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**(Sex) Crime and Punishment:
How Legally Irrelevant Details Influence
Crime Reporting and Sanctioning Decisions**

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Recent prominent rape cases have raised concerns that the US exhibits a “culture of rape,” wherein victims are often disbelieved and blamed. We present an empirical conceptualization of rape culture, outlining four key features: blaming victims, empathizing with perpetrators, assuming the victims’ consent, and questioning victims’ credibility. In a series of experimental studies, we evaluate the relative impact of different types of rape culture biases on the reporting of rape, and how it is punished. We test how participants’ exposure to legally irrelevant details related to rape culture affects their decision-making. We find that exposure to certain details—relating to the victim’s consent and credibility—significantly *decreases* participants’ propensities to recommend a rape case be reported to police or to advocate for a severe punishment for the perpetrator. The same biases do not emerge in robbery cases, suggesting that rape is regarded differently from other violent crimes.

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The recent wave of high profile rape and sexual abuse allegations stemming from the #MeToo movement—such as those against director Harvey Weinstein, actor Kevin Spacey, and journalist Charlie Rose—have provoked significant debate about whether or not the U.S. is characterized by a “culture of rape,” wherein victims are disbelieved and blamed for their own violations.² Activists and advocates worry that such a social environment may not only enable rapists and intimidate victims but ultimately distort the criminal justice system’s handling of sexual assault cases.

However, while policy debates and advocacy work often assume both the prevalence and effects of rape culture — and some recent journalistic work has considered the role of bias in rape cases (Miller and Armstrong 2018) — to our knowledge, this study, along with our prior work (Author), represents the only systematic, empirical scholarly research on these issues. Many questions remain about the empirical manifestations of rape culture. For example, does rape culture affect decision-making in the criminal justice system? Are the biases typically associated with rape culture unique to rape, or do they also manifest with other violent crimes?

This analysis joins a burgeoning literature in political science that has explored the impact of bias on how well public institutions represent constituents—and whether they act in their best interest—in contexts ranging from welfare offices (Soss et al. 2008) to state legislators (Butler and Broockman 2011) and election officials (White et

² We use the terms “victim” and “perpetrator” throughout because these are standard within the criminal justice system. We acknowledge, however, some people who have been assaulted prefer the term “survivor.”

al. 2015), to decision-making by judges (Kastellec 2013). Fueled by recent outrage about police violence, in turn, still other work has demonstrated that institutional reforms may overcome biases by police, including racial biases and bigotry (Mummolo 2017). Beyond the criminal justice system, scholars have explored the effects of moral judgments on evaluations of welfare recipients (DeSante 2013) and of partisan co-affiliation on wage offers (McConnell et al. 2018). We extend and build on this earlier research to study the influence of bias on a particular set of crimes in order to illuminate the institutional consequences of rape culture. We perform a variety of studies using a range of methods, yielding experimental and qualitative data that enable us to evaluate the relative strength and impact of different types of rape culture biases on the reporting of rape, and how it is punished.

We first offer an empirical conceptualization of rape culture as it is often observed in public and media debates. Based on this framework, we design an experiment to test the influence of rape culture on the criminal justice system. Specifically, we examine how exposure to extra-legal case details—that is, details that are legally irrelevant to determining guilt, but that observers and advocacy groups have identified as potentially bias-inducing in rape cases—influences how rape cases are handled.³ We focus on decision-making at two key stages of the criminal justice

³ For instance, a Human Rights Watch (2013) analysis of sexual assault cases reported to the police in Washington, DC found that victims' drug and alcohol use, relationship to the perpetrator, and other factors influenced police handling of victims' reports.

process: crime reporting⁴ and sanctioning.⁵ In addition, to determine whether any of the observed biases are unique to rape cases or to female victims, we apply the same research design to armed robbery cases and compare the findings from the rape and robbery samples using both male and female victims.

Our nationally representative study, conducted as part of NORC's AmeriSpeak panel in December 2017, includes two conjoint experiments. In each case, we present participants with legally irrelevant details on five pairs of rape or robbery cases. In the first study, we ask participants to decide in which of the two cases the victim should report the violation to law enforcement (the *reporting* condition). In the second study, we ask participants to imagine that they were summoned for jury duty and that the perpetrators were found guilty of rape in the two cases presented to them. We then asked them to decide for which of the two cases in each case pair they would recommend a more severe punishment (the *punishment* condition). In addition, we

⁴ Rape is considered the most underreported of all violent crime; data suggest that over half of all rape cases never enter the criminal justice system and are excluded from official FBI crime statistics (Tjaden and Toennis 2006).

⁵ We focus on preferences over sanctioning to reveal potential distortions in—and public support for—sentencing of convicted perpetrators. Much of the outcry surrounding the 2016 sexual assault case involving Stanford swimmer Brock Turner, for instance, centered around the leniency of the judge's sentence, increasing concerns that even when rape cases enter the criminal justice system, they are seldom brought to justice.

conducted a third study on Amazon's Mechanical Turk (MTurk) to explore in further detail the reasoning behind participants' decision making. Specifically, we used the same conjoint experimental setup as in the NORC studies but asked participants to explain their choices in two or three sentences, which allowed us to explore why individuals made the choices they did.

We find that legally superfluous case details have a significant and sizable impact on decisions related to the reporting and adjudication of rape cases. When provided with information related to underlying notions of consent and credibility, such as a victim's prior relationship to the perpetrator, a victim's seemingly promiscuous sexual history, or a victim's prior felony record, survey participants were significantly less likely to recommend a case for reporting, all else equal. Notably, the sex of the victim also mattered: cases involving male, rather than female, victims were far less likely to be chosen for reporting to the police. In addition, participants were significantly less likely to recommend a case for a more severe punishment when provided details related to victim-blaming and credibility, such as information about the incident location (a party or a public park) and a victim's sexual history.

Equally important are the details that do not appear to influence decisions. We do not find differential effects across demographic (including race) or socioeconomic subsets of the sample, indicating that the observed biases are universal rather than attributable to specific subgroups.

Finally, we find that some of the case details matter in the context of robbery cases as well, including location of the incident and sex of the victim. However, when

we compare overall response patterns between the rape and robbery conditions, our findings suggest that rape culture has a unique and powerful influence on perceptions of rape and rape victims.

These results shed new light on our understanding of rape culture and its consequences, both substantively and methodologically. Substantively, along with our prior work (Author), this study is among the first to offer an empirical (and hence replicable and falsifiable) conceptualization of rape culture and its effects. Methodologically, while much of the existing work has identified individual factors (e.g. the race of the victim) that may distort the ways in which law enforcement and legal authorities handle rape cases, the conjoint experimental design enables the assessment and comparison of component-specific effects across a host of factors typically associated with rape culture. As a result, the study confirms existing hypotheses and adds nuance to the relative importance of various factors that together better reflect the real-life complexity of rape cases. In addition, the study design moves beyond self-reported measures of attitudes and behaviors by simulating decision-making processes related to the reporting and sanctioning of sex crimes. Finally, by comparing rape to robbery cases and including both male and female victims, our analysis represents the first attempt to distinguish cultural biases that are unique to rape from more general notions of blameworthiness, guilt and personal responsibility in the broader context of violent crime.

1. A Unifying Empirical Framework of Rape Culture

Scholars and activists have defined rape culture broadly as “a set of values and beliefs that provide an environment conducive to rape” (Boswell and Spade 1996), where “rape is often not acknowledged as a crime and its victims are frequently blamed for their own violation” (Vogelman 1990). Two mechanisms are central to this conception. The first is a distortion of perceptions of consent so that rape is neither considered a forcible act, nor acknowledged as a violent crime. The second is a skewing of attributions of blame, by shifting personal responsibility away from the perpetrator and toward the victim (Bradbury and Fincham 1990).

