Emotion

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Online First Publication, July 3, 2025. https://dx.doi.org/10.1037/emo0001559

AMERICAN PSYCHOLOGICAL ASSOCIATION

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ISSN: 1528-3542

https://doi.org/10.1037/emo0001559

Balancing Emotional Scales: Empathy and Dehumanization in Legal Contexts

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Does emotional information have a place in court, or does it bias legal decisions? We address this longstanding question using real-world national sentencing patterns and laboratory-based mock jury decisions. Archival analysis of 918,152 observations reveals that the introduction of Victim Impact Statements, in which victims express the effect of crimes on their lives, did not change sentencing outcomes for violent crimes (Study 1). We hypothesized this may occur if observers empathize with victims over defendants by default. In two experimental studies (including a preregistered replication; data collected 2018 and 2019), exposure to the facts of a crime produced empathy for victims but dehumanization of defendants, a pattern not altered by Victim Impact Statements. Upon exposure to *both* the defendant's perspective *and* the victim's perspective, people express empathy for the victim and defendant, humanize defendants, and support more lenient sentencing. Internal meta-analyses of Study 2 and 3 found that the pooled effect of the defendant's perspective was much stronger than that of the victim, despite a content analysis demonstrating no significant difference in the emotionality or tone of the two statements. Taken together, the large and real-world sample of Study 1, combined with the experimental manipulation of Studies 2 and 3, suggests that "empathic defaults" are part of legal decision making and that introducing—rather than ignoring—multiple perspectives may balance the emotional scales.

Keywords: empathy, dehumanization, decision making, emotional bias

Supplemental materials: https://doi.org/10.1037/emo0001559.supp

In 2009, President Barack Obama emphasized the importance of empathy in decision making as he was nominating a Supreme Court Justice, stating, "I view that quality of empathy … as an essential ingredient for arriving at just decisions" (Obama, 2009). This sparked debate about empathy's role in legal decision making; political columnist Charles Krauthammer rebuked that he "stands unequivocally against justice as empathy" (Krauthammer, 2009), reflecting the idea that emotions have no place in pursuits of justice. Centuries earlier, Immanuel Kant wrote, "the principle of *apathy*—namely that the wise man must never be in a state of affect … is an entirely correct and sublime moral principle" (Kant, 2007, chapter 7, p. 253). This philosophy maintains that legal decisions should likewise be made apathetically, rendering justice not merely blind, but unfeeling.

Similar logic has been used to critique Victim Impact Statements, or the opportunity for victims to discuss the effect of a crime on their lives in courtroom proceedings prior to the sentencing of a defendant. Some legal scholars fear that Victim Impact Statements could contribute to "prejudice and judgments based on emotion rather than reason" (Myers & Greene, 2004) by inducing empathy for victims. Yet, evidence offers conflicting perspectives (for a psychological review on Victim Impact Statement controversies, see Myers & Greene, 2004; for legal reviews, see Erez et al., 1997; Logan, 1999).

On the one hand, empathy may bias decision making. Batson et al. (1995) found that participants who watched an interview with a terminally ill child were more likely to move that child up on a treatment waitlist at the expense of another child losing care. Empathy can also shift courtroom decisions. Statements encouraging empathy for defendants correlate with lower chances of a guilty verdict (Skorinko et al., 2014) and milder punishments (Johnson et al., 2002). On the other hand, evidence for the effect of Victim Impact Statements is inconsistent. In some studies, Victim Impact Statements influence sentencing (Myers et al., 2002) and death

Rudy Mendoza-Denton served as action editor.

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Authors declare no conflicts of interest or funding sources. No artificial intelligence-assisted technologies were used in this research or the creation of this article. This research received approval from the Stanford University Ethics Review Board.

The authors publish this work in the memory of the late Samuel R. Sommers. He was a brilliant psychologist, insightful researcher, and inspiring teacher who taught Isabella Kahhale at Tufts University. His influential work deepened the authors' understanding of how perception and bias shape decision making. More importantly, he was a generous, energizing, and luminous person who will be deeply missed.

Isabella Kahhale played a lead role in formal analysis, methodology, writing–original draft, and writing–review and editing. Leor Hackel played a supporting role in conceptualization, methodology, supervision, and writing–review and editing. Jamil Zaki played a supporting role in data curation, methodology, writing–original draft, and writing–review and editing and an equal role in conceptualization and supervision.

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penalty decisions in mock trials (Luginbuhl & Burkhead, 1995; Myers et al., 2004); in others, Victim Impact Statements have no effect (Myers & Arbuthnot, 1999).

We propose a reason for this inconsistency. Research on courtroom empathy focuses on the effects of *deliberately* asking people to empathize with one side, as though absent such inductions, people's feelings would be neutral. Studies in this domain ask observers to either take the perspective of suffering others (high empathy) or remain objective (low empathy), with the underlying assumption being that the high empathy condition should move people to empathize with suffering targets. Yet, research on empathy suggests that our "defaults" are far from neutral; a meta-analysis found that, when given no instructions, observers' emotions approximated the high empathy more closely than the low empathy condition. People's empathic "default" to a suffering target was empathy, not objectivity (McAuliffe et al., 2020).

In the courtroom, one plausible default would be to empathize with victims over defendants, if victims are readily identified as a target in distress or need. Theoretical models of morality support this idea. For instance, *moral typecasting theory* distinguishes between those who *cause* versus *experience* harmful events (Gray & Wegner, 2009). People are more likely to assign blameworthiness to someone perceived to *cause* a misdeed and more naturally consider the victim's *experience* of harm (Gray & Wegner, 2009). Emotional biases may already be at play in legal contexts through such "empathic defaults." If that were the case, then Victim Impact Statements might fail to move people because they are already predisposed to empathize with victims. By contrast, empathic defaults might lead people *away* from caring for defendants and/or *toward* viewing them as less than human (Haslam & Loughnan, 2014). Defendant dehumanization could in turn influence courtroom decisions. Across three experiments, Bastian et al. (2013) found that people who dehumanized a defendant recommended more severe punishment. Despite this evidence, the study of empathic defaults has not been extended to legal contexts. We hypothesize that asking observers to take the perspective of defendants could disrupt empathic defaults and mitigate dehumanization.

The Current Work

We used diverse and complementary approaches to extend the study of "empathic defaults" to legal contexts. Although various experimental studies suggest that Victim Impact Statements do influence sentencing, others suggest they do not. Further, a recent review uncovered that a majority of empirical studies examining Victim Impact Statements have explored associations with death penalty cases, constraining the generalizability of findings (Kunst et al., 2021). The scarce few archival studies ($n = 6$) examining the influence of victim impact statements have either examined cases involving the death penalty (Aguirre et al., 1999; Karp & Warshaw, 2006), binary decision making (i.e., guilty or not guilty; Erez & Roeger, 1995), and/or a relatively small number of cases ($n < 500$) confined to a specific time period (e.g., 1985 and to 1988; Erez & Tontodonato, 1990). Accordingly, we first conducted an analysis of archival data across a 26-year span to examine how the introduction of Victim Impact Statements affected real-world sentencing for non-capital-punishment crimes (Study 1).

Next, in two experiments, we showed mock jurors the facts of a crime and manipulated exposure to the perspective of the victim, defendant, both, or neither (Studies 2 and 3). While other experimental studies that have examined the impact of perspectives on sentencing have considered *either* victim perspectives or defendant perspectives, they have not considered the influence of, or directly compared receiving, both perspectives. Further, prior work has explicitly induced empathy via instructions to participants, precluding an examination of already-occurring biases. Our current work overcomes these limitations and combines real-world data and experimental manipulation to extend knowledge about how emotional perspectives alter justice-relevant decision making.

Study 1: Archival Data Analysis

In 1982, the first U.S. state amended its constitution to grant victims of crime the right to be heard at criminal proceedings. By 2000, all 50 states allowed victim impact evidence in courtrooms (National Sexual Violence Resource Center., n.d.). Crucially, the introduction of Victim Impact Statements was "staggered" across states (Roberts, 2009), as evidenced by Figure 1. If Victim Impact Statements bias legal decisions, that bias should have arrived in some states decades after others. We leveraged this timing as a natural experiment to examine if the introduction of Victim Impact Statements altered sentencing for violent crime on a state-by-state basis.

