283) = 4.33, p = .04, \eta_p^2 = .02$. When participants read the Angry statement ($M = 4.04; SD = 1.95$) they felt significantly more empathy for the defendant than when they read the No Anger statement ($M = 3.59; SD = 1.91$). This finding is at odds with hypothesis H1, which says that participants who read the Angry VIS will feel more empathy for the victim. Overall, anger appears to make participants feel more empathy for both the defendant and victim

There were no main effects for Perspective Taking or Victim Gender on empathy felt for the victim, $p_s > .4$. There were no two-way interactions Perspective Taking and Anger, Anger and Victim Gender, and, contrary to what we found when measuring empathy for the victim, Perspective Taking and Victim Gender, $p_s > .31$. There was no significant three way interaction between Perspective Taking, Anger, and Victim Gender, $p > .74$.

Figure 4

Empathy felt for the Defendant



Note. Bar graph depicting how much empathy participants felt for the victim based on perspective taking and victim gender conditions, rated on a scale of 1 (not at all) to 7 (very much). Higher scores indicate more empathy felt for the victim. $p \leq .038$.

Batson Empathy Measure for Defendant. Contrary to our hypothesis, there were no significant effects on empathy for the defendant. There were no main effects for Anger, Perspective Taking, or Victim Gender on empathy felt towards the defendant, $ps > .14$. There were also no two way interactions between Perspective Taking and Anger or Anger and Victim Gender, $ps > .51$. There was no significant three way interaction between Perspective Taking, Anger, and Victim Gender, $p > .41$.

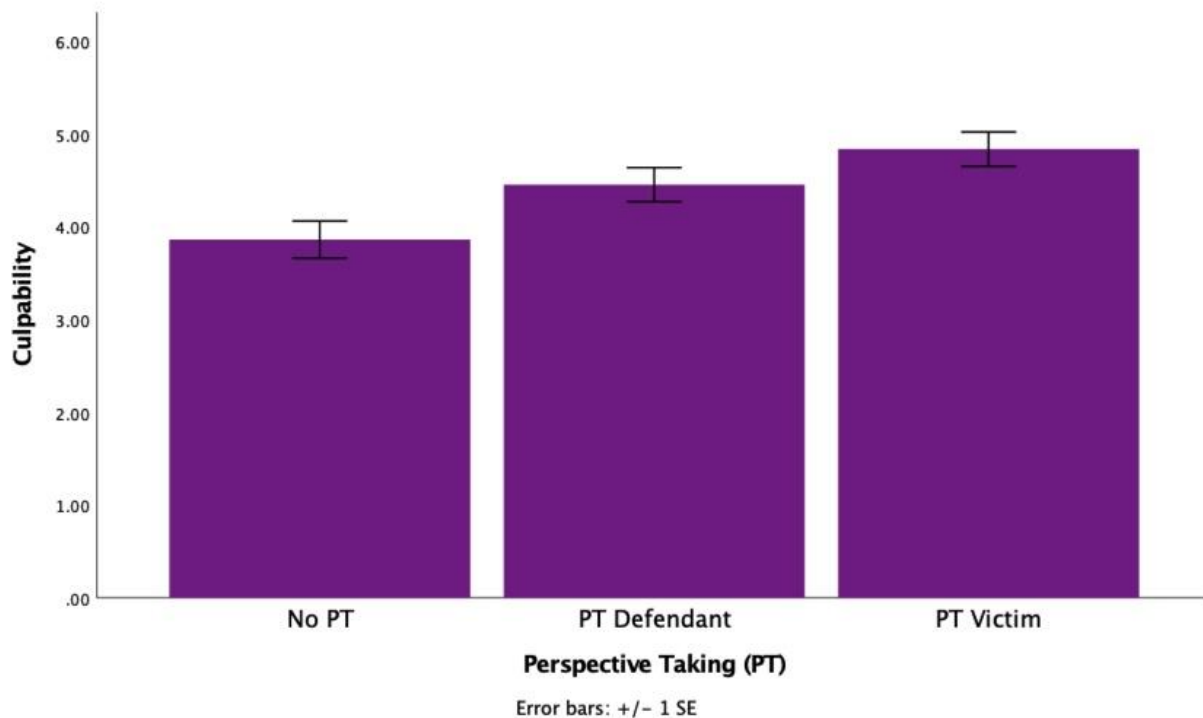
Interpersonal Reactivity Index (IRI). We were also interested if the VIS, Victim Gender, and Perspective Taking conditions influenced the natural inclination participants reported to perspective take or have empathetic concern. Overall, there were no significant differences in the amount of natural perspective taking or empathetic concern that participants reported, $ps > .30$ ¹.