But how does rape culture empirically manifest? What are the components of cultural beliefs and values that contribute to an “environment conducive to rape”? Both scholarly and public debates converge around four main dimensions of rape culture:

- (1) Victim blaming, attributing personal responsibility for the assault to the victim (e.g. Whatley 1996; Suarez and Gadalla 2007);
- (2) Empathizing with perpetrators, wherein blame is deflected from the offender (e.g. Smith and Frieze 2003; Ozmann 2011);
- (3) Assuming the victim’s consent when none was given (e.g. Osman 2011; Swauger et al. 2013); and
- (4) Questioning the credibility of the victim’s account, decisions or persona as a means of retroactively implying consent (e.g. Ellison and Munro 2009).

Many of these patterns feature prominently in the public discourse surrounding recent controversial rape cases. To develop a more comprehensive empirical framework based on these patterns, we solicited detailed feedback from two dozen experts, including academic researchers, journalists, activists, and policy practitioners. Through our consultations, we derived a set of components associated with these four main dimensions of rape culture, which we aggregated into a Rape Culture Index. (For a detailed discussion of the Index, see the Supporting Information as well as [Author].)

Implicit Bias in Rape Adjudication: The Effect of Case-Level Characteristics

A variety of legal and extra-legal factors may distort the investigation and adjudication of crimes in general and rape cases in particular. For this study, we focus on the effects of *legally irrelevant* case parameters⁶ on decision making during the reporting and adjudication stages of the criminal justice process. How do cultural beliefs about rape affect reporting of the crime of rape? Do false assumptions about rape and its victims alter perceptions of what constitutes an adequate punishment?

⁶ We focus on case parameters that are legally irrelevant for determining guilt, crime severity and level of punishment. Research has also examined the effects of potentially *legally relevant* factors, such as intoxication and alcohol consumption of the victim and perpetrator prior to the incident (e.g. Lynch et al. 2013), time elapsed before an incident was reported (e.g. LaFree 1980; Ellison and Munro 2009), or the lack of physical resistance by the victim (e.g. Angelone et al., 2015). We exclude these factors because their legal implications can differ substantially across states (Kruttschnitt et al. 2014, Chapter 2).

Racial Prejudice and Rape

Previous work suggests that the race and ethnicity of both the rape victim and the perpetrator may affect outcomes of criminal justice processes, including rape trials (e.g. Wuensch et al. 2002; Feild 1979). Considerations of race and ethnicity often evoke complex emotions and represent power structures deeply entrenched in American society, potentially leading to discrimination. With historical roots in slavery and beliefs about racial supremacy, the rape of a white woman by a defendant of color has traditionally been interpreted as a “theft of white men’s ‘property’” (Feild 1979: 263; Brownmiller 1975). Following this work, we expect that cases involving perpetrators of color are more likely to be recommended for reporting or punishment than cases involving a white perpetrator, all else equal.

Similarly, researchers have suggested that rape cases involving victims of color tend to be punished less harshly than those involving white victims because rape reports by women of color are often considered suspect (e.g. Vrij and Fischer 1997), reflecting a sense that “they may have received just what they wanted” (Feild 1979: 264). This prejudice was apparent in the trial of former Oklahoma City police officer Daniel Holtzclaw, who was convicted of raping or sexually assaulting thirteen African-American women, all with criminal histories. Holtzclaw reportedly targeted this population because he believed them especially unlikely to report the crimes. As one victim stated at trial, “I didn't think anyone would believe me. I'm a black female.”⁷ From this, we hypothesize that participants will be less likely to recommend for

⁷ CNN, Dec 2015: <http://www.cnn.com/2015/12/10/us/oklahoma-daniel-holtzclaw-trial/>

reporting or punishment cases involving victims of color than cases involving white victims, all else equal.

Class, Socioeconomic Status and Rape

In addition to racial bias, socioeconomic status (SES) can also affect how sex crimes are perceived. However, the psychological mechanisms proposed by scholars differ from those associated with race. A high SES is “interpreted as an achieved rather than an ascribed status and thus, unlike race, as a reflection of the character of the defendant” (Gleason and Harris 1975). In other words, male suspects with a high SES are often assumed to have a certain “desirability” among women, such that rape seems out of character—or unnecessary—for them. As a result, cases involving a defendant with a high SES in their communities tend to be judged less harshly (Black and Gold 2008; Gleason and Harris 1975). Relatedly, women are sometimes accused of fabricating accusations of rape by high SES perpetrators in order to gain money, publicity or status. For example, the media debates surrounding the rape allegations and financial settlement by a Guinean immigrant and hotel maid against former managing director of the IMF Dominique Strauss-Kahn are consistent with this latter conjecture (e.g. Saletan 2011). We hypothesize that participants are less likely to recommend for reporting or punishment, and to perceive as less severe, rape cases involving high SES perpetrators relative to cases involving low SES perpetrators, all else equal.

Gender Roles, Socio-Sexual Behavior and Rape

In addition to race and SES, gender role expectations shape perceptions of a victim's credibility and notions of consent. One of the most commonly identified factors that can undermine a rape victim's credibility in the courtroom—and the court of public opinion—is past sexual history. Individuals tend to judge women who have had multiple sexual partners as promiscuous, improper and unchaste (Feild 1979; Viki and Abrams 2002). Women with an active sexual history are often less likely to be believed when they report a rape and are more likely to be blamed for what happened to them (e.g. Schult and Schneider 1991; Viki and Abrams 2002).⁸ Similarly, details about the victim's past criminal record may lower her credibility (e.g. Beichner and Spohn 2012⁹) and as a result, the likelihood that a given case is reported and the perpetrator punished.

Further, the relationship between the victim and perpetrator prior to the incident appears crucial to perceptions of consent. Although research suggests that two-thirds of all sexual assaults occur between acquaintances (Department of Justice 2015), many people still conceptualize rape as stranger-on-stranger violations (Abrams et al.

⁸ Intertwined with this is the implicit belief that if a woman consented to sexual acts in the past—especially with the perpetrator—she likely consented again (Field 1979; Duran et al. 2011).

⁹ Most research has focused on the impact of the victim's morality and persona on prosecutorial and courtroom decisions, which includes risk-taking and (potentially illegal) behaviors such as hitchhiking or drug use (e.g. Beichner and Spohn 2005).

2003; Swauger et al. 2013) and perceive such cases are more severe. As one participant in our follow-up study commented, “a crime against a stranger is a crime against all of us.” By contrast, rape committed by a friend or a partner evokes notions of implicit consent, and observers often do not consider these acts serious crimes since the victim had previously agreed to a relationship, and, potentially, sex (Monson et al. 2000). Along these lines, one of our study participants stated, “[victim and perpetrator] were acquaintances so one might have a question as to whether they were romantically involved and the charges were bogus.” Thus, we hypothesize that participants will be less likely to recommend for reporting or punishment cases involving acquaintances of the victim.