Method

Archival Data

We analyzed data collected by the U.S. Bureau of Justice Statistics and now part of the National Archive of Criminal Justice Data under the Inter-University Consortium for Political and Social Research. This analysis was approved by the Stanford University

Figure 1
The Years in Which States Added Victim Rights Legislation to Either Their State Laws or Constitutions

Note. See the online article for the color version of this figure.

Institutional Review Board. The data set contains all reported corrections data from 1983 to 2009.

We analyzed three crimes—assault, rape, and robbery—selected from the Bureau of Justice Statistics list of crimes that featured an identifiable victim and perpetrator. We restricted our analysis to individuals incarcerated for only one offense to minimize the influence of multiple offense types. Data were cleaned to include complete cases for the chosen crimes and represented data from 21 states (robbery $n = 462{,}223$; rape $N = 66{,}161$; assault $N = 389{,}768$). See Figure 2 and Supplemental Material A for details on data cleaning and Figure 3 for a sample visualization of sentencing data.

Critical Years

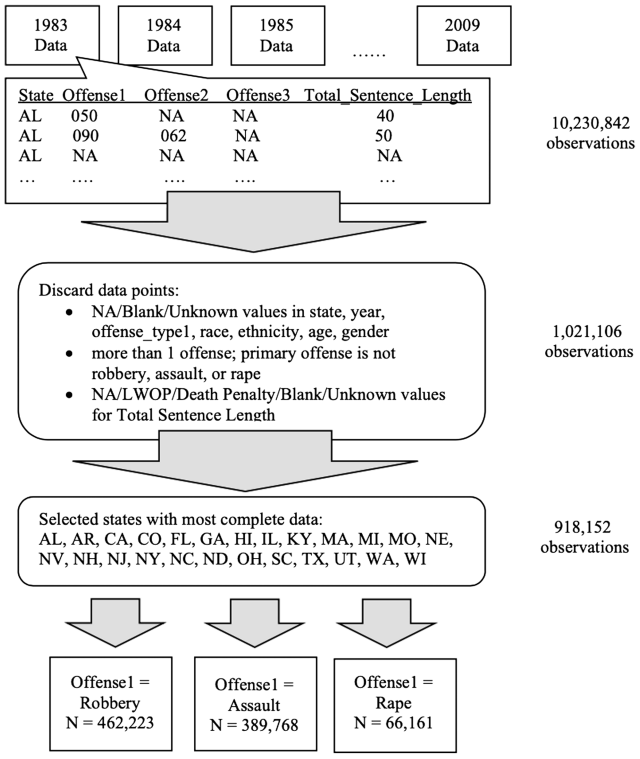
We define a "critical year" as the year in which a state either (a) ratified Victim Rights legislation or (b) allowed Victim Impact Statements in state constitutions, whichever came first (see Supplemental Material A). We used two analytic methods to answer the question, *how did the introduction of Victim Impact Statement legislation influence sentencing patterns across states?*

Approach 1 Analysis: Mixed Effects Models

We first explored whether sentence length varied as a function of when Victim Impact Statements were introduced using mixed-effects models with the R "lme4" package (Bates et al., 2015). Due to right-skewedness, we considered log-transformed total sentence as the outcome with the independent variable of interest being a True/False variable indicating whether each observation occurred before or after a state's critical year. Models also included age, gender, ethnicity, race, total crime counts, year, and a random effect of state. Analyses were run separately for each crime.

Figure 2

Data Cleaning and Inclusion for National Incarceration Records



Note. NA = not applicable; LWOP = life without parole.

Approach 2 Analysis: Bayes Factors

We sought to quantify evidence *for* versus *against* this null effect of Victim Impact Statements on sentencing patterns using Bayes factors (Silvey et al., 2021), an approach that allows one to quantify the relative likelihood of the observed data given competing models (Lodewyckx et al., 2011). We evaluated evidence for two models: a model *without* the variable indicating whether the observation occurred before or after Victim Impact Statements were allowed (null model) and an alternative model including this legislation variable. Bayes factors representing evidence for a given model were compared with the canonical evidence category table (Jeffreys, 1961; M. D. Lee & Wagenmakers, 2014).

Transparency and Openness

Study data are publicly available upon a data agreement authorization from the Inter-University Consortium for Political and Social Research (https://www.icpsr.umich.edu/web/pages/NACJD/index.html). All analysis scripts are publicly available at https://doi.org/10.17605/OSF.IO/Y2XUS (Kahhale, 2024).

Results

Approach 1 Results: Mixed Effects Models

Our models revealed a directional but nonsignificant effect of Victim Impact Statements on sentencing length for robbery ($\beta = 0.020$, $t = 1.653$, $p = .099$) and no significant effect on sentencing for rape ($\beta = -0.026$, $t = -1.103$, $p = .270$) or assault ($\beta = -0.079$, $t = -0.630$, $p = .528$). Overall, there emerged no significant difference in sentence lengths before and after Victim Impact Statement legislation was passed across the 21 states included in the analysis for robbery, assault, and rape. Several other variables known to be influential for sentencing, such as a defendant's age, gender, and prior criminal record, *did* predict sentence length, as did the year of trial (i.e., sentencing lengths decreased over time). Significant effects for variables such as year and defendant characteristics suggest that the null effect of Victim Impact Statement legislation is likely not due to noisy data alone.

Approach 2 Results: Bayes Factors

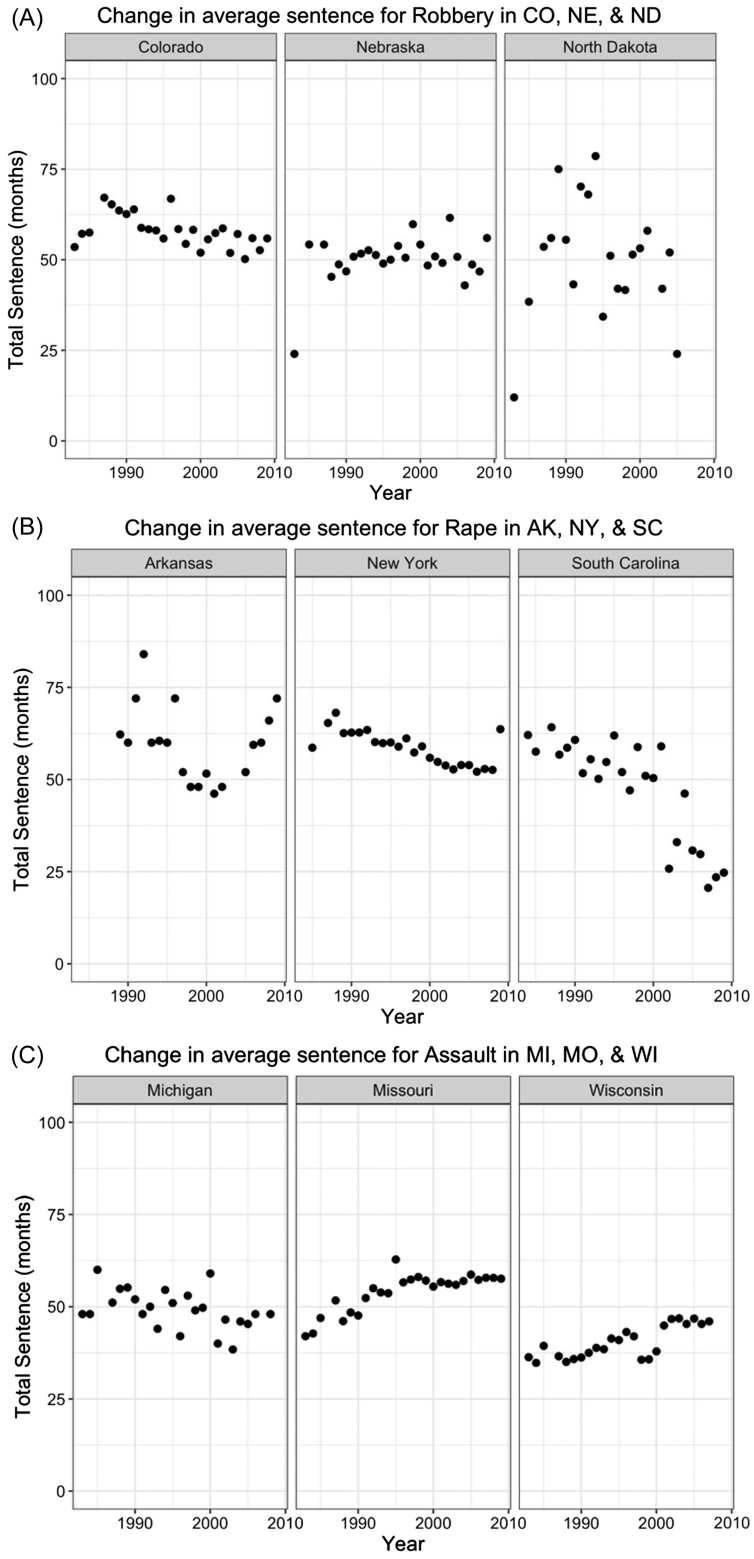
We found strong evidence in favor of the model *without* the variable representing Victim Impact Statement legislation for robbery (BF = 0.0132), rape (BF = 0.0113), and assault (BF = 0.004). This provides support for the null hypothesis that the introduction of Victim Impact Statements did *not* significantly affect sentencing for these crimes.