Culpability (Fault, Blame, Responsible, Commit Crime, Recidivism, Confident—Defendant). There was a significant main effect for Perspective taking, $F(2, 283) = 6.53, p = .002, \eta_p^2 = .04$. A LSD Post-Hoc analysis revealed that, contrary to our predictions and past work (Skorinko et al., 2014), when participants took the perspective of the defendant ($M = 4.61; SD = 2.00$) they found the defendant more culpable than when they did not take the perspective of anyone ($M = 3.98; SD = 2.21$), $t(283) = -2.12, p = .04$. However, in line with past work (Skorinko et al., 2014), when participants took the perspective of the victim ($M = 5.05; SD = 1.97$) they found the defendant more culpable than when they did not perspective take ($M = 3.98; SD = 2.21$), $t(283) = -5.71, p < .001$. There was no difference in culpability perceptions between those who took the perspective of the defendant or the victim, $p = .15$.

¹It is important to note that when we conducted the analyses for each subscale (perspective taking and empathetic concern), there were also no significant findings. Thus, we combined the subscales together for ease of reporting.

However, there were no main effects for Anger or Victim Gender on perceived culpability of the defendant victim, $ps > .65$. There were also no two way interactions between Perspective Taking and Anger, Perspective taking and Victim Gender, or Anger and Victim Gender, $ps > .43$. There was no significant three way interaction between Perspective Taking, Anger, and Victim Gender, $p > .94$.

Culpability (Fault, Blame, Responsible—Victim). There were no significant effects on culpability for the victim. There were no main effects for Anger, Perspective Taking, or Victim Gender, $ps > .27$. There were also no two way interactions between Perspective Taking and Anger, Perspective Taking and Victim Gender, or Anger and Victim Gender, $ps > .47$. There was no significant three way interaction between Perspective Taking, Anger, and Victim Gender, $p > .65$.

Figure 5*Culpability for the Defendant*

Note. Bar graph depicting how culpable participants perceived the defendant, rated on a scale of 1 (not at all) to 7 (extremely). Higher scores indicate more empathy felt for the victim. * $p \leq .002$.

Juror Bias Scale. We used the juror bias scale to determine whether participants were pro-prosecution or pro-defense. We found a significant main effect for Perspective Taking, $F(2, 283) = 2.95, p = 0.05, \eta_p^2 = 0.02$. A LSD Post-Hoc analysis revealed that when participants took the perspective of the victim ($M = 3.62; SD = 1.01$), they favored the prosecution more than when participants did not perspective take ($M = 3.32; SD = .80$), $t(283) = -23.62, p = .019$. There was no significance in the comparison between when participants took the perspective of the defendant ($M = 3.51; SD = .87$) and when they did not perspective take ($M = 3.31; SD = .80, p = .132$) There was also no significance between when they took the perspective of the victim

($M = 3.62$; $SD = 1.01$) than when they took the perspective of the defendant ($M = 3.51$; $SD = .87$, $p = .40$).

There were no main effects for Anger or Victim Gender, $ps > .112$. There were also no two way interactions between Perspective Taking and Anger, Perspective Taking and Victim Gender or Anger and Victim Gender, $ps > .36$. There was no significant three way interaction between Perspective Taking, Anger, and Victim Gender, $p > .41$.

Discussion

We set out to explore whether variables such as victim impact statement content, victim gender, and perspective taking have an effect on the verdict that participants assign the defendant, the empathy participants feel towards the victim and defendant, and perceived culpability for the victim and defendant.