Socio-sexual behavioral norms may also play an important role in attributions of blame in the context of rape. Contemporary notions of masculinity suggest that the male sex drive is natural and uncontrollable, and that “boys will be boys” (Schrock and Schwalbe 2009). Sexually suggestive behavior by a woman, such as flirting or dressing provocatively, may be interpreted as an open invitation to sex. When a rape victim’s behavior or appearance are deemed sexually provocative, observers often assume that she “asked for it,” shifting individual responsibility away from the perpetrator and onto the victim, while also stripping rape of its violence. Indeed, a body of evidence suggests that a victim’s perceived physical attractiveness or dress at the time of the incident may lead to distortions in individuals’ judgments about blameworthiness and incident severity (Whatley 2005; Ellison and Munro 2009). Responses to our open-ended survey included numerous examples of such perceptions. As one participant

observed, “The victim (...) was wearing a club outfit which can give the wrong impression and can leave a person open to being attractive [sic].”

Building on classical feminist literature that distinguishes between public and private spaces, and women’s proper place in the latter (e.g. Brownmiller 1975; Benedict 1992), the “good girls don’t get raped” narrative may also apply when an incident takes place in a location that suggests risk-taking or “contributory negligence” on the part of the victim (Bryden and Lengnick 1997: 1333). In other words, victims of rapes that occurred in locations where “well-behaved” women would not choose to spend time (e.g. at a nightclub or in a park late at night), tend to be held more individually responsible (e.g. Feild 1979; Bryden and Lengnick 1997). We hypothesize that participants will be less likely to support reporting or recommending for a more severe punishment incidents that took place in locations that might suggest negligence and risk-taking on part of the victim, all else equal.

Finally, we consider the sex of the victim. Few existing studies systematically explore how the criminal justice system perceives and treats victims of male-on-male rape.¹⁰ Male-on-male rape remains stigmatized and is complicated by persistent norms of masculinity: in the eyes of many, “real men” do not get raped, and the men who are raped are at fault for not adequately protecting themselves or fighting back. As one of our study participants stated, “A female victim gets a little more sympathy and favor. And while I know it isn't right, the male victim may/should be better able to defend himself in the attack.” We therefore hypothesize that cases involving male victims of

¹⁰ Exceptions include studies of the prevalence of prison rape (e.g. Wolff et al. 2006).

rape are less likely to be recommended for reporting or punishment, and will be perceived as less severe, all else equal.

Table 1 summarizes our hypotheses, organized by their applicability to the four rape culture dimensions. While these dimensions help to organize the main features of rape culture, they are not mutually exclusive. For instance, a victim who was dressed in a clubbing outfit may be blamed for the attack; as one participant wrote in our follow up study, “Although it doesn't excuse the crime, wearing a night club outfit in a park is just asking for trouble.” Alternatively, a clubbing outfit may be perceived as giving consent. Another participant stated, “the defense will say that [the clubbing outfit] suggested she was interested in sexual activity. This doesn't make it right by any means, but is unfortunately the world we live in.”

Table 1. Main Case-Level Hypotheses, by Rape Culture Dimension	
<i>Victim blaming</i>	
H1	Rape cases involving victims of color are less likely to be recommended for reporting or more severe punishment than cases involving white victims.
H2	Rape cases that took place in locations that suggest the victim's culpability are less likely to be recommended for reporting or more severe punishment.
H3	Rape cases with victims who are dressed provocatively are less likely to be recommended for reporting or more severe punishment than cases where the victim dressed neutrally.
H4	Rape cases involving male victims are less likely to be recommended for reporting or more severe punishment than cases with female victims.
<i>Empathy for the perpetrator</i>	
H5	Rape cases involving white perpetrators are less likely to be recommended for reporting and more severe punishment than cases involving perpetrators of color.
H6	Rape cases involving perpetrators from a high SES are less likely to be recommended for reporting and more severe punishment than cases involving perpetrators with a low SES.
<i>Implications of consent</i>	
H7	Cases involving perpetrators who are known to the victim are less likely to be recommended for reporting and punishment than cases involving perpetrators who are strangers to the victim.
H8	Cases involving victims with an active sexual history are less likely to be recommended for reporting or punishment than cases involving victims with a chaste sexual history.
<i>Questioning the victim's credibility</i>	
H9	Cases involving victims without a criminal record are less likely to be recommended for reporting or punishment than cases involving victims with a criminal record.

2. Research Design & Estimation Strategy

Independent Variables and Conjoint Design

We employ a choice-based conjoint experimental design to test the effects of legally irrelevant case details—defined as superfluous details that do not concern matters of evidence to establish whether a crime occurred¹¹— on two sets of outcomes related to decision making at different stages in the criminal justice system: reporting and punishment of a crime.

In our main study, we randomly assigned participants to review five pairs of either rape or armed robbery cases. The case profiles presented to participants are composed of nine legally irrelevant case attributes and that correspond directly to items in one of the four dimensions of our Rape Culture Index. These vignettes— derived from a coding instrument developed by (Author) to systematically analyze bias in news reporting on rape and sexual assault—provide information about the victim and perpetrator, as well as the circumstances of the incident. For victim characteristics, we include details on sex, race, past relationship history, and criminal record. In order to create a case narrative similar to those with which participants would be confronted in news reports or in court proceedings, we aggregate case

¹¹ We describe case details that do not concern matters of evidence that may legally establish whether a crime occurred. Absent bias, such details should be irrelevant for decisions about reporting or the level of punishment.

attributes into three broader categories: details on the victim, the perpetrator and the circumstances of the incident. (See Table 3 for a list of all included attributes.¹²)

For the perpetrator, we include details on race, socioeconomic status (as signalled by profession) as well as his prior relationship to the victim. (While the victims may be either male or female, all perpetrators are male, reflecting the reality that 97% of those arrested for rape in the US are male.¹³) Finally, we present a set of circumstantial details, such as the incident location and the victim's attire at the time of the incident.

We randomly manipulate attribute values for each profile, allowing us to simultaneously test the effects of a number of independent variables on our outcome measures. In order to address any attribute ordering effects, we also randomize the

¹² In a secondary study of an MTurk sample, we provided approximately 10% (n=125) of participants with information about the victim's alcohol consumption (either three drinks or no drinks) prior to the incident, in addition to the eight standard attributes. These participants were 17.1 percentage points (SE=.074) less likely to select a case for a more severe punishment when the victim had three drinks (vs. no drinks) before the assault. However, for our main study, we excluded alcohol consumption because we restricted our analysis to legally irrelevant case details only, and the legal relevance of intoxication status in the context of rape varies widely across US states (Kruttschnitt et al. 2014, Chapter 2).

¹³ 2015 FBI Uniform Crime Reporting (UCR) statistics (<https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/tables/table-42>).

sequence in which the attributes appear in the profiles. We equally weight all attribute values, with the exception of victim sex; 70% of victims were female and 30% were male, mirroring the fact that women comprise the majority of rape victims. In combination, the nine case components and corresponding attribute values allow for 1,728 different profiles, representing a large bandwidth of rape and robbery cases as they occur in real-world settings (e.g. acquaintance and stranger rape, robberies at home and outside the home).¹⁴

¹⁴ While conjoint experiments allow researchers to test more attributes at once than traditional experimental designs (e.g. using vignettes), there is still a limit to the number of attributes that can be included to avoid “satisficing” effects on the participant level (Bansak et al. 2017). The case profiles represent—by necessity—a simplified state of the world.