Discussion

Despite widespread concern that Victim Impact Statements would emotionally bias legal decisions, we found that introducing this

Figure 3

Average Total Sentence (in Months) From 1983 to 2009 for a Selection of States and Three Crime Types (Robbery [Panel A], Rape [Panel B], and Assault [Panel C])



policy in 21 states had no effect on sentencing for violent crimes. One explanation for this is that decision-makers might empathize with victims by "default," even in the absence of Victim Impact Statements (Gray & Wegner, 2009). To examine this idea, we designed two experiments to test the effects of emotional information on mock jury decisions, as well as to test the "default" empathy that mock jurors may feel toward victims and defendants.

Study 2: Empathic Defaults Among Mock Jurors

Our experiment investigated mock jurors' empathic "defaults" toward victims and defendants and the effects of providing emotional perspectives on jurors' empathy, dehumanization, and sentencing choices. We considered two hypotheses. On the one hand, jurors could arrive at justice-related decisions with a neutral emotional default. If that is the case, either perspective should sway their choices: exposure to the victim's perspective would inspire jurors to hand out longer sentences, whereas exposure to the defendant's perspective could lead them to dole out shorter sentences. On the other hand, jurors' empathic "default" might be to feel for victims over defendants. In this case, exposure to victims' stories might not move jurors (because they naturally take that perspective), but exposure to defendant narratives might disrupt those defaults and alter sentencing patterns.

Method

We report how we determined our sample size, all data exclusions, manipulations, and measures in the study.

Participants

Our target sample was 240 people based on work with similar methods (Murdoch & Gonsalkorale, 2017; Skorinko et al., 2014). Of the 240 participants recruited for Study 2 via Amazon's Mechanical Turk, 54 were excluded for failing comprehension check questions, two for extreme outlier values, and one for not completing the study, leaving 183 participants (see Table 1 for descriptives). This study was approved by the Stanford University Institutional Review Board. Data were collected in Summer 2018.

Procedure

Participants were told they would be simulating the role of jurors in a mock trial and then read a fictionalized police report of a car burglary and assault in which the defendant had already been declared guilty but not been sentenced yet. Participants completed two true/false questions about the facts of the crime to assess their comprehension of the scenario (see Supplemental Material B for stimuli). We then manipulated exposure to the victim and defendant perspective. Participants in the victim condition read a statement from the victim describing his experience ("I was terrified that he had a weapon … and that he was going to pull it on me … for weeks after, I would suddenly feel anxious whenever I approached my car"). Participants in the defendant condition read the defendant's statement explaining himself and expressing remorse ("I felt my whole life … slip away from me … some cash, plus the laptop, that's worth a thousand bucks. … I wish I did not do it"). Those in the both condition read the victim and defendant statements, while those in the neutral condition read neither perspective. These statements were generated by the authors based on work with similar methods and legal guidance from the U.S. Department of Justice, American Bar Association, and other resources, with further details available in Supplemental Material B.

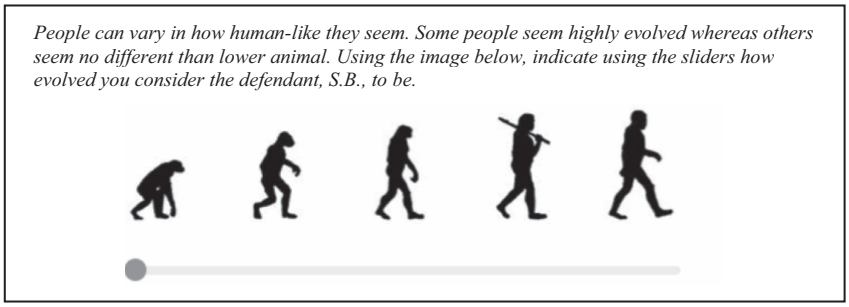
Participants provided the number of years the defendant should serve as punishment before completing questionnaires in a randomized order. In order to assess how exposure to one's perspective might alter empathy in this context, we asked participants to report their feelings toward the defendant and the victim using a commonly used 12-item scale (Fultz et al., 1988; responses to the *softhearted*, *touched*, *sympathetic*, and *compassionate* items). To distinguish general trait empathy from empathy garnered for the defendant and victim via the perspective manipulation, participants completed the Perspective Taking and Empathic Concern subscales of the Interpersonal Reactivity Index, which were summed to create a Total Interpersonal Reactivity Index score (Davis, 1983).

We used the validated Ascent of Man Blatant Dehumanization scale to measure the "overt and direct denial of humanness" (Kteily et al., 2015; see Figure 4), consistent with theory that failure to consider a defendant's perspective may cause others to view him as less than human (Haslam & Loughnan, 2014) and subsequently influence decision making (Bastian et al., 2013). Blatant

Table 1
Study 2 Descriptive Statistics

Characteristic	Neutral ($N = 40$)	Victim ($N = 49$)	Defendant ($N = 45$)	Both ($N = 49$)	Total ($N = 183$)	p
Age range						.308
18–29	10 (25.0%)	8 (16.3%)	11 (24.4%)	14 (28.6%)	43 (23.5%)	
30–49	24 (60.0%)	37 (75.5%)	31 (68.9%)	27 (55.1%)	119 (65.0%)	
50+	6 (15.0%)	4 (8.2%)	3 (6.6%)	8 (16.3%)	21 (11.4%)	
Gender						.197
Male	21 (52.5%)	33 (67.3%)	21 (46.7%)	25 (51.0%)	100 (54.6%)	
Female	19 (47.5%)	16 (32.7%)	24 (53.3%)	24 (49.0%)	83 (45.4%)	
Race						
White	33 (82.5%)	41 (83.7%)	34 (75.6%)	41 (83.7%)	149 (81.4%)	
Black	1 (2.5%)	1 (2.0%)	1 (2.2%)	5 (10.2%)	8 (4.4%)	
Other	6 (15%)	7 (14.3%)	10 (22.2%)	3 (6.1%)	26 (14.2%)	
Sentence recommendation						<.001
M (*SD*)	4.18 (3.49)	6.27 (6.63)	2.36 (2.20)	3.22 (3.58)	4.03 (4.58)	
Range	1.0–20.0	0.0–40.0	0.0–10.0	0.0–15.0	0.0–40.0	

Figure 4
The Ascent of Man Scale of Blatant Dehumanization



Note. The original scale refers to groups, and the wording was adapted to refer to the defendant in the stimuli. From "The Ascent of Man: Theoretical and Empirical Evidence for Blatant Dehumanization," by N. Kteily, E. Bruneau, A. Waytz, and S. Cotterill, 2015, *Journal of Personality and Social Psychology, 109*(5), p. 4 (https://doi.org/10.1037/pspp0000048). Copyright 2015 by the American Psychological Association.

dehumanization is known to contribute to hostile attitudes toward *groups* (Kteily & Bruneau, 2017); to our knowledge, no work has applied the Blatant Dehumanization scale to understand how an *individual* may be seen as less than human.