One of our initial predictions was that the addition of angry language to a VIS might produce a more empathetic response for jurors. This prediction was affirmed by our results, which show that anger does produce more empathy from jurors, though in contradictory ways. When participants were specifically asked how much empathy they felt for the victim, we found that those who read the Angry statement felt significantly more empathy for the victim than when they read the No Anger statement. Past research about the addition of anger to victim impact statements has show that anger seems to lead jurors to think poorly of a victim, while other studies have found that angry content prompts the jury to feel angry on the victim's behalf (Sorial, 2016, p. 288; Butler, 2013, para 20).

We were intrigued by the interaction we found between victim gender and perspective taking. Perspective taking worked in different ways depending on the victim gender condition. When there was a male victim, and participants were asked to perspective take with the

defendant, they felt significantly more empathy for the victim, which is what we expected based on past work (Skorinko et al., 2014). We found that when the victim was female, participants felt significantly more empathy for the victim when they were perspective taking with the victim than when they did not perspective take with anyone. They also felt significantly more empathy for the victim when they were perspective taking with the defendant when they did not perspective take with anyone. In summary, when the victim was female, participants felt significantly more empathy for the victim, regardless of who they were asked to perspective take with. This finding is in line with what we hypothesized based on past research about gender (Potegal et al., 2010).

In addition to the one question that asked participants how much empathy they felt for the victim, we also measured empathy with a questionnaire. The questionnaire is designed to measure empathy through a series of empathy-adjacent adjectives, yet it produced different results than the question directly asking participants about “empathy” itself. There was a marginal interaction between Perspective Taking and Victim Gender. Regardless of who participants took the perspective of, participants felt marginally more empathy towards the victim when they were female than when they were male. The responses to the questionnaire produced no effect for Anger.

The discrepancy in results between the individual question measuring empathy, and the questionnaire measuring empathy indicates that the language used to measure responses may play a role in how participants approach the questions. Future research may investigate the inconsistency between the results, and explore the role that language plays in cognitive responses, such as empathy.

Participants who read the Angry statement felt significantly more empathy for the defendant than when they read the No Anger statement, which was not what we predicted. Previous research conducted about angry content indicated that angry content in a victim impact statement would likely produce empathy for either the victim or defendant, not both (Sorial, 2016, p. 288; Butler, 2013, para 20). As mentioned earlier, the addition of angry content could cause jurors to lose respect for a victim, and would therefore cause them to feel decreased empathy for the victim, and increased empathy for the defendant. Another possible explanation for participants' increased feelings of empathy for the defendant is that since the angry statement made participants feel close to the victim, so they wanted to distance themselves. This might have led them to overcorrect and feel more empathy for the defendant (Bongiorno et al., 2020). This phenomenon is plausible based on what we know about victim blaming, which sometimes causes people to minimize criminal acts (Janoff-Bulman et al., 1985).

When considering culpability, we predicted that participants who took the perspective with the defendant would view the defendant as less culpable. Instead, we found that when participants took the perspective of the defendant, they found the defendant to be more culpable as compared to when participants did not perspective take with anyone. In response to this finding, we theorized that instead of perspective taking leading participants to feel more empathy, it could have encouraged participants to focus on the actions of either the defendant or victim, which in turn, might have led them to view whomever they were focusing on as more culpable. When participants were prompted to think closely about the defendant's behavior, it might have caused them to pay closer attention to the nuances of the crime, which resulted in higher perceptions of the defendant's culpability.

This study did not account for non-verbal communication such as facial expressions and speech modulation. Considering that much of communication comes from non-verbal cues (e.g., facial expressions and speech modulation), a victim impact statement that is delivered orally may influence a juror differently compared to a written statement. Past research has shown that listening, as opposed to reading, allows people to better understand emotions (Kraus, 2017). Future studies could utilize an audio recording so that participants could listen to a victim impact statement instead of reading it. Or, perhaps participants might be presented with a video so that they can observe both audio and visual aspects of the delivery. Studies indicate that listening to someone speak may allow participants to comprehend more emotion than when they both listen and visually watch someone speak (Rogowsky et al., 2016). The combination of audio and video, alongside variables such as race and gender may provide compelling insight as to which factors most influence participants' perceptions.