Table 3. Attributes in Case Profiles	
Attribute	Attribute levels
<i>Details on the incident</i>	
1. Location	Park; Party; Home
2. Victim's attire at time of incident	Night club outfit; Work outfit
<i>Details on the perpetrator (always male)</i>	
3. Ethnicity	Black; White
4. Profession	Business owner; Athlete; Construction worker
5. Relationship to the victim	Acquaintance; Stranger
<i>Details on the victim</i>	
6. Ethnicity	Black; White
7. Sexual history	Single; Married; Has multiple partners
8. Criminal record	No criminal record; Minor felony on record
9. Sex	Male; Female

Dependent Variables: Crime Reporting and Punishment

In two different conditions of the experiment, we measure choice-based outcomes pertaining to different decision-making scenarios that are particularly relevant in the context of rape incidents. In both conditions, we randomly assign participants to assess and compare either five pairs of rape or five pairs of armed robbery cases. In the first study, participants review pairs of criminal cases and then choose the case in which they would be more likely to advise the victim to report the incident to the police. In the second study, participants receive a prompt asking them

to imagine that they have been summoned and selected for jury duty and that the perpetrator has been found guilty. We then ask them which of the two cases they would recommend for more severe punishment.

Mediation Measures

To verify that our results are not artifacts of the conjoint survey methodology but rather reflect genuine bias in individuals' reasoning, we conducted a follow-up study on MTurk using a sample of 512 participants. Similar to our NORC studies, we assigned MTurk participants to review pairs of randomly generated rape cases before asking them to decide which case they would recommend for reporting or a more severe punishment. We then asked participants to explain their choice in two or three sentences via an open-ended question; this generated a wealth of qualitative data.

We coded the open-ended responses along the four major themes of our rape culture instrument: victim-blaming, empathy (or lack thereof) for the perpetrator, doubts about the victim's trustworthiness, and false notions of consent.¹⁵ In addition,

¹⁵ To conduct an implicit mediation analysis, in our main study we randomly assigned participants to one of four rating-based questions, asking them how severe they found each case, how blameworthy they perceived the victim and perpetrator, and how trustworthy they found the victim's account. As shown in the Supporting Information, these questions did not generate a systematic pattern, perhaps because we were not able to collect enough data in each condition or the measures themselves were

we used a five-cluster implementation of the Latent Dirichlet Allocation (LDA) as an unsupervised method to model topics and themes that emerge from the qualitative data.

Control Measures

Following the experiment, participants in both studies answer a standard repertoire of demographic questions as well as a number of attitudinal questions. In particular, we used a self-reported measure of participants' political ideology to estimate heterogeneous treatment effects.¹⁶

Estimation strategy

To estimate the marginal effects of each of the nine case attributes, we follow the statistical approach for conjoint experiments proposed by Hainmueller et al.(2014). Conjoint experimental designs offer an alternative to widely used vignette techniques, allowing us to consider a large number of potential profiles to which participants could

misleading. We therefore conducted the follow-up study with an opened-ended question to gain richer insights into the reasoning behind participants' choices.

¹⁶ In addition, we employed the 11-point version of the Ambivalent Sexism Scale (Glick and Fiske 1996), the ANES racial resentment scale, and three questions regarding self-monitoring behavior (Berinsky and Lavine 2011). We also asked participants three questions to assess their institutional trust in the criminal justice system and determine crime victimization status. These scales do not materially affect our results and hence are excluded from our reported models.

potentially be exposed. Because we randomly assign case attributes for each profile, we can estimate the average marginal component effect (AMCE) of each attribute over the average distribution of all other attributes, regardless of whether participants are exposed to every potential profile.

The AMCE represents the average difference in the likelihood that participants choose a given rape or robbery case for reporting or punishment when comparing two attribute levels (e.g. black vs. white victim). We estimate the AMCEs using a benchmark OLS regression, including an outcome indicator for whether a participant selected a given profile for reporting or punishment and dummy variables for each of the possible attribute levels (excluding reference categories). The beta-coefficients on these dummy variables represent the component-specific effects (AMCEs) of each attribute value on the outcome of interest. For example, the AMCE for the attribute indicating a victim's race represents the average difference in the probability of a participant selecting a case for reporting or a more severe punishment if the victim is black compared to white, where the average is computed for all other possible combinations of the other attributes included in the model.

Because each respondent reviewed multiple case pairs, we follow standard practice and cluster standard errors at the participant level to adjust for individual-level biases. In addition, we use a Holm multiple comparison adjustment throughout our analysis to guard against the risk of reporting potential false positives that arises when testing many different hypotheses at the same time. That said, this adjustment does not alter the estimates or standard errors; that is, the correction does not affect

whether or not our estimates are asymptotically consistent and unbiased. We therefore report all relevant estimates throughout the text and indicate the ones that do not remain statistically significant after the Holm correction.¹⁷

In addition to AMCEs of case-level attributes, we are also interested in differential effects depending on participant-level social values, here measured by self-declared political ideology. We test this hypothesis by adding participant-level interactions between case characteristics to our benchmark regression models.¹⁸ Lastly, to determine whether any observed biases are unique to the context of rape, we add crime-level interactions to test whether there are differential effects of the case components on our outcomes of interest, depending on whether participants review rape or robbery cases.

¹⁷ The Holm adjustment corrects the alpha-level for individual hypothesis tests (typically set at the 0.05 level) to reflect the fact that we are testing multiple hypotheses that belong to the same “family.” Thus, the Holm correction controls for the Family-Wise Error Rate (FWER). More details on how significance levels are determined under Holm correction can be found in the Supporting Information.

¹⁸ We also pre-registered interaction models for respondent gender, partisan identification, and past crime victimization. We report the results from these additional regression models in the Supporting Information.

3. Analysis and Results

Data and Sample Size

We fielded a nationally representative survey of 1,012 U.S. adults as part of NORC's AmeriSpeak panel in December 2017. We randomly assigned 60% of our participants to review rape cases while the remaining 40% reviewed robbery incidents. Since every participant reviewed ten cases, the total number of observations (i.e. cases reviewed) was 10,120.

Just over half of survey participants were female, and about two-thirds were white. Over half self-identified as Democrats or leaning towards the Democratic party. Age groups were roughly equally represented, as were regional groups, with slightly more participants residing in the South. Nearly all participants had at least a high school degree, and roughly one-third had earned a BA or higher degrees. Throughout our analysis, we use survey weights provided by NORC to make the sample representative of the broader U.S. population.¹⁹

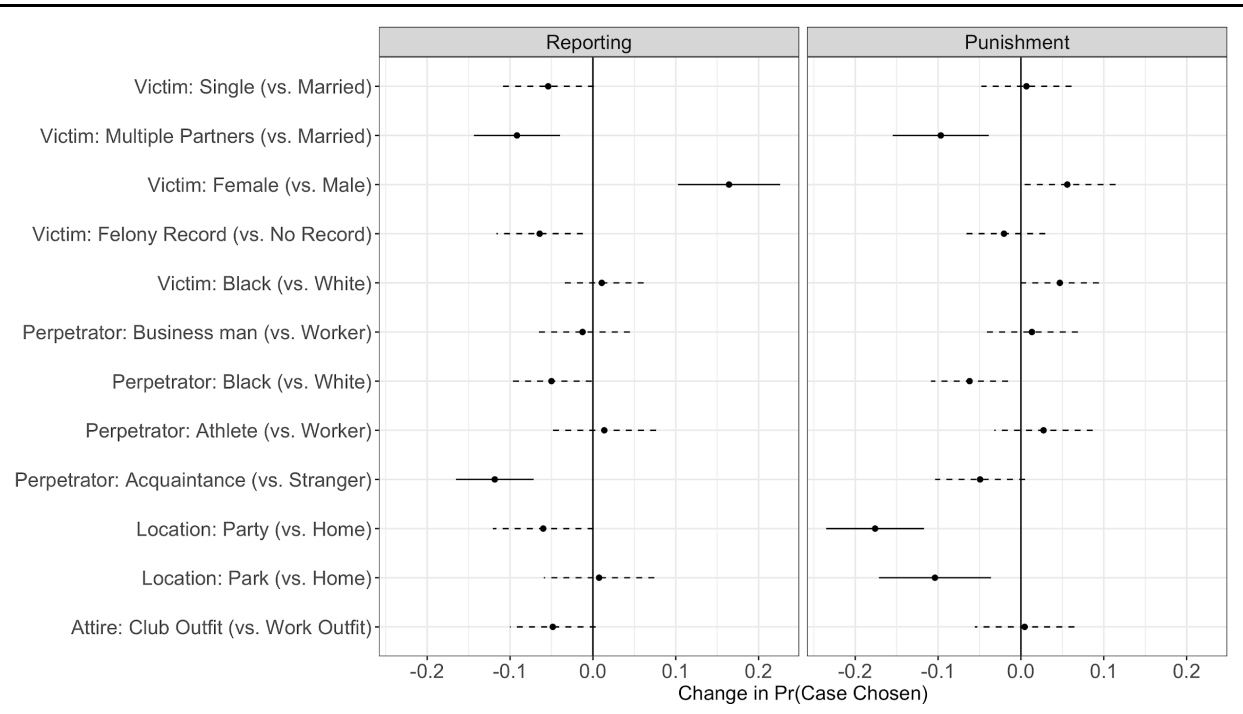
¹⁹ See Supporting Information for detailed demographic characteristics of the sample as well as the sample size per condition.