We assessed potential crime bias by asking whether the participant, or anyone they knew, was a victim or a perpetrator of a similar situation. Demographics included age, gender, ethnicity, race, perceived social status, education level, and parent education level.

Analyses

2 × 2 analyses of variance tested the impact of victim and defendant perspectives on sentencing, defendant and victim empathy, defendant dehumanization, and an interaction between perspectives, while controlling for gender, education, and crime bias. Where noted, trait empathy was also included. Canonical Tukey's Honestly Significant Difference post hoc tests were used to probe differences between conditions while correcting for multiple comparisons. Where applicable, main effects contrasts compared the strength of effect between victim perspective and defendant perspective. To do so, we asked if the average change in sentence for conditions with the defendant's perspective, compared to conditions without it (Equation 1), was larger than the average change in sentence for conditions with the victim's perspective, compared to conditions without it (Equation 2), and computed the difference in the main effects (Equation 3) using a one-sample *t* test:

(see Equation 1–3 below)

Our indirect effect analysis followed the methods of Baron and Kenny (1986) using Monte Carlo resampling based on the evidence that this method offers satisfactory power and prevention against Type I errors (Yzerbyt et al., 2018). We computed standardized indirect effects for 1,000 samples and 95% confidence intervals.

Transparency and Openness

All stimuli, code, statistics, and plots are publicly available at https://doi.org/10.17605/OSF.IO/Y2XUS.

Results

Sentence Recommendation

There was a large main effect of defendant perspective on sentencing, $F(1, 171) = 29.96$, $p < .001$, indicating that participants who read the defendant's perspective prescribed significantly lower sentences (*Neither* perspective = 4.18 years, *Victim* = 6.27, *Defendant* = 2.36, *Both* = 3.22). Post hoc tests revealed that participants recommended lower sentences when they read the defendant's perspective compared to when they did not, even when the defendant's perspective was paired with the victim's perspective (see Figure 5). The order in which perspectives were presented had no impact on sentencing, $t(37) = 0.764$, $p = .449$.

A main effect of victim perspective on sentencing, $F(1, 171) = 4.24$, $p = .0410$, indicated that participants who read the victim's perspective offered significantly higher sentences; however, additional

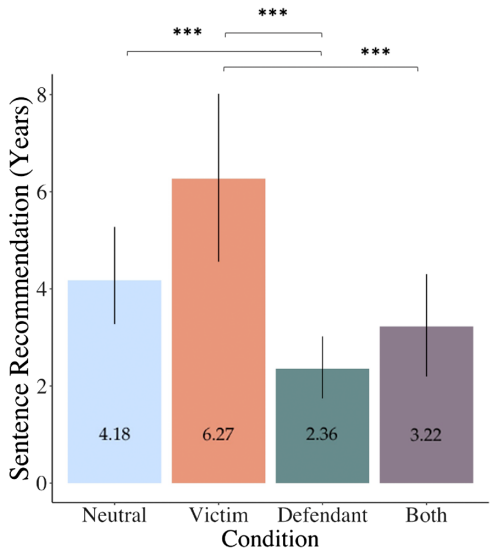
$$\text{Average Effect of Victim Perspective} = (\text{Average Sentence Recommendation for Victim and Both Conditions}) - (\text{Average Sentence Recommendation for Neutral and Defendant Conditions}), \quad (1)$$

$$\text{Average Effect of Defendant Perspective} = (\text{Average Sentence Recommendation for Defendant and Both Conditions}) - (\text{Average Sentence Recommendation for Neutral and Victim Conditions}), \quad (2)$$

$$\text{Difference in Main Effects} = \text{Average Effect of Defendant Perspective} - \text{Average Effect of Victim Perspective}. \quad (3)$$

Figure 5

The Average Sentence Recommendation per Each of the Four Conditions With Means and 95% Confidence Interval Bars



Note. See the online article for the color version of this figure.
*** $p < .01$.

analyses revealed that this effect was much smaller than the effect of defendant perspective. Main effect comparisons tested which perspective had a larger influence on sentence recommendations and found that the defendant's perspective more heavily influenced change in sentence recommendations than did the victim's perspective, $t(182) = -4.054753$, $p < .001$. This supports findings from Study 1, underscoring that empathic "defaults" may exist for victims' perspectives and therefore exposure to the victim's perspective may not bias sentence recommendations as heavily as do defendant's perspectives.

Empathy for the Victim

We next asked whether victim and defendant perspectives changed empathy for the victim of a crime, adding trait empathy as a covariate. We found a main effect of victim perspective, $F(1, 170) = 9.60$, $p = .002$, and a significant interaction with defendant perspective, $F(1, 170) = 5.74$, $p = .018$. Post hoc analyses indicated that empathy for the victim was typically high, providing support for empathic "defaults"—that is, participants endorsed similar empathy for the victim when hearing facts alone, the victim's perspective, and both perspectives. Empathy for the victim was lower only when the defendant's perspective was presented on its own (see Figure 6 Panel A).

Empathy for the Defendant

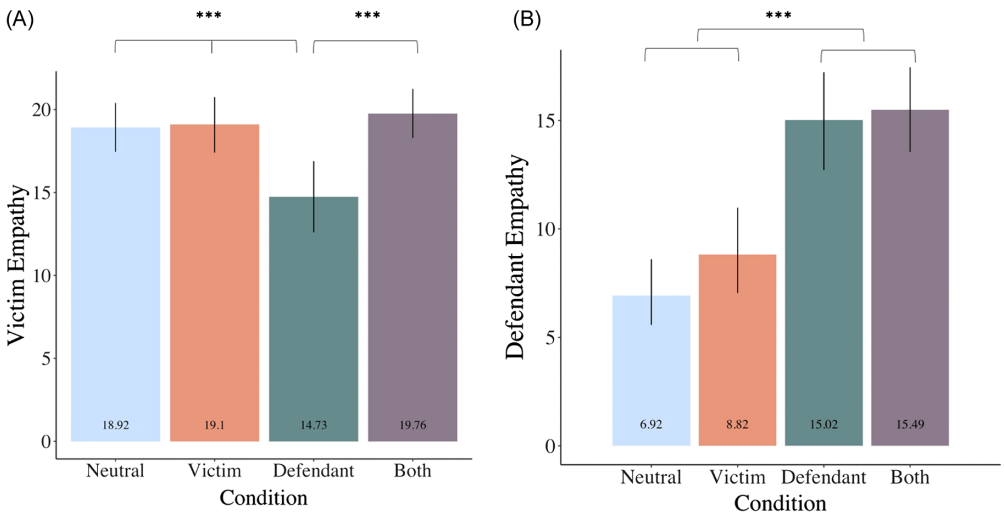
We next asked whether victim and defendant perspectives altered empathy for a defendant accused of a crime, again including trait empathy as a covariate. A main effect of defendant condition, $F(1, 170) = 54.94$, $p < .001$, reflected that empathy for the defendant was increased whenever his perspective was present. Post hoc tests indicated that participants who heard the defendant's perspective felt significantly more empathy toward him; without his perspective, participants expressed lower defendant empathy (see Figure 6 Panel B).