Conclusion

Overall, we found that the addition of angry language to victim impact statements significantly increased the amount of empathy participants felt for victims; however, it also increased feelings of empathy for the defendant. As a result, we might advise attorneys to encourage their clients to avoid the inclusion of anger in a victim impact statement to avoid producing excess empathy for the defendant; however, the inclusion of anger did not impact the verdict that mock jurors ultimately chose. Although we found that female victims garner more empathy regardless of the perspective taking and victim impact statement condition, similar to the aforementioned finding, the victim gender also did not influence the verdict.

The results of this study show that combinations of victim impact statement content, perspective taking, and victim gender produce significant results in some cases; however, since

the results were unpredictable, we believe that additional research is needed to more definitively say how these conditions influence each other in the courtroom. It is important to note that this study only accounts for one type of criminal case. Our research lays the groundwork for future studies to examine other factors that may influence courtroom decisions and jury decision making such as participant gender, what the victim looks like, and the method of delivery for victim impact statements.

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Appendix A

Victim Impact Statement (NO ANGER VIS)

VICTOR/VICTORIA JONES, having been first duly sworn, testified as follows:

Your Honor,

In the interest of the court, I want to state the impact that the actions of George Taylor have had on me.

On September 18, 2018, Mr Taylor entered the Quick Stop gas station that I was working at. He pointed a gun at me and shouted at me to open the register. I opened the cash register and got the money out. I told him that I would do whatever he wanted.

Mr. Taylor kept telling me to pull the cash out and put it on the counter. I did. There wasn't much in there, but I did what he wanted. He told me to back away from the register. I did. I thought he'd just take the money and leave but I was wrong. I had done everything he'd asked, but it wasn't enough.

I remember hearing the bang when he shot the gun. It was loud and I wasn't expecting it. The force of the shot pushed me into the wall behind me and I found myself on the floor.

I thought that he had killed me. The doctors said that the bullet shattered a rib and entered my left lung. They said I got lucky, an inch over and he would have shot me through the heart. I needed surgery to remove the bullet, control the bleeding within the lung, and repair the lung

itself. It took hours of surgery. I thank the heavens every day that I survived.

Life has been difficult since Mr. Taylor robbed the store and shot me. I have to leave the TV on to sleep. I used to love the quiet but now I can't stand it because all I can do is associate it with quiet moments before Mr. Taylor came into the store.

I was diagnosed with post-traumatic stress disorder a few months after Mr. Taylor shot me. I have been in counseling since.

I took a leave of absence from school. I'd worked hard to get into medical school and was on my way to becoming a practicing physician, but after all the time in the hospital, I'd missed too much to catch up. With my added inability to focus, studying was impossible. I won't be graduating with my class. Along with my career pursuits, my wedding has been put on hold.

I want to make it clear that when Mr. Taylor shot me, it did not only affect me. My parents and my fiance have all also suffered from the event that occurred that day. My parents and fiance all took a considerable amount of time away from work to support me during my recovery and give themselves time to heal. This placed financial strain on all of us. My mother developed anxiety and has to attend counseling.

My family and I will feel the impact of Mr. Taylor's crimes for years to come. He must be held accountable for his actions. I ask that Mr. Taylor be punished to the fullest extent of the law for his crimes.

Appendix B

Victim Impact Statement (ANGRY VIS)

VICTOR/VICTORIA JONES, having been first duly sworn, testified as follows:

Your Honor,

In the interest of the court, I want to state the impact that the actions of George Taylor have had on me.

On September 18, 2018, Mr Taylor entered the Quick Stop gas station that I was working at. He pointed a gun at me and shouted at me to open the register. I opened the cash register and got the money out. I told him that I would do whatever he wanted.

Mr. Taylor kept telling me to pull the cash out and put it on the counter. I did. There wasn't much in there, but I did what he wanted. He told me to back away from the register. I did. I thought he'd just take the money and leave but I was wrong. I am angry looking back on it, because I had done everything he'd asked, but it wasn't enough.

I remember hearing the bang when he shot the gun. It was loud and I wasn't expecting it. The force of the shot pushed me into the wall behind me and I found myself on the floor.

I thought that he had killed me. The doctors said that the bullet shattered a rib and entered my left lung. They said I got lucky, an inch over and he would have shot me through the heart. But I

didn't feel lucky. I felt angry. I needed surgery to remove the bullet, control the bleeding within the lung, and repair the lung itself. It took hours of surgery. Hours to repair what that monster had done in mere minutes.