Main Findings: How Legally Irrelevant Case Details Affect Rape Reporting and Punishment

We summarize our main results in Figure 1.²⁰ The coefficient plots display the effects of individual attribute values on the probability that survey participants selected a given rape case for reporting (*reporting condition*) or for a more severe punishment (*punishment condition*). All estimates are based on our benchmark OLS model with standard errors clustered on the individual participants. In this and all subsequent figures, the lines surrounding each point estimate indicate 95% confidence intervals. The reference category to which we compare a given attribute level is in parentheses. We present in solid lines confidence intervals all estimates that retain statistical significance *after* we apply the Holm multiple-comparison adjustment. For example, participants were 5.4 percentage points less likely to recommend for reporting rape cases involving single victims than those who are married (H8). This estimate is marginally statistically significant in our regression model, but we present it with a dashed line because it does not *remain* statistically significant after applying the multiple comparison adjustment.

²⁰ Full regression tables for the main results are displayed in the Supporting Information.

Figure 1. Effect of Case Attributes on Decisions Related to Rape Reporting and Punishment



Note: Coefficient plots display the estimated effects of randomly assigned case details on the probability that a case is recommended for reporting (left panel) or selected for more severe punishment (right panel).

In line with our hypotheses and echoing previous research, we find that legally irrelevant details about the circumstances of the incident matter a great deal for individuals' decisions to recommend a given case for reporting or a more severe punishment.

Beginning with *victim-blaming*, we find strong evidence for H2, H3 and H4. Location of the incident (H2) yielded large effects: incidents that took place at a party were about 6 percentage points less likely to be recommended for reporting (SE= 0.031), although the estimate does not remain statistically significant after the multiple

comparison adjustment. In the punishment condition, the effect was even stronger: cases that took place at a party were 17.6 percentage points (SE= 0.031) less likely to be chosen for a more severe punishment than those occurring in the victim's home. In addition, participants were 10.4 percentage points less likely to select cases for a more severe punishment when the incident took place in a park (SE = 0.035). The sex of the victim (H4) proved to be one of the most salient factors influencing individuals' decision making. Participants were 16.4 and 5.6 percentage points more likely to recommend cases with female victims for reporting or punishment, respectively, than cases involving male victims (SE = 0.031 and SE = 0.029, respectively). Although participants chose cases less often for reporting when the victim was described as wearing a night club outfit, as compared to incidents where the victim was dressed in a work outfit (H3), the effects do not remain statistically significant after we correct for multiple comparisons.

Turning to *empathy for the perpetrator* (H5 and H6), here we find no support. The SES of the perpetrator (H6) did not play a meaningful role in our participants' decision making. With respect to *implications of consent* (H7), however, we find that information related to the perpetrator's previous relationship to the victim decreases participants' likelihood of recommending a given case for reporting. Knowing that victim and perpetrator were acquaintances reduces participants' likelihood of choosing a case for reporting by 11.8 percentage points (SE= 0.024).

We turn finally to case details related to the *victim's credibility* (H8 and H9). Here, participants were less likely to select for reporting and punishment cases

involving victims with multiple partners and for reporting cases involving single victims, relative to married victims, although the latter did not retain statistical significance after the Holm correction. Participants are on average around 9 percentage points less likely to recommend for both reporting and a more severe punishment ($SE=0.026$ and $SE=0.029$, respectively) cases involving victims with multiple sexual partners (H8). In addition, our participants were less likely to select for reporting victims with a felony record, compared to victims with no record (H9), although, again, the estimates do not remain statistically significant after we perform the correction.

Surprisingly, we found little evidence of racial bias (H1 and H5), either in terms of *victim blaming* or *empathy for the perpetrator*. Participants did not systematically discriminate against victims (H1) and perpetrators of color (H5). Rather, they tended to be *more* favorable towards black victims and perpetrators. In the punishment condition, for example, cases involving black victims were 4.7 percentage points more likely to be recommended for more severe punishment, compared to cases with white victims ($SE= 0.024$). By contrast, participants were 6.2 percentage points less likely to select cases with black rather than white perpetrators, all else equal ($SE = 0.024$). While these estimates are do not remain statistically significant after a multiple comparison adjustment, they are nevertheless sizable and suggest a pattern of “racial sympathy” that we explicitly observed in the aforementioned MTurk iteration of this experiment (see Supporting Information). For example, one participant explained that he had selected a case with a white perpetrator rather than a black perpetrator “because black men are treated unfairly and unjustly systematically.” Another participant selected a case with a black victim rather than a white victim because “the black woman needs

representation more so than a white man would since racial minorities usually do not have the same recourse to law that white people enjoy.”

Overall, our results provide clear evidence that exposing individuals to legally irrelevant case details can bias decisions regarding the reporting and punishment of sex crimes in important ways. However, some case details—reflecting different dimensions of the rape culture index—matter more than others. In particular, information related to notions of consent and credibility (H7 and H8), such as the victim’s sexual history and the perpetrator’s relationship to the victim, influence participants’ likelihood of recommending a given case for reporting and punishment. In addition, case details that might invoke victim blaming, such as the sex of the victim and the location he or she was in at the time of the incident (H2 and H4), also affect criminal justice-related decisions.