Dehumanization

We next asked whether exposure to the defendant's perspective versus the victim's perspective shaped dehumanization of the defendant, again controlling for individual differences in trait empathy and empathy for the defendant specifically. We found a main effect of defendant perspective, $F(1, 169) = 24.10$, $p < .001$ (see Figure 7). Comparisons indicated that exposure to the defendant's perspective was critical to humanizing him, with participants viewing him as 85% human when hearing both perspectives and 92% human when hearing the defendant's perspective alone. In conditions without the defendant's perspective, participants

Figure 6

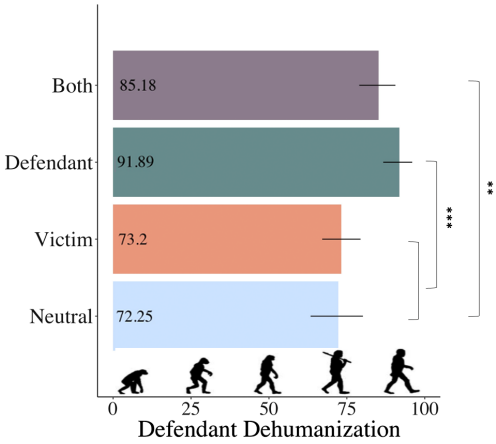
The Average Level of Empathy for the Victim (Panel A) and for the Defendant (Panel B) per Each of the Four Conditions With Means and 95% Confidence Interval Bars



Note. See the online article for the color version of this figure.
*** $p < .01$.

Figure 7

The Average Level of Blatant Dehumanization per Each of the Four Conditions With Means and 95% Confidence Interval Bars



Note. Lower scores indicate higher levels of dehumanization on the Ascent of Man Blatant Dehumanization Scale from "The Ascent of Man: Theoretical and Empirical Evidence for Blatant Dehumanization," by N. Kteily, E. Bruneau, A. Waytz, and S. Cotterill, 2015, *Journal of Personality and Social Psychology, 109*(5), p. 4 (https://doi.org/10.1037/pspp0000048). Copyright 2015 by the American Psychological Association. See the online article for the color version of this figure.
** $p < .05$. *** $p < .01$.

viewed him as less human (72% human when exposed to facts alone and 75% human after reading only the victim's perspective). Empathic "defaults" again emerged in favor of the victim and against the defendant, as participants exposed to the facts alone or the victim's perspective saw the defendant as less than fully human, and hearing the defendant's perspective restored their sense of his humanity.

Finally, we ran an indirect effect analysis to test whether the association between exposure to the defendant's perspective and sentence recommendation could be partially and indirectly accounted for by increased humanization of the defendant. We found a small, but significant, indirect effect of humanization (i.e., decreased dehumanization) on the association between hearing the defendant's perspective and decreased sentence recommendation (average causal mediated effect = −0.0693, $p = .018$). This analysis implied that humanization of the defendant may be one path by which exposure to the defendant's perspective comes to alter sentence recommendations.

Discussion

Study 2 suggests that mock jurors' empathic "default" is to take the perspective of a victim and dehumanize a defendant. Consistent with conclusions from Study 1, sentence recommendations were similar when participants were exposed to the victim's perspective compared to the facts alone, consistent with the notion of empathic "defaults" in favor of the victim. In contrast, sentence recommendations and dehumanization of the defendant decreased when participants were exposed to the defendant's perspective. The addition of the defendant's perspective to the facts of a crime in our experiment served to increase empathy for the defendant and encourage participants to recognize his humanity. Furthermore, when the defendant's perspective was paired with victim's perspective, empathy for the victim was maintained.

Why might defendant statements exert such a powerful effect on sentencing? One idea is that by disrupting observers' empathic defaults, learning about a defendant could also alter attributions about them. An observer who dehumanizes a defendant might also attribute their crime to who they are (*dispositional* attributions), rather than their circumstances (*situational* attributions), and thus decide they are likely to reoffend. Literature on attributions and crime has indicated that those who make more dispositional attributions are also more likely to assign blame and believe someone is deserving of more punishment (Grasmick & McGill, 1994; Metcalfe et al., 2015). Providing the defendant's perspective could mitigate these attributions, consistent with other work indicating that people who receive instructions to take the perspective of a marginalized individual are more likely to make situational attributions and in turn express more favorable attitudes (Vescio et al., 2003). We wondered how attributions would interact with empathic defaults and whether effects previously observed in the literature would be present without explicit instructions to empathize. To confirm Study 2's findings and test these new hypotheses, we conducted a preregistered replication of Study 2 while also measuring mock jurors' attributions about the defendant.

Study 3: Empathic Defaults Replication Experiment

We preregistered the findings of Study 2 and added measures to understand participants' moral outrage and perceptions of the defendant's behavior and likelihood to reoffend, hypothesizing that participants exposed to the defendant's perspective would more likely attribute his actions to the situation over his character.

Method

This study's design, hypotheses, and method were preregistered before data were collected (see https://osf.io/y2xus/). We report how we determined our sample size, all data exclusions, manipulations, and measures in this study.

Participants

Of 309 participants recruited for Study 3 (accounting for a ~22.5% exclusion rate informed by Study 2), we excluded 72 for failing comprehension checks, three for extreme outlier values, and one for missing data, for a final sample of 233 participants (see Table 2 for descriptives). Data were collected in Winter 2019.

Procedure and Analyses

The procedure and analyses of Study 3 were identical to Study 2 apart from the additional questions on dispositional and situational attributions, moral outrage, and likelihood of reoffending.

Transparency and Openness

All stimuli, code, statistics, and plots are publicly available at https://doi.org/10.17605/OSF.IO/Y2XUS.

Table 2
Study 3 Descriptive Statistics

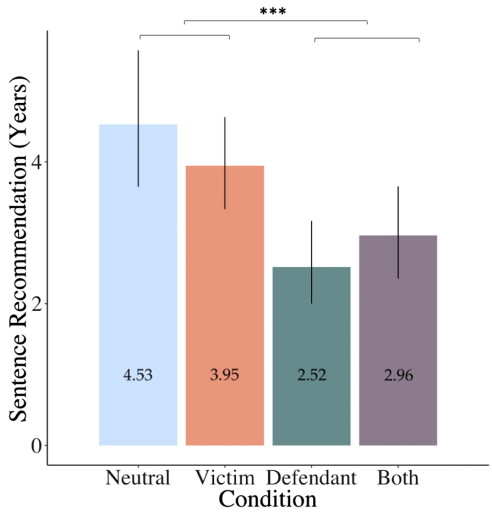
Characteristic	Neutral (N = 54)	Victim (N = 57)	Defendant (N = 57)	Both (N = 65)	Total (N = 233)	p
Age range						.401
18–29	7 (13.0%)	7 (12.3%)	16 (28.1%)	15 (23.1%)	45 (19.3%)	
30–49	35 (64.8%)	39 (68.4%)	32 (56.1%)	42 (64.6%)	148 (63.5%)	
50+	12 (22.2%)	11 (19.3%)	9 (15.8%)	8 (12.3%)	40 (17.2%)	
Gender						.532
Male	34 (63.0%)	31 (54.4%)	31 (54.4%)	42 (64.6%)	138 (59.2%)	
Female	20 (37.0%)	26 (45.6%)	26 (45.6%)	23 (35.4%)	95 (40.8%)	
Race						
White	36 (66.7%)	46 (80.7%)	50 (87.7%)	51 (78.5%)	183 (78.5%)	
Black	2 (3.7%)	7 (12.3%)	1 (1.8%)	1 (1.5%)	11 (4.7%)	
Other	16 (29.6%)	4 (7%)	6 (10.5%)	13 (20%)	39 (16.7%)	
Sentence recommendation						<.001
M (SD)	4.528 (3.694)	3.947 (2.524)	2.518 (2.279)	2.962 (2.671)	3.457 (2.914)	
Range	0.5–20.0	1.0–15.0	0.0–13.0	0.0–12.0	0.0–20.0	

Results

Sentence Recommendation

As in Study 2, we found a main effect of defendant perspective on sentencing, $F(1, 220) = 23.63$, $p < .001$. Contrary to Study 2, there was no main effect of victim perspective, $F(1, 220) = 0.117$, $p = .733$. The order in which perspectives were presented did not impact sentencing, $t(61) = 1.401$, $p = .165$. Post hoc tests replicated Study 2 and revealed that sentences were shorter whenever the defendant's perspective was present compared to when it was not (see Figure 8). The lack of main effect of victim perspective may still suggest empathic "defaults" for victims and that exposure to the defendant's perspective may be more influential to sentence recommendations than the victim's perspective.

Figure 8
The Average Sentence Recommendation per Each of the Four Conditions With Means and 95% Confidence Interval Bars



Note. See the online article for the color version of this figure.
*** $p < .01$.