Life has been difficult since Mr. Taylor robbed the store and shot me. I have to leave the TV on to sleep. I used to love the quiet but now I can't stand it because all I can do is associate it with quiet moments before Mr. Taylor came into the store.

I was diagnosed with post-traumatic stress disorder a few months after Mr. Taylor shot me. I have been in counseling since.

I was forced to take a leave of absence from school. I'd worked hard to get into medical school and was on my way to becoming a practicing physician, but after all the time in the hospital, I'd missed too much to catch up. With my added inability to focus, studying was impossible. I won't be graduating with my class. Along with my career pursuits, my wedding—my [redacted] wedding—has been put on hold.

THE COURT: Ms. Jones, please. I'm going to have to ask you to—

VICTORIA JONES: I'm sorry, Your Honor. I'm sorry.

I'm just...I'm angry. I have never hated anyone as much as I hate Mr. Taylor. I will never forgive him for ruining my life.

I want to make it clear that when Mr. Taylor shot me, it did not only affect me. My parents and my fiance have all also suffered from the event that occurred that day. Because of what Mr. Taylor did, My parents and fiance all took a considerable amount of time away from work to support me during my recovery and give themselves time to heal. This placed financial strain on all of us. My mother developed anxiety and has to attend counseling. Mr. Taylor's actions have destroyed my family. He deserves to suffer in prison for the rest of his life.

My family and I will feel the impact of Mr. Taylor's crimes for years to come. He must be held accountable for his actions. I ask that Mr. Taylor be punished to the fullest extent of the law for his crimes.

Appendix C

Prosecution's Argument

PROSECUTION'S ARGUMENT:

The prosecution seeks maximum punishment for the actions performed by the defendant. At 12:00 p.m. on September 18, 2019, the Quick Stop gas station in Irvington, New Jersey was robbed. A customer at the Quick Stop Gas station called 911 after the perpetrator entered the store, pulled a handgun from his pocket, demanded the money from the cash register (amounting to \$300), and shot the cashier, Victor/Victoria Jones. Both the ambulance and police arrived within ten minutes. Emergency medical personnel rushed Mr/Ms. Jones to the hospital and the police began to search for the suspect in the neighborhood surrounding the gas station.

At approximately 12:45 p.m., the police spotted a man matching the description of the suspect walking within a half of a mile of the Quick Stop. When questioned, the man told the officers that his name was George Taylor and that he was walking home from work. He told the police officers that he was employed as a construction worker at a site about a half-mile away from his home. His home was about a mile away from the gas station. Mr. Taylor said that he had left work at 12:30 p.m. and began his walk home. When the police checked his story, they found that Mr. Taylor did, indeed, live where he said he did. Mr. Taylor also worked at the construction site where he had claimed to work. However, employees at the site said that Mr. Taylor was last seen working at 11:00 a.m., as opposed to 12:30 p.m., and the workers were uncertain the exact time at which he left the construction site.

The police searched Mr. Taylor and found approximately \$300, in cash, in his wallet. George Taylor was arrested and taken to the police station. Mr. Jones and the eyewitness both provided detailed descriptions that match the description of the defendant.

Ladies and gentlemen, given the substantial amount of evidence and the significant amount of harm that was inflicted during the crime, the prosecution seeks the maximum punishment for this crime.

Appendix D

Defense's Argument

DEFENSE'S ARGUMENT:

While the prosecution would like you to believe that George Taylor is the person responsible for this crime, the evidence does not prove beyond a reasonable doubt that George Taylor committed this crime. Therefore, George Taylor should be found "not guilty."

It is true that Victor/Victoria Jones was shot while working as a cashier at the Quick Stop on September 18, 2019. However, there is no evidence to unequivocally put George Taylor at the scene of the crime. The crime scene analysis revealed that there was no DNA or fingerprint evidence tying Mr. Taylor to the crime scene. The gun was also never found. Furthermore, there was no surveillance footage that identifies Mr. Taylor. Rather, the prosecution's case relies solely on descriptions of a suspect that are so vague that they could match plenty of other people.