Robustness Checks

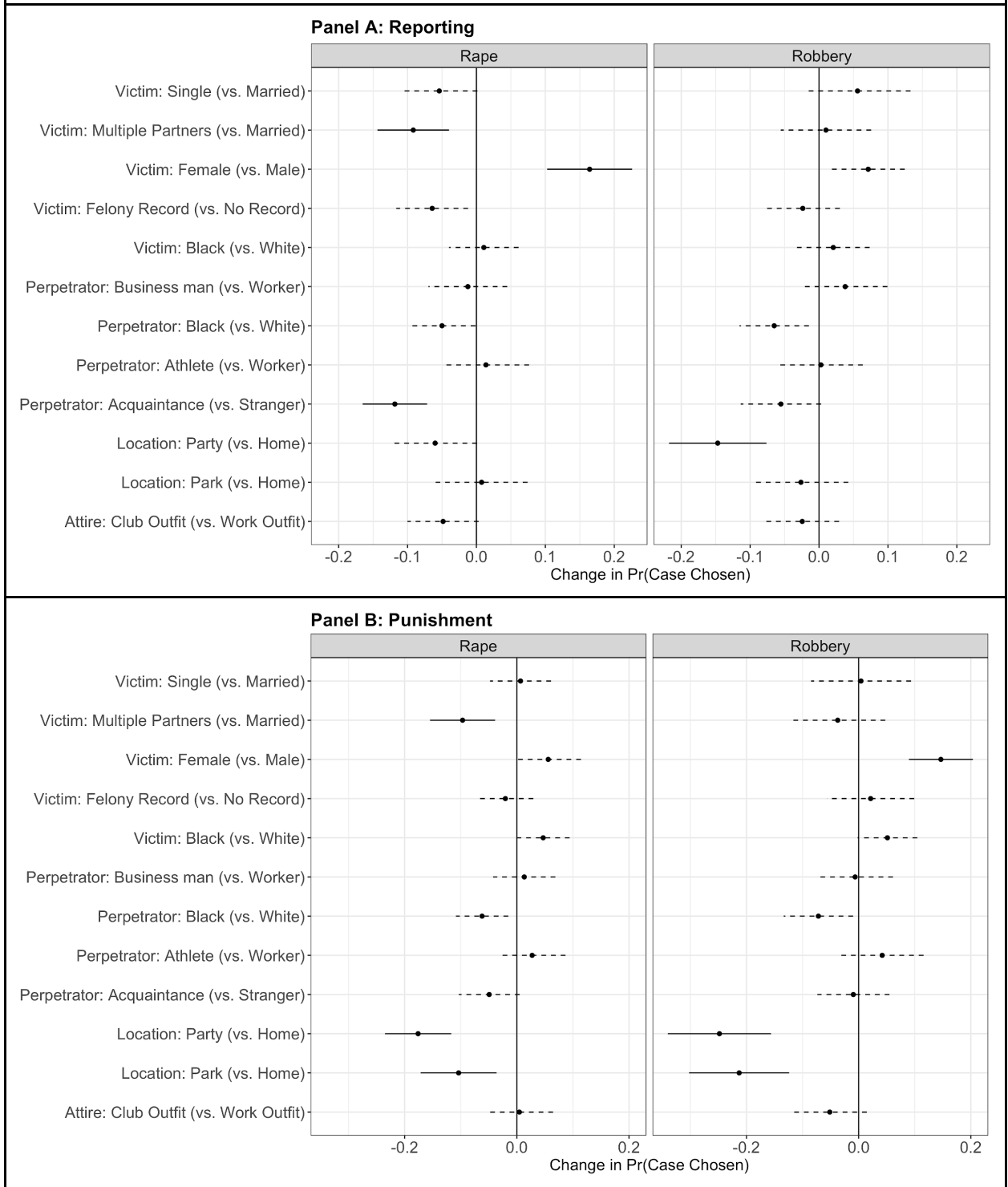
Contrasting Rape to Robbery

While our findings confirm many of our hypotheses, it remains unclear whether the observed biases are unique to the context of sex crimes. To answer this question, we randomly assigned 40% of our participants to review cases of armed robbery. We generated case profiles from the identical array of case attributes, and we asked participants to choose the case they would recommend for reporting or more severe punishment

Our results, shown in Figure 2, indicate that those legally extraneous case details that influence reporting and punishment decisions among our participants for

rape cases matter less for armed robbery. For armed robbery, only incidents that took place at a party are significantly (by 14.7 percentage points) less likely to be recommended for reporting ($SE=0.036$). In addition, robbery cases involving male victims were less likely to be selected for more severe punishment, compared to cases with female victims ($SE= 0.027$). Similarly, participants were far less likely to recommend a case for punishment when the robbery took place at a party or in a park (by 25 percentage points ($SE=0.046$) and 21 percentage points ($SE=0.047$), respectively). By contrast, case details related to the victim's trustworthiness or to notions of consent, which were influential in the context of rape cases, do not appear to matter for reporting or sanctioning of robbery cases.

Figure 2. Effects of Case Attributes on Reporting and Adjudication Decisions, Conditional on Violent Crime Type



Note: Coefficient plots display the estimated effects of randomly assigned case details on the probability that a case is recommended for sexual assaults (left plot) or

armed robberies (right plot).

To determine whether rape and robbery cases are treated differently *overall*, we conducted additional tests on nested models for the reporting and punishment conditions. Specifically, we estimated OLS regressions without and with interaction terms for rape. We then conducted an F-test to compare whether these nested models were significantly different from each other. For both the reporting and punishment conditions, participants indeed viewed rape incidents as statistically significantly distinct from robbery cases overall.²¹

Effects Conditional On Participant-Level Ideology

We have argued that biases and distorted beliefs about rape and its victims are rooted, in part, in traditional gender role expectations (Viki and Abrams 2002, Whatley 2005). If such biases indeed structure decision making related to the adjudication of rape cases, we would thus expect these effects to be more pronounced among subgroups that hold more traditional value systems. One implication is that self-described conservative participants should be less likely than their self-described liberal counterparts to select for reporting or a more severe punishment gender-role defying victims and unconventional scenarios (Berkowitz and Lutterman 1968; Tetlock et al. 1989; Wetherall et al. 2013).

Hence, in Figure 3, we examine whether or not the observed effects are conditional on participant-level ideology, which we employ as a proxy for the extent to

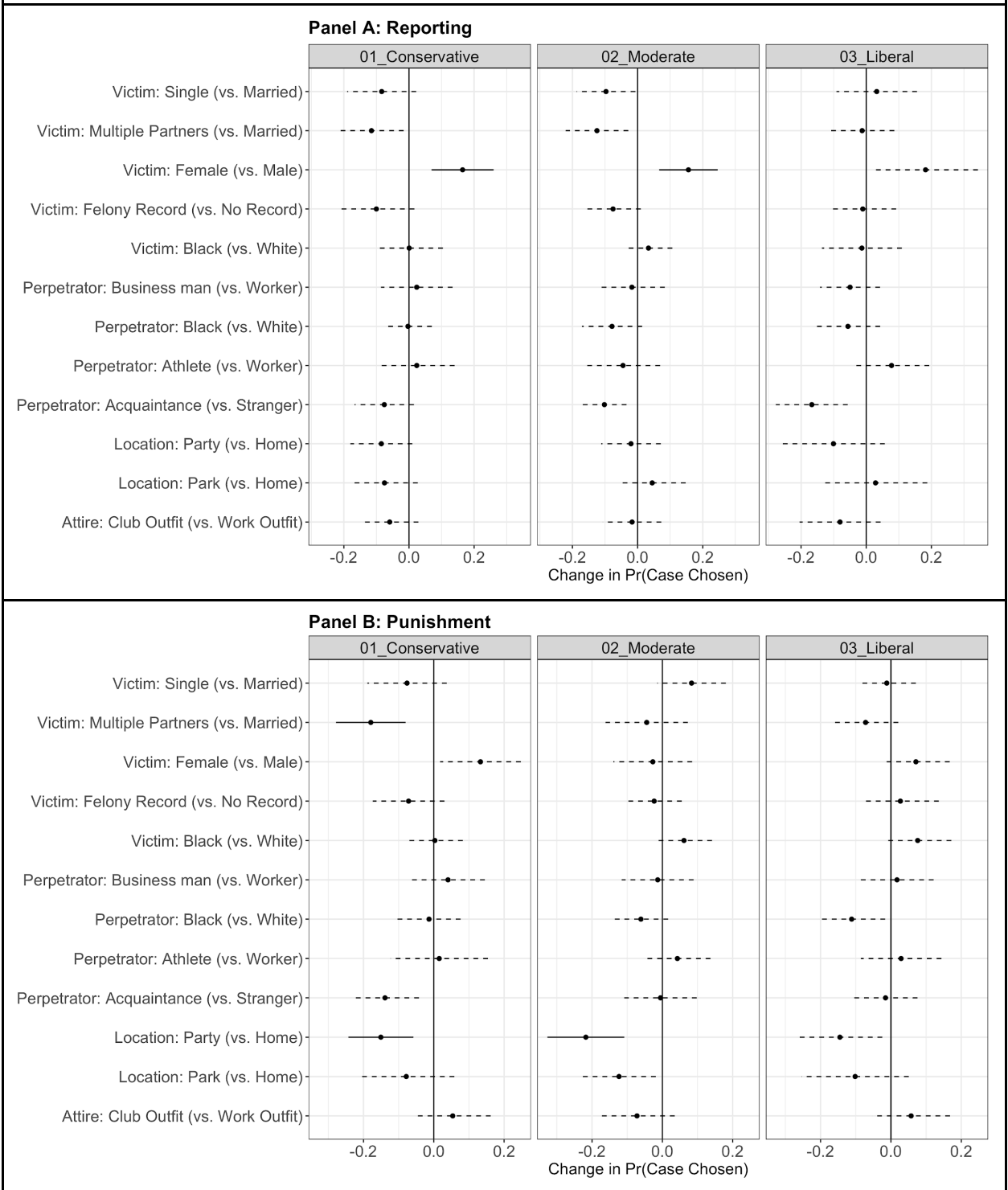
²¹ In both conditions, the F-statistic was statistically significant at the 0.001-level.