Victim Empathy

We expected that participants would express higher empathy for the victim in all other conditions compared to the defendant condition. We did not find a main effect of victim perspective, $F(1, 219) = 0.45$, $p = .501$; defendant perspective, $F(1, 219) = 3.50$, $p = .063$; or an interaction, $F(1, 219) = 1.05$, $p = .306$. Empathy for the victim was at similar levels regardless of exposure to perspectives (see Figure 9 Panel A).

Defendant Empathy

Participants expressed higher empathy for the defendant when exposed to his perspective, as reflected by a main effect of defendant condition, $F(1, 219) = 44.67$, $p < .001$. Post hoc tests indicated that participants exposed to the defendant's perspective felt significantly more empathy toward the defendant than participants who were not, underscoring that empathy for the defendant is low when his perspective is absent and bolstered by exposure to his story (Figure 9 Panel B).

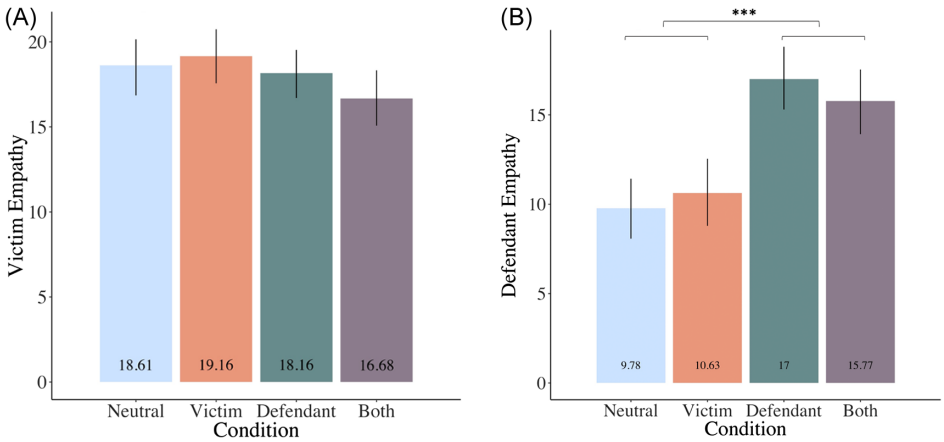
Defendant Dehumanization

We again explored whether perspectives changed perceptions of humanity for the defendant, including empathy for the defendant and moral outrage over the crime as covariates. We found a main effect of defendant perspective, $F(1, 217) = 4.203$, $p = .041$. As in Study 2, participants exposed to the defendant's perspective rated him as more fully human (Figure 10), although the effect was on the border of significance. Post hoc tests comparing conditions with the defendant's perspective to conditions without it found a significant difference of 6.55, $p = .04$, and no significant differences between specific conditions. Results also indicated a significant effect of moral outrage on defendant dehumanization, $F(1, 217) = 20.881$, $p < .001$, with an examination of means indicating that conditions with the defendant's perspective had lower levels of moral outrage than did conditions without the defendant's perspective.

In contrast to the results of Study 2, an indirect effect analysis test found no significant indirect effect of dehumanization on the association between hearing the defendant's perspective and decreased sentence recommendation. The average causal mediated effect estimate of dehumanization of defendant on the effect

Figure 9

The Average Level of Empathy for the Victim (Panel A) and for the Defendant (Panel B) per Each of the Four Conditions With Means and 95% Confidence Interval Bars



Note. See the online article for the color version of this figure.
*** $p < .01$.

between defendant perspective and sentence recommendation was −0.03026, $p = .084$, 95% CI [−0.0734, 0.00].

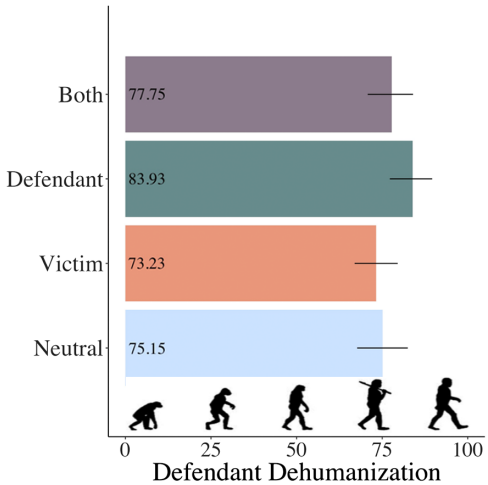
Attributions

2 × 2 analyses of variance including trait empathy as a covariate found a main effect of defendant perspective on both situational attributions, $F(1, 219) = 27.70$, $p < .001$, and dispositional attributions, $F(13, 219) = 54.62$, $p < .001$ (Figure 11). Post hoc tests indicated that participants who read the defendant's perspective, compared to those who did not, were more likely to attribute their actions to their circumstances and less likely to attribute them to their personality, consistent with literature suggesting that exposure to a defendant's perspective may influence perceptions of blameworthiness (Metcalfe et al., 2015).

Additional analyses considered the effect of perspectives on moral outrage and perceptions of likelihood to reoffend. A main effect of defendant perspective revealed that participants who read the defendant's perspective were less morally outraged, $F(13, 219) = 11.737$, $p < .001$, and had a decreased belief that the defendant would reoffend, $F(13, 219) = 136.281$, $p < .001$.

Figure 10

The Average Level Dehumanization of the Defendant per Each of the Four Conditions Means and 95% Confidence Interval Bars



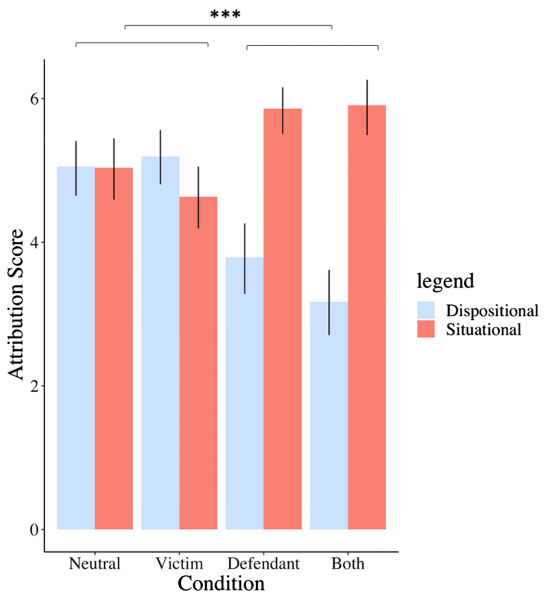
Note. Lower scores indicate higher levels of dehumanization on the Ascent of Man Blatant Dehumanization Scale from "The Ascent of Man: Theoretical and Empirical Evidence for Blatant Dehumanization," by N. Kteily, E. Bruneau, A. Waytz, and S. Cotterill, 2015, *Journal of Personality and Social Psychology, 109*(5), p. 4 (https://doi.org/10.1037/pspp0000048). Copyright 2015 by the American Psychological Association. See the online article for the color version of this figure.

Discussion

Study 3 underscored the idea that participants naturally "default" to the perspective of the victim. Unlike in Study 2, Study 3 revealed no main effects of victim perspective on sentence recommendations *or* on victim empathy, suggesting that the victim's perspective may not bias individuals further than their already pro-victim empathic stance. Results also suggested that empathic defaults are to dehumanize the defendant and that exposure to the defendant's perspective can bolster empathy for—and decrease dehumanization of—them. Reading the defendant's perspective led to a perception of their actions as more circumstance-driven rather than personality-based. Previous work studying empathy and attributions demonstrates that participants who receive instructions to empathize with a target make more circumstantial and less personality-based attributions about the target's behavior (Galper, 1976; Regan & Totten, 1975; Vescio et al., 2003), suggesting that information processing differences may underlie changes in perceptions of behavior (Jones & Nisbett, 1971). That is, others have suggested that observers who receive instructions to empathize with a target will process information more similarly to the target. However, these studies typically provide explicit instructions to empathize with the target (Johnson et al., 2002). Here, we see this same effect *without* instructions to

Figure 11

The Average Situational and Dispositional Attribution per Each of the Four Conditions With 95% Confidence Interval Bars



Note. See the online article for the color version of this figure.
*** $p < .01$.

empathize, suggesting that mere exposure to another's perspective shifts attributions and makes one's overall perspective more like that of the target.