The defendant was a reliable employee and worked as hard as possible, including extra hours as a handyman in his free time. On September 18, 2019, Mr. Taylor woke up and went to work as usual. By noon, he began to feel ill. Soon after, he decided to take the rest of the day off. He immediately began walking home. Mr. Taylor gets paid minimum wage, so he does handyman work to help supplement his income. He gets paid in cash for these jobs and has been picking up more jobs recently. He testified that the cash in his wallet was from the handyman work he had been doing. Mr. Taylor does not keep invoices for this work because he wants to be paid in cash.

He also testified that he does not own a gun, nor does he know how to use one. All of these factors show that Mr. Taylor could not have and did not commit this crime. Therefore, he should not be held accountable for something he did not do.

Ladies and gentlemen, there are a number of coincidences but no solid evidence that my client committed this crime. Therefore, the defendant should not be punished for this crime.

Appendix E

Culpability Defendant Variable

Questions about the defendant:

- In your personal opinion, regardless of the court's findings, how likely is it that the defendant committed the crime?
- To what extent is the crime the defendant's fault?
- How blameworthy is the defendant for the crime?
- How responsible is the defendant for the victim's injury?
- How likely is the defendant to commit a crime like this in the future?
- How confident are you that the defendant committed the crime?

Questions about the victim:

- To what extent is the crime the victim's fault?
- How blameworthy is the victim for this crime?
- How responsible was the victim for their injury?

General questions about participants' perceptions of the case:

- How would you describe the severity of the crime?
- How would you describe the severity of the physical injury (injuries) sustained by the victim
- How would you describe the severity of the psychological injury (injuries) sustained by

the victim

- How would you describe the severity of the financial strain this caused the victim?

Appendix F

Empathy (Favorability) Variable

These questions were asked twice—once in regard to the defendant, and once in regard to the victim.

- How easily could you put yourself in the defendant's shoes?
- How motivated were you to put yourself in the defendant's shoes?
- How much empathy did you feel for the defendant?
- How much sympathy did you feel for the defendant?
- How much compassion did you feel for the defendant?
- How soft-hearted did you feel for the defendant?
- How much warmth did you feel for the defendant?
- How much tenderness did you feel for the defendant?
- How moved were you by the defendant?

Appendix G

Interpersonal Reactivity Index

- I often have tender, concerned feelings for people less fortunate than me
- I sometimes find it difficult to see things from the “other guy’s” point of view
- Sometimes I don’t feel very sorry for other people when they are having problems
- I try to look at everybody’s side of a disagreement before I make a decision
- When I see someone being taken advantage of, I feel kind of protective toward them
- I sometimes try to understand my friends better by imagining how things look from their perspective
- Other people’s misfortunes do not usually disturb me a great deal
- If I’m sure I’m right about something, I don’t waste much time listening to other people’s arguments
- When I see someone being treated unfairly, I sometimes don’t feel very much pity for them
- I believe that there are two sides to every question and try to look at them both
- When I’m upset at someone, I usually try to “put myself in his shoes” for a while
- I am often quite touched by things that I see happen
- I would describe myself as a pretty soft-hearted person
- Before criticizing somebody, I try to imagine how I would feel if I were in their place

Appendix H

Juror Bias Scale

- Too often jurors hesitate to convict someone who is guilty out of pure sympathy
- For serious crimes like murder, a defendant should be found guilty if there is a 90% chance that he has committed a crime
- Defense lawyers don't really care about guilt or innocence, they are just in the business to make money
- The defendant is often a victim of his own bad reputation
- If a grand jury recommends that a person be brought to trial, then that person probably committed the crime
- Extenuating circumstances should not be considered—if a person commits a crime, then the person should be punished
- A prior record of conviction is the best indicator of a person's guilt
- Too many innocent people are wrongfully imprisoned
- Once a criminal, always a criminal
- Circumstantial evidence is too weak to use in court
- If a majority of the evidence—but not all of it—suggests that the defendant committed the crime, the jury should vote not guilty
- A defendant should be found guilty if 11 out of 12 jurors vote guilty
- In most cases where the accused presents a strong defense, it is only because of a good lawyer