which participants likely adhere to traditional social values. We used a self-reported measure of political ideology to identify conservative, moderate, and liberal participants. Indeed, we observe that more conservative participants respond differentially to case characteristics that invoke notions of consent and trustworthiness of the victim. In both the reporting and punishment conditions, conservatives were 10.3 and 10.7 percentage points less likely than liberals, respectively, to choose a case when the victim was portrayed as having multiple partners, as compared to cases with married victims. Similarly, conservatives were 11.6 and 6.4 percentage points less likely than liberals, respectively, to select a case when the victim was single. In both conditions, conservative participants also picked cases involving victims with felony records at lower rates than liberals.

While these estimates do not remain statistically significant after the multiple comparison adjustment, they are nevertheless sizable. We again conducted an F-test on the baseline model and the interaction model to determine whether, *overall*, response patterns differed for conservatives and liberals. Indeed, at least in the punishment condition, participants handled rape cases differently overall depending on their personal ideology.²² Together, these findings help corroborate our claim that the biases we observe are indeed rooted in cultural beliefs and values.

²² In the reporting condition, the F-statistic was not statistically significant. In the punishment condition, the F-statistic of 2.46 was statistically significant at the 0.001 level. We find similar results for the robbery punishment condition (not shown).

Figure 3. Effects of Case Attributes on Reporting and Adjudication Decisions, Conditional on Participant Ideology



Note: Coefficient plots display the estimated effects of randomly assigned case details on the probability that a case is recommended, conditional on participant

ideology, for the reporting (panel A) and punishment condition (panel B).

Measuring Bias Qualitatively

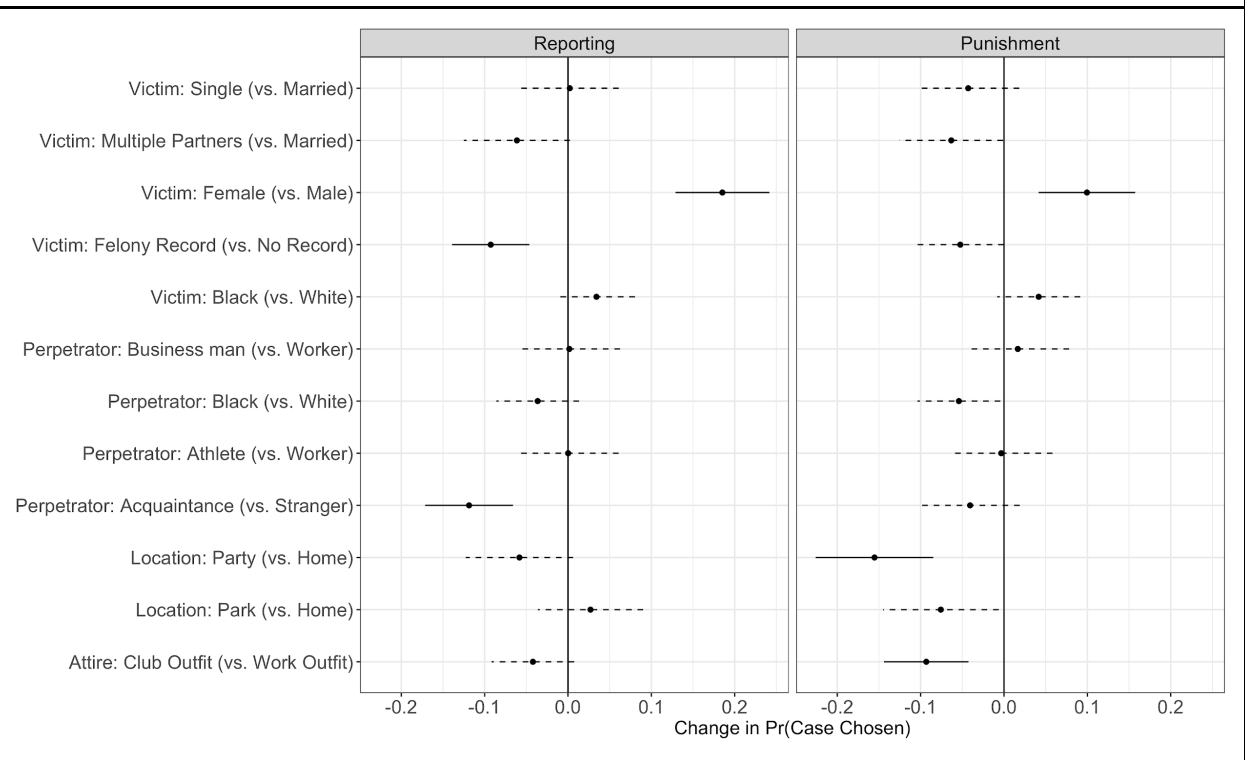
To further assess the extent to which the reasoning behind participants' decision making was consistent with our theoretical expectations, we conducted a follow-up survey experiment using a sample of 507 Mechanical Turk participants. Similar to our main study, we assigned participants to review pairs of randomly generated rape cases before asking them to decide which case they would recommend for reporting or a more severe punishment. We then asked participants to explain their choice in two or three sentences via an open-ended question. We collected a total of 1,521 open-ended responses which we coded along the four major dimensions of our rape culture instrument: victim-blaming, empathy (or lack thereof) for the perpetrator, doubts about the victim's trustworthiness, and false notions of consent.²³

With respect to the conjoint analysis, the results from the follow-up study align closely with our main findings (see Figure 6). In the reporting condition, participants again prefer female to male victims to a large degree. They are also less likely to recommend a case for reporting when the victim and the perpetrator know each other

²³ Comments were randomly divided between two human coders. Intercoder reliability statistics, based on 341 comments classified by both coders, meet or exceed conventional standards of agreement (see the Supporting Information).

or when the victim has a felony record. In the punishment condition, participants show the same preference for cases involving female victims. In addition, they are less likely to recommend cases for a more severe punishment when the incident took place at a party and when the victim was wearing a night club outfit at the time of the incident.