In line with this, participants who received the defendant's perspective in our study found their behavior to less morally outraging. Importantly, while this reduced moral outrage was *related* to the decreased dehumanization in conditions with the defendant's perspective, the effect of the defendant's perspective on dehumanization of the defendant remained significant above and beyond the effects of moral outrage, suggesting that the defendant's narrative can be critical to humanizing him.

Internal Meta-Analysis and Content Analysis

We conducted an internal meta-analysis to pool effects across Studies 2 and 3 for more precise estimates of overall effects. We also conducted content and sentiment analyses of the victim and defendant statements to better understand the contributions of each perspective.

Meta-Analysis and Content Analysis Method

Meta-Analysis

Meta-analyses were conducted for the main effects and interactions of interest in Study 2 and Study 3. After we selected the main effects and interactions that were significant in one or both of the studies, we conducted an internal meta-analysis to pool effects using the {metafor} package in R (Viechtbauer, 2010) and a random effects model estimator due to this method being optimal for smaller samples with estimated heterogeneity in effects (Ariel de Lima et al., 2022). The meta-analytic effects are reported in terms of Cohen's *d* effect size values. We did not conduct a meta-analysis for the main effects or interactions that did not appear significant in either study. Full model code, output, and plots for each meta-analytic effect can be found in the study Supplemental Material.

Content Analysis

An analysis of the content of the victim's and defendant's statements was conducted in R using the text mining package {tidytext} (Silge & Robinson, 2016), sentiment analysis package {syuzhet} (Jockers, 2015), and text polarity package {sentimentr} (Rinker, 2021). A chi-square test was used to test if the frequency distribution of emotion words differed among the two statements. Full model code, output, and plots for the content analyses can be found in the study Supplemental Material.

Meta-Analysis and Content Analysis Results

Meta-Analysis

Table 3 summarizes the pattern of main effects and interactions across Studies 2 and 3. Results show that the pooled effect for the defendant's perspective was strong and significant across several outcomes including sentence recommendation ($d = -0.5417$), empathy for the defendant ($d = 0.9578$), and dehumanization of the defendant ($d = 0.4803$). These estimates represent medium-to-very-large effects for the defendant's perspective. While the meta-analytic estimates for the victim's perspective yielded small-to-medium effect sizes, these pooled effects were not statistically significant across Studies 2 and 3.

Content Analysis

The first sentiment analysis explored the positive versus negative tone in each statement and produced a sentiment score for the victim's statement of −7.80 and a score for defendant's statement of −3.85. This indicated that the sentiment expressed in both statements was negative, with the victim's statement expressing a stronger negative sentiment overall.

We next performed a sentiment analysis using the National Research Council Canada Emotion Lexicon (aka EmoLex) which contains a list of English words and their association with eight basic emotions (anger, fear, anticipation, trust, surprise, sadness, joy, and disgust) and two sentiments (negative and positive; Mohammad & Turney, 2010, 2013). The frequency count of these emotion and valence words for both the victim and defendant statements are displayed in Figure 12. A chi-square test examined if the frequency distributions of words differed significantly between the defendant and victim and found no significant difference in how emotions were expressed ($\chi^2 = 3.2865$, $p = 0.9518$).

Meta-Analysis and Content Analysis Discussion

Results of the internal meta-analyses underscored that the defendant's perspective exerts a powerful and consistent effect on sentencing, empathy for the defendant, and dehumanization of the defendant. Across both Studies 2 and 3, when participants were exposed to the defendant's perspective, sentence recommendations decreased, empathy for the defendant increased, and dehumanization of the defendant decreased. At the same time, pooled effects

Table 3
Individual and Meta-Analytic Effects Across Studies 2 and 3

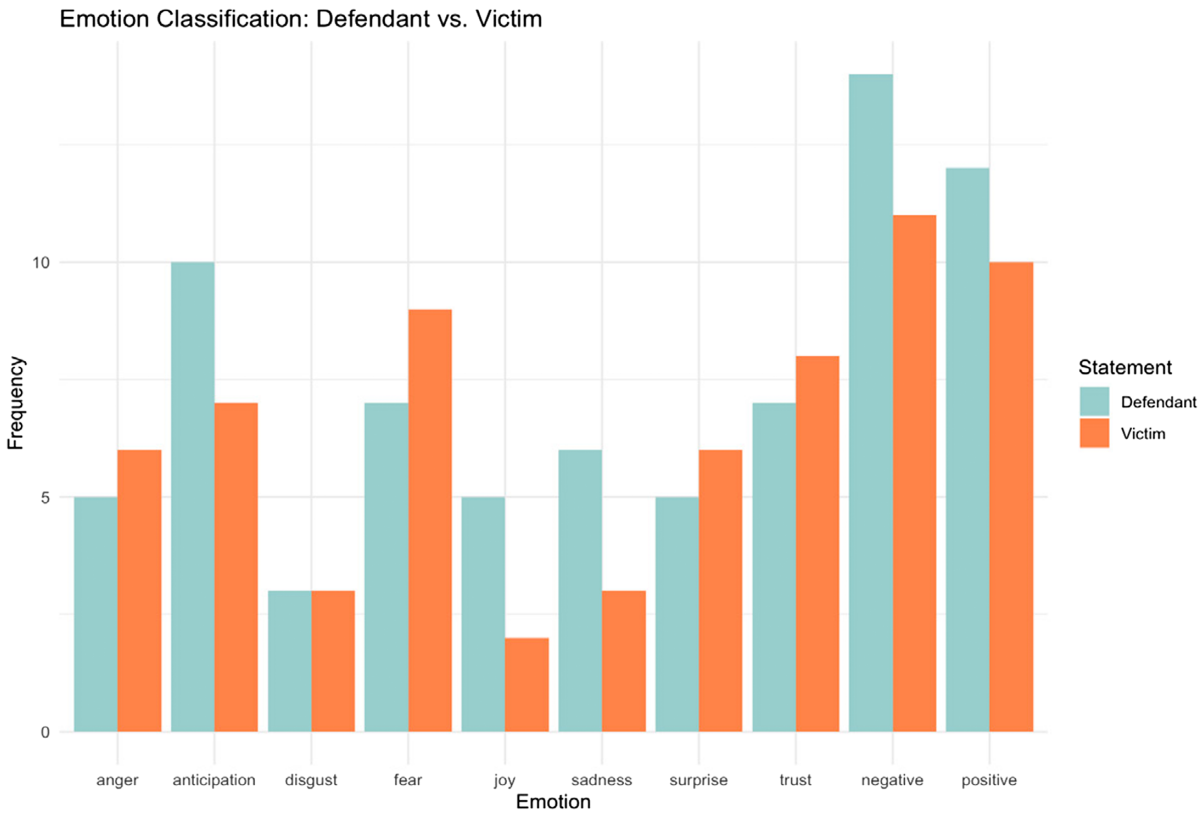
Outcome	Victim perspective		Defendant perspective		Interaction	
	Study 2	Study 3	Study 2	Study 3	Study 2	Study 3
Sentence recommendation	**YES**	NO	**YES**	**YES**	NO	NO
	Meta effect: $d = 0.1494$, $p = .4099$		Meta effect: $d = -0.5417$, $p < .001$			
Victim empathy	**YES**	NO	NO	NO	**YES**	NO
	Meta effect: $d = 0.1765$, $p = .5102$				Meta effect: $d = 0.4308$, $p = .126$	
Defendant empathy	NO	NO	**YES**	**YES**	NO	NO
			Meta effect: $d = 0.9578$, $p < .001$			
Defendant dehumanization	NO	NO	**YES**	**YES**	NO	NO
			Meta effect: $d = 0.4803$, $p < .05$			

Note. "YES" (in bold) indicates a significant effect was found between the independent variable (column) and dependent variable (row). "NO" indicates a significant effect was not found. The meta-analytic effect across studies was only tested if a significant effect was found in at least one of the two studies. Meta-analytic effects that were statistically significant are highlighted in green; effects that were not statistically significant are highlighted in orange. See the online article for the color version of this table.

revealed that the victim's statement had no significant effect across studies on sentencing outcomes, empathy for either side, or dehumanization of the defendant, consistent with the notion of an empathic "default" to take the perspective of a victim and dehumanize a defendant.