Figure 4: Main Effects for Reporting Punishment Conditions (MTurk Follow-Up Study)



Note: Coefficient plots display the estimated effects of randomly assigned case details on the probability that a case is chosen in the reporting (left panel) and punishment condition (right panel).

Our analysis of the qualitative responses reveals that these findings are in many cases driven by biased reasoning. Over two-fifth of justifications provided both in the reporting and punishment conditions contain some sort of victim blaming language. In

addition, approximately one-third of comments in both conditions display skewed notions of consent in their reasoning. Although to a lesser degree, we also find that participants cast doubt on the trustworthiness of the victim and at times empathize with perpetrators.

Table 4: Rape Culture Elements in the Open-Ended Survey Responses		
	Reporting	Punishment
	% of all responses	
Victim Blaming	43.0	45.7
Notions of Consent	35.1	29.9
Victim Trustworthiness	14.1	6.4
Empathy for Perpetrator	7.5	7.7

In both the reporting and punishment condition, the majority of comments related to victim blaming (60.1% and 55.3%, respectively) referenced the location of the incident, often arguing that attacks in the victim’s home are more severe, especially when assaulted by a stranger. Also striking is the extent to which male-on-male rape is downplayed. In both conditions, about one-fifth of all comments that were coded as victim blaming language state that cases with female victims are more severe and argue that male victims ought to be able to defend themselves. In addition, more than half of the comments that were coded as questioning the victim’s credibility mentioned her or his criminal record, indicating that victims with a minor felony record are less believable.

Anecdotal evidence supporting the face validity of our treatments—that is, the absence of legally relevant distinctions between the case profiles—emerged in the qualitative responses. Some participants recognized that the cases they reviewed were very similar and acknowledged that the decision was difficult for them. In about 6.0% and 10.6% of responses in the reporting and punishment conditions, respectively, participants refused to distinguish between the cases. As one participant put it,

“‘Gender’ is irrelevant. ‘Race’ is irrelevant. Being a ‘Stranger’ is irrelevant. What they were wearing is irrelevant. A person’s record is irrelevant. None if it has to do with whether someone was or wasn’t assaulted and whether it should be reported. If you were assaulted, then you report it, its very simple.”

In addition to the coding, we employ a five-cluster implementation of Latent Dirichlet Allocation (LDA) using the R package *topicmodels* (Gruen and Hornik 2011). The findings from this unsupervised analysis of open-ended survey responses, displayed below in Figure 7, support the results from the conjoint analysis. For example in the reporting condition, clusters 1 and 5 relate to circumstances of the incidents, with respondents discussing both the location of the assault and the outfit of the victim. By contrast, cluster 2 represents comments that are related to the sex of the victim, with words like “less”, “likely”, and “believe” indicating many participants’ beliefs that male-on-male rape incidents are less severe and less believable. Cluster 4 relates to questions about the victim’s credibility, with references to the criminal record and felony charges of the victim. In the punishment condition, we observe similar patterns, with location of the incident and the outfit of the victim featuring in clusters 1

and 3. Cluster 4 once again hints at minimizing male-on-male rape, as we observed both in the conjoint data and from qualitative responses. Finally, Cluster 5 references terms related to the victim’s credibility, such as “felony” or “criminal record.”

Figure 5: Topic Clusters Based on Latent Dirichlet Allocation (MTurk Follow-Up Study)

Reporting					Punishment				
Topic 1	Topic 2	Topic 3	Topic 4	Topic 5	Topic 1	Topic 2	Topic 3	Topic 4	Topic 5
seems	male	white	record	stranger	park	just	home	male	record
place	female	black	criminal	home	woman	business	place	crime	criminal
like	police	child	likely	someone	like	person	took	stranger	race
home	woman	crime	person	place	seems	owner	outfit	female	partners
park	likely	guy	business	likely	married	another	wearing	trust	choose
outfit	man	abuse	people	public	choose	guy	stranger	deserves	involved
wearing	believe	especially	believe	happened	worse	stranger	seems	worse	severely
took	less	person	police	crime	details	even	happened	acquaintance	probably
incident	assaulted	risk	felony	acquaintance	attack	someone	public	likely	felony
work	incident	serious	choose	park	get	harsher	someone	defend	really
party	go	race	though	person	just	probably	party	act	multiple
likely	men	contact	woman	took	see	receive	incident	women	reason
night	really	physical	stranger	party	fact	decision	work	able	equally
club	something	suspect	higher	victims	female	rape	believe	needs	dressed
multiple	just	needs	history	people	difference	say	crime	party	less

4. Conclusion

We have proposed and tested an empirical conceptualization of rape culture using a conjoint experiment designed to explore whether legally irrelevant case details associated with rape culture affect criminal justice-related decision making. We find that such details have significant and substantial effects on decisions related to the reporting and adjudication of rape cases. However, some aspects of rape culture matter more than others. Most notably, those that may distort participants’ perceptions

of consent, such as a victim's prior sexual history or relationship to the perpetrator, influence both reporting and adjudication. Case parameters that evoke victim blaming, such as the incident location, also have substantial effects. In particular, sex matters: participants were far more likely to support female than male victims. By contrast, the SES of the perpetrator had little impact on decisions, suggesting that individuals are less prone to empathize with certain types of perpetrators than is often assumed in the popular discourse. Surprisingly, there is no evidence of systematic racial bias against victims and perpetrators of color; if anything, participants tended to support them at higher rates.

To determine whether these biases uniquely apply to the context of rape cases, we compared response patterns for rape cases to robbery incidents. Some of the case details we provided influenced reporting and adjudication decisions in the robbery conditions as well, most notably the location of the incident and the sex of the victim. However, *overall*, we find strong evidence that decision patterns differ systematically for robbery and rape cases, which confirms the notion that American society is marked by a rape culture, viewing rape differently from other violent crime.

We also found some evidence of subgroup-specific effects. Most notably, ideology—which we employed as a proxy for adherence to traditional social values—seems to play a role in the evaluation of rape cases, with conservative participants being less likely to recommend for reporting or a more severe punishment victims who are male, have more promiscuous sexual histories, are single, or have a criminal record.

The results contribute to the aforementioned developing body of political science research that seeks to evaluate the quality of constituent representation provided by public institutions across all three branches of government. Our findings echo some of these previous studies, illustrating the ways in which bias can disrupt the criminal justice processes around rape and reduce institutional responsiveness to certain groups. The policy implications of this research are potentially profound. The details included in our case profiles are those often featured prominently in news stories surrounding rape allegations (Author). When journalists emphasize the salience of these features, they may unwittingly wield a powerful effect on how real-world rape cases are assessed and handled. Understanding what type of information induces bias, and through what psychological mechanisms, can potentially help explain the large reporting gap for rape. Rape victims may explicitly or implicitly be discouraged by their social environments from reporting their violations, perceiving (correctly, as our study shows) that they will be disbelieved or discounted.

Moreover, legally irrelevant details often also become known to jury members during trials, whether unintentionally through witness testimonies or deliberately as part of the defense strategy. Our findings may provide insights into, and guidance for, prosecutorial decisions and strategies. Previous studies have already shown that certain case characteristics make it more or less likely for prosecutors to take on a case (Beichner and Spohn 2005). Systematic evidence of the kind of details that lead to distortions may facilitate the redesign of investigative, prosecutorial, and trial

incentives and procedures surrounding rape cases in order to reduce the prevalence and influence of such biases.

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