The results of the meta-analyses suggest that exposure to the defendant's statement had a stronger effect on examined outcomes, an effect that theoretically could be due to differences between the two statements. However, the content analyses revealed that the statements themselves, while both expressing negative sentiments,

Figure 12
The Frequency Count for Eight Basic Emotions and Two Sentiments (Negative and Positive) for the Defendant and Victim's Statements



Note. See the online article for the color version of this figure.

were not statistically different in terms of the frequency of eight emotions and sentiments expressed. While this empirical analysis of the content does not address all potential differences between statements (e.g., persuasiveness), it provides further evidence that exposure to the defendant's perspective may disrupt empathic "defaults" that are biased against the defendant.

General Discussion

What role should emotions play in the pursuit of justice? One prevailing argument is that emotions are a source of bias that should be left out of the courtroom. Here, we present evidence that emotional neutrality might be an impossible goal, because emotion—and empathy in particular—is part of observers' default reactions. Across three studies, we find support for the idea that people's empathic "default" is to empathize with victims while dehumanizing defendants.

Study 1 indicated that real-world sentences were not significantly impacted by legislation allowing Victim Impact Statements, suggesting that hearing the victim's perspective may be similar to hearing the facts alone. Studies 2 and 3 directly tested this hypothesis, finding that hearing the facts of a crime alone, or the facts *and* the victim's perspective, led to similar outcomes. Participants from these two conditions did not significantly differ across their recommended sentences, empathy for the victim (high), empathy for the defendant (low), and dehumanization of the defendant (high). In contrast, exposure to the defendant's perspective led to increased empathy for the defendant and ability to see him as human, and when paired with the victim's perspective, high empathy for the victim. These findings indicate that explicitly offering both perspectives maximized the total amount of empathy felt, compared to an ostensibly neutral baseline that offered neither perspective. Indirect effects analyses from Study 2 implied that viewing the defendant as more human may be one causal path by which exposure to the defendant's perspective alters sentence recommendation; however, there was no support for this pathway in Study 3.

Emotions have earned a notorious reputation as "potent, pervasive, predictable, sometimes harmful and sometimes beneficial drivers of decision making" (Lerner et al., 2015). Some argue that empathy can drive people to make unfair decisions (Bloom, 2017; Decety & Cowell, 2014). Our data suggest that the solution may not be to present the facts alone, as empathic defaults pose a challenge to achieving emotional neutrality in the courtroom. We demonstrate that exposure to *neither* perspective leads to dehumanization of the defendant and high empathy for the victim; even in this "neutral" context, perceivers may have preconceived notions of victimhood and criminality that influence their emotions. Our experiments indicate that empathy for the victim and the defendant were balanced, and dehumanization of the defendant was low, only when *both* perspectives were offered.

Constraints on Generality

Archival and experimental data each offer strengths and weaknesses. The archival analyses considered complete data points and incarceration records for individuals convicted of only one of three crimes. Data to indicate whether a Victim Impact Statement was presented at each offender's trial was not available for Study 1; we only know whether victims had the *opportunity* to do so from a legal standpoint, representing a clear limitation to these conclusions.

The experiments complimented this work by manipulating exposure to perspectives. While we found that empathic defaults were directed toward victims, our work did not consider many other variables that can influence legal decisions such as victim and defendant race (Nellis, 2016; Sommers, 2007), racial composition of the jury (Sommers, 2006), gender (Mazzella & Feingold, 1994), emotionality (Peace & Valois, 2014), a jury's religious characteristics (Miller et al., 2014), and geographic location (Arazan et al., 2019). It is critical to consider the circumstances in which aspects of identity may overrule an empathic default. Research has indicated that individuals are more likely to empathize with individuals who are perceived to be more similar (Batson et al., 1997), a bias that has been found to extend to both defendants and victims. For example, White mock jurors report higher empathy for a White defendant compared to a Black defendant (Johnson et al., 2002), and White juries dole out harsher penalties to Black defendants with White victims compared to Black victims (ForsterLee et al., 2006; C. K. Lee, 1998). Given the prevalence of racial disparities in the criminal justice system, understanding how victim versus defendant empathic defaults may interact with identity variables is of the utmost importance for future work.

While results across Studies 1, 2, and 3 suggest a broad *tendency* to empathize with the victim of a crime, this may not be true for every crime and victim. A lack of empathy for victims of sexual assault, and empathy for such defendants, has been documented in experimental studies (e.g., Deitz et al., 1982) and cases (e.g., *The People of the State of California v. Brock Allen Turner*; Stack, 2016). While Study 1 did not find significant changes in sentencing of rape cases after the introduction of Victim Impact Statements, this does not address whether victims of sexual assault may have more difficulty soliciting empathy from decision-makers compared to victims of other violent crimes.

Across all three studies, we focus on violent crimes (i.e., assault, rape, and robbery), leaving a gap in our understanding of how empathic defaults may interact with nonviolent or "white-collar" crimes. It is possible that the violent nature of a crime may be critical for eliciting default empathy for victims. On another hand, we expect that the nature of being "wronged" as a victim is sufficient to elicit default empathy and that this empathic default hypothesis would generalize to other crime types and perhaps be strongest for victims of violent crimes. This remains an open hypothesis to be tested in future work.

Study 1 utilized real-world data, and Studies 2 and 3 relied on online participants to behave as mock jurors. This setting likely does not fully capture the deliberative process or gravitas experienced by real jurors in the courtroom. Further, the online participants may not reflect the diverse demographics, attitudes, or responsibilities of real-world jurors. For a majority of U.S. states, jurors are most involved in the legal decision-making process via rendering guilty/not-guilty verdicts, while judges typically dole out sentences. This is not the case for every state, as juries give out sentences in Arkansas, Kentucky, Missouri, Oklahoma, Texas, and Virginia. Further, juries across all states make sentencing decisions in capital cases (American Bar Association, 2019). Thus, while Studies 2 and 3 contribute evidence of the emotional influences on decision making, results need to be further replicated and tested in a variety of populations and settings. Further, while the results of the content analysis for the Study

2 and 3 victim and defendant statements found no significant difference in the emotion and sentiments expressed across the two statements, the effects of victim versus defendant perspectives may certainly vary depending on the strength and content of statements. The potential influence of a defendant's perspective is likely also related to the motivations and remorse expressed in his statement. Taken together, Studies 1 through 3 present preliminary findings that should be replicated and explored within a variety of circumstances that model variation in the many variables that impact sentencing.

Conclusions

Three studies investigated how empathic "defaults" and emotional narratives impact sentencing outcomes. While some hold a philosophy that justice-relevant decision making should be free of biasing emotions, another perspective suggests that, despite efforts to remain neutral, emotions are an unavoidable part of the human experience. There is not one right answer to what constitutes justice; some may believe justice means equal empathy for both parties, while others may believe that empathy should remain with the party who has been harmed. Nonetheless, our findings suggest that empathy will play a role regardless, whether that is the intention or not. One approach may be to chase emotional neutrality through explicit instructions to remain neutral, although this is an empirical question for future work to explore. Ironic process theory (Wegner, 1994) suggests that calling someone's attention to a potential empathic default for victims might serve to make this empathic bias more salient. At the same time, other evidence suggests that instructions to remain objective *are* effective for removing empathy for a suffering target compared to receiving no instructions (McAuliffe et al., 2020). Future studies should explore if one option to address empathic defaults could be to inform legal decision-makers of their potential natural biases. Alternatively, based on the results of our work, we might consider balancing the effects of emotion in the courtroom—and in decisions about justice more broadly—by allowing perspectives from both sides.

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Received September 12, 2024
Revision received May 5, 2025
Accepted May 19, 2025 